

United States District Court  
Northern District of California

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**EPIC GAMES, INC.,**  
Plaintiff,

vs.

**APPLE INC.,**  
Defendant.

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

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

**AND RELATED COUNTERCLAIM**

**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))

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

4 • **DX-3472**

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

10 • **DX-3818**

- 11 ○ As Epic Games' own counsel already inadvertently disclosed on the record on May  
12 4, 2021 the name of the developer/publisher for which this email pertains,<sup>1</sup> the  
13 name of this developer/publisher (Paradox) shall be unredacted. Thus:
  - 14 ■ the subject lines on 3818.1 containing the name Paradox shall be  
15 unredacted;
  - 16 ■ the name references to Paradox on 3818.2 and 3818.3 shall be unredacted;  
17 and
  - 18 ■ the name references to Paradox shall also be unredacted on 3818.4 until and  
19 including the "Studio: Paradox" proposed redaction. The remaining  
20 references to Paradox after "Studio: Paradox" on this page and the next  
21 page are otherwise appropriately sealed.

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

24 • **DX-4178**

- 25 ○ 4178.03, 4178.05: title of slide shall be unredacted.

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

- 1           ○ 4178.06: title of slide shall be unredacted. The notes shall further be unredacted  
2           except for the specific references to percentages, and monetary amounts, which are  
3           appropriately sealed at this time.
- 4           ○ 4178.07, 4178.08: these pages shall be entirely unredacted.
- 5           ○ 4178.09: this page shall be unredacted except that the gross amount and “YoY”  
6           figures in the slide shall be sealed. The notes section referencing the gross amount  
7           in the last sentence shall also be sealed.
- 8           ○ 4178.12: this page shall be unredacted except that the gross amount and “YoY”  
9           figures in the slide shall be sealed. The amounts referenced in the notes section  
10          shall also be sealed.
- 11          ○ 4178.38: title of slide shall be unredacted.
- 12          ○ 4178.59, 4178.60: title of the slide shall be unredacted.
- 13          • **PX-59**
- 14          ○ 59.02: the slide shall be unredacted.
- 15          ○ 59.07: the title of the slide shall be unredacted. The first sentence in the notes  
16          section shall also be unredacted.
- 17          ○ 59.09, 59.10, 59.15, 59.16: title of slides shall be unredacted.
- 18          ○ 59.17, 59.18: slide shall be unredacted.
- 19          ○ 59.20, 59.21: title of slides shall be unredacted.
- 20          ○ 59.22: title of the slide shall be unredacted. First and fourth paragraphs in the notes  
21          section shall be unredacted. First sentence in the third paragraph in the notes  
22          section shall also be unredacted.
- 23          ○ 59.23: slide shall be unredacted.
- 24          ○ 59.35-59.41, 59.43, 59.47, 59.55, 59.60, 59.61, 59.67, 59.77-59.79, 59.81, 59.84,  
25          59.86-59.88, 59.90, 59.92-59.94, 59.96-59.98, 59.100-101: title of slides shall be  
26          unredacted.
- 27          ○ 59.103: slide shall be unredacted.
- 28          ○ 59.104, 59.114, 59.116, 59.117: title of slides shall be unredacted.

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- 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