

Apple and 'Fortnite' publisher Epic Games head to court May 3 in face-off over App Store

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The legal showdown between Apple and Fortnite publisher Epic Games gets underway Monday in federal court.

This legal action, which will play out in U.S. District Court in Oakland, California, stems from Epic's move back in August 2020 to allow players of its mobile games to directly pay for downloads and bypass the Apple App store and Google Play store payment methods.

Pointing to the \$9.99 price in Apple and Google for items that cost \$7.99 in its own game store, Epic said it was effectively giving players a discount through its own store because Apple and Google each take a 30% cut of most purchases made in their online stores.

Apple and Google, subsequently, pulled "Fortnite" from their stores. And that led to Epic Games filing suits against both companies charging that their app stores are anti-competitive and monopolistic. Epic has argued that the tech giants' cut of sales means consumers must pay higher prices for its games in Apple and Google stores.

Less than a month later, Apple filed a countersuit arguing that the App Store benefits consumers and developers alike and calling Epic's its action "malicious and/or fraudulent misconduct" and a breach of contract that warranted punitive damages.

In its recent filing to the court ahead of the trial, Epic charges that Apple violates antitrust law because the company "uses its monopoly power in iOS app distribution to coerce developers of iOS apps to use Apple's payment solution."

But Apple argues, in its own recent finding, that the App Store benefits consumers and developers alike and is not anticompetitive—it has helped consumers and developers, the company says—and that there are other places to buy games including online stores from Microsoft, Nintendo and Sony.

Fortnite vs. Apple: How long will the trial take?

Four weeks have been set aside for the trial. Epic Games CEO Tim Sweeney and Apple's App Store chief Phil Schiller will attend, Reuters reported.

"There's a lot at stake for Apple in this trial," said Patrick Moorhead, founder and president of Moor Insights & Strategy. Not only could Apple lose its ability to charge that 30% commission, but it could be forced to allow third-party payment processing within its iOS, he said.

And there's challenges for Apple beyond the courtroom with the European Union on Friday saying its investigation found the App store violates its antitrust laws.

The EU investigation, begun after a complaint from Spotify that Apple's rules put it at a disadvantage against the Apple Music service. The investigators found that the 30% commission fees end up being passed on to consumers. With apps that have subscriptions such as Spotify and Netflix, Apple lowers its commission from 30% to 15% after the first year.

Beyond the EU investigation, there's also reportedly investigations of Apple by the Justice Department and state attorneys general, Moorhead notes.

Wedbush Securities analyst Daniel Ives said "the walls are starting to close in" on Apple, but he expects the iPhone maker to be victorious in court.

As for Epic, the game publisher "is fighting more than for 'Fortnite' as the 30% fee issue is a hot button with broad ramifications across the industry," Ives said. "The Street will be watching this case closely and so will regulators."

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