

**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. 4 RE:
(1) ADMINISTRATIVE MOTIONS TO SEAL;
AND (2) PARTIAL RULING ON EXPERT
OBJECTIONS**

Re: Dkt. Nos. 489, 509, 518, 520

TO ALL PARTIES AND COUNSEL OF RECORD:

The Court issues this Order with respect to several items on the docket:

1. Administrative Motions to Seal Expert Written Direct Examination

The Court is in receipt of various motions to seal portions of the parties' expert written direct examinations. Having carefully considered the parties' arguments, supporting declarations, and declarations filed by third parties, the Court finds as follows:¹

Expert Written Direct Paragraph or Footnote Number	Affected Party	Ruling
Epic Games' Motion to Seal (Dkt. No. 509)²		
Evans Opening 43	IDC	DENY. IDC files no supporting declaration to justify sealing.
Evans Opening FN3	Apple, IDC	DENY. IDC files no supporting

¹ As with the prior motions to seal, if the Court chooses to unseal material for use at trial, it will give the parties a chance to respond. Where this Order seals a cited exhibit, the sealing shall apply to the underlying exhibit, not the citation.

² The Court addressed sealing of the written direct examination of Epic Games' expert Mr. Barnes in an earlier order. (*See* Dkt. No. 548.)

		declaration to justify sealing. Apple does not seek to seal.
Evans Opening 51	Samsung	DENY. Samsung files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2).
Evans Opening FN5	Samsung	DENY. Samsung files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2).
Evans Opening 53	App Annie	DENY. App Annie files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2). ³
Evans Opening 74	IDC	DENY. IDC files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2).
Evans Opening 79	IDC	DENY. IDC files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2).
Evans Opening 80	App Annie	DENY. App Annie files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2).
Evans Opening 81	IDC	DENY. IDC files no supporting declaration. <i>See</i> Civ. L. R. 79-5(e)(2).
Evans Opening 88	Google	GRANT to the extent shown in Dkt. No. 535-1. This contains Google's confidential business information, including internal surveys and analysis, which competitively harm Google through disclosure. (Dkt. No. 535 ¶ 7.) Google only requests sealing specific numbers based on its survey data, which makes the request narrowly tailored.
Evans Opening FN27	Google	DENY. Google does not seek to seal.
Evans Opening 107	Microsoft	DENY. Microsoft does not seek to seal.
Evans Opening 141	Apple	DENY. This reveals no confidential information.
Evans Opening 149	Apple	GRANT. This contains Apple's confidential financial information. (<i>See</i> Dkt. No. 540 ¶ 18.)
Evans Opening FN46	Apple	DENY. This concerns Mr. Barnes' analysis of Apple's profitability,

³ App Annie had earlier filed a motion to seal certain exhibits, but did not seek to seal the expert written direct examinations then pending

1			not Apple's internal data. The Court has already unsealed this data. (See Dkt. No. 548.)
2			
3	Evans Opening Table 3	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
4			
5	Evans Opening 153	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
6			
7	Evans Opening FN47	Apple	DENY. This reveals no confidential information.
8	Evans Opening FN48	Apple	DENY. This reveals no confidential information.
9	Evans Opening FN49	Apple	DENY. This reveals no confidential information.
10	Evans Opening FN50	Apple	DENY. This reveals no confidential information.
11			
12	Evans Opening Figure 2	Apple	GRANT as to number. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
13			
14	Evans Opening 154	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
15	Evans Opening FN51	Apple	DENY. This reveals no confidential information.
16	Evans Opening FN52	Apple	DENY. This reveals no confidential information.
17			
18	Evans Opening 172	Valve	GRANT. This contains Valve's confidential business information. (See Dkt. No. 569 ¶ 10.)
19	Evans Opening 173	Valve	DENY. This reveals no confidential information.
20	Evans Opening FN65	Valve	DENY. This reveals no confidential information.
21			
22	Evans Opening 177	Microsoft, Valve	GRANT. This contains Valve's confidential business information. (See Dkt. No. 569 ¶ 11.) Microsoft does not seek to seal.
23			
24	Evans Opening 182	Apple	GRANT as to last sentence only. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
25			
26	Evans Opening 183	Apple	DENY. This reveals no confidential information.
27	Evans Opening 184	Apple	DENY. This reveals no confidential information.
28	Evans Opening FN74	Apple	DENY. This reveals no

1			confidential information.
2	Evans Opening Figure 3	Apple	DENY. This contains primarily historical confidential information that does not outweigh its relevance to the case.
3			
4	Evans Opening 188	Apple	DENY. This contains primarily historical confidential information that does not outweigh its relevance to the case.
5			
6	Evans Opening Table 7	Apple	DENY. This contains primarily historical confidential information that does not outweigh its relevance to the case.
7			
8	Evans Opening 189	Apple	DENY. This contains primarily historical confidential information that does not outweigh its relevance to the case.
9			
10	Evans Opening FN77	Apple	DENY. This reveals no confidential information.
11			
12	Evans Opening Figure 4	Apple	DENY. This reveals no confidential information.
13			
14	Evans Opening FN105	Apple	GRANT. This contains Apple's confidential technical information. (See Dkt. No. 540 ¶ 18.)
15			
16	Evans Opening 229	Apple	DENY. This reveals no confidential information.
17			
18	Evans Opening Figure 5	Apple	GRANT. This contains Apple's confidential technical information that could be used to evade security protocols if disclosed. (See Dkt. No. 540 ¶ 18.)
19			
20	Evans Opening FN108	Apple	DENY. This reveals no confidential information.
21			
22	Evans Opening 241	Match	GRANT. This contains Match's confidential business information that could cause competitive harm to Match. (See Dkt. No. 570 ¶ 5.)
23			
24	Evans Opening 242	Microsoft	DENY. Microsoft does not seek to seal.
25			
26	Evans Opening 270(i)	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
27			
28	Evans Opening Table 8	Apple, App Annie	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
	Evans Opening 288	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)

1	Evans Opening 295	Apple	DENY. This reveals no confidential information.
2	Evans Opening FN126	Apple	GRANT as to number only. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
3	Rossi Opening 49	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
4	Cragg Rebuttal 9	Spotify	GRANT as to bullet 3 after "Moreover." This discloses Spotify's confidential business information and could harm Spotify in negotiations with content owners and distributors. (Dkt. No. 575 ¶ 7.)
5	Cragg Rebuttal 56	Apple	GRANT. This contains Apple's confidential business information. (See Dkt. No. 540 ¶ 18.)
6	Cragg Rebuttal Figure 4	Apple	GRANT. This contains Apple's confidential business information. (See Dkt. No. 540 ¶ 18.)
7	Cragg Rebuttal 57	Apple	GRANT. This contains Apple's confidential financial information. (See Dkt. No. 540 ¶ 18.)
8	Cragg Rebuttal 65	Spotify	DENY. Spotify does not seek to seal.
9	Cragg Rebuttal 69	Spotify	DENY. Spotify does not seek to seal.
10	Cragg Rebuttal 70	Spotify	GRANT as to clause beginning with "which it estimates." This discloses Spotify's confidential marketing spending data that could harm Spotify competitively by informing competitors' business decisions. (Dkt. No. 575 ¶ 14.)
11	Cragg Rebuttal Figure 8	Spotify	GRANT. This discloses Spotify's confidential business data that could harm Spotify competitively if disclosed. (Dkt. No. 575 ¶ 15.) The relevant portion of the information is already disclosed in the paragraphs 70 and 71.
12	Cragg Rebuttal 71	Spotify	GRANT. This discloses Spotify's confidential business data that could harm Spotify competitively if disclosed. (Dkt. No. 575 ¶ 15.)
13	Cragg Rebuttal FN10	Spotify	DENY. Spotify does not seek to

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