

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EPIC GAMES, INC.,
Plaintiff,

vs.

APPLE INC.,
Defendant.

AND RELATED COUNTERCLAIM

Case No. 4:20-cv-05640-YGR

**TRIAL ORDER NO. 3 RE: BENCH TRIAL
WEEK 1 PARTY SEALING REQUESTS**

TO ALL PARTIES AND COUNSEL OF RECORD:

The Court is in receipt of plaintiff Epic Games, Inc.'s and defendant Apple Inc's documents from the first week of the bench trial for which they are requesting sealing. Trial records enjoy a "strong presumption in favor of access" that can only be overcome by "compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure." *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006). "In general, 'compelling reasons' sufficient to outweigh the public's interest in disclosure and justify sealing court records exist when such 'court files might have become a vehicle for improper purposes,' such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets." *Id.* at 1179 (quoting *Nixon v.*

Warren Commission, Inc., 425 U.S. 590, 598 (1975)).

Epic Games' request to seal ten documents (DX-2455, DX-3399, DX-3472, DX-3756, DX-3818, DX-3955, DX-3993, PX-2456, PX-2463, PX-2469) is **GRANTED** with the following exceptions below:

- **DX-3472**

- Section 1.1: "Samsung IAP" and its definition shall be unredacted. The remainder of the proposed redactions in this section is sealed.
- Section 8 Title: the title shall be unredacted.
- Section 8.1: The first sentence shall be unredacted (ending with "or Samsung Pay in the Territory"). The remainder of this section is sealed.

- **DX-3818**

- As Epic Games' own counsel already inadvertently disclosed on the record on May 4, 2021 the name of the developer/publisher for which this email pertains,¹ the name of this developer/publisher (Paradox) shall be unredacted. Thus:
 - the subject lines on 3818.1 containing the name Paradox shall be unredacted;
 - the name references to Paradox on 3818.2 and 3818.3 shall be unredacted; and
 - the name references to Paradox shall also be unredacted on 3818.4 until and including the "Studio: Paradox" proposed redaction. The remaining references to Paradox after "Studio: Paradox" on this page and the next page are otherwise appropriately sealed.

Apple's request to seal six documents (DX-4178, PX-59, PX-201, PX-314, PX-413, and PX-414) is **GRANTED** with the following exceptions below:

- **DX-4178**

- 4178.03, 4178.05: title of slide shall be unredacted.

¹ See, e.g., <https://twitter.com/thedextriarchy/status/1389615512385200132> ("The document apparently concerns the terms of Epic's deal with Paradox.").

- 4178.06: title of slide shall be unredacted. The notes shall further be unredacted except for the specific references to percentages, and monetary amounts, which are appropriately sealed at this time.
- 4178.07, 4178.08: these pages shall be entirely unredacted.
- 4178.09: this page shall be unredacted except that the gross amount and “YoY” figures in the slide shall be sealed. The notes section referencing the gross amount in the last sentence shall also be sealed.
- 4178.12: this page shall be unredacted except that the gross amount and “YoY” figures in the slide shall be sealed. The amounts referenced in the notes section shall also be sealed.
- 4178.38: title of slide shall be unredacted.
- 4178.59, 4178.60: title of the slide shall be unredacted.
- **PX-59**
 - 59.02: the slide shall be unredacted.
 - 59.07: the title of the slide shall be unredacted. The first sentence in the notes section shall also be unredacted.
 - 59.09, 59.10, 59.15, 59.16: title of slides shall be unredacted.
 - 59.17, 59.18: slide shall be unredacted.
 - 59.20, 59.21: title of slides shall be unredacted.
 - 59.22: title of the slide shall be unredacted. First and fourth paragraphs in the notes section shall be unredacted. First sentence in the third paragraph in the notes section shall also be unredacted.
 - 59.23: slide shall be unredacted.
 - 59.35-59.41, 59.43, 59.47, 59.55, 59.60, 59.61, 59.67, 59.77-59.79, 59.81, 59.84, 59.86-59.88, 59.90, 59.92-59.94, 59.96-59.98, 59.100-101: title of slides shall be unredacted.
 - 59.103: slide shall be unredacted.
 - 59.104, 59.114, 59.116, 59.117: title of slides shall be unredacted.

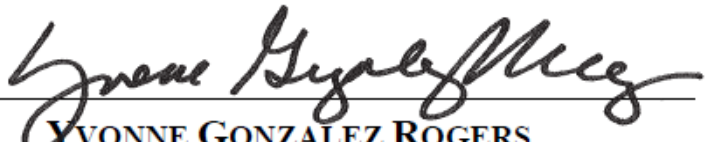
- 59.118: slide shall be unredacted.
- 59.119-59.128: title of slides shall be unredacted.
- 59.135, 59.137, 59.138: slides shall be unredacted.
- 59.140: title shall be unredacted.
- 59.142, 59.145: slide shall be unredacted.
- 59.147-59.148: title of slides shall be unredacted.
- 59.154: slide shall be unredacted.
- 59.155-59.157: title of slides shall be unredacted.
- 59.161: slide shall be unredacted.
- 59.163: the page shall be entirely unredacted except that the gross amount and “YoY” figures shall be sealed in the slide. The percentage amounts referenced in the notes section shall also be sealed.
- 59.164: title of slide shall be unredacted.
- 59.165: the slide shall be unredacted, except that the gross amount and “YoY” figures shall be sealed. The first sentence in the notes section shall be unredacted.
- 59.168: slide shall be unredacted, except that the download amount and “YoY” figures shall be sealed.
- 59.171-59.172: title of slides shall be unredacted.

- **PX-314**

- The Court has determined that the withholding of the entirety of this document is not appropriate at this time. Apple shall resend this document to Chambers with proposed redactions within forty-eight (48) hours of the posting of this Order. Apple is urged to consider the above redactions in determining what information the Court is and is not sealing when submitting proposed redactions.

IT IS SO ORDERED.

Dated: May 9, 2021


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE