

Epic Games wins antitrust lawsuit against Google over barriers to its Android app store

December 12 2023, by Michael Liedtke



Sundar Pichai, CEO of Google and Alphabet, takes part in a discussion at the Asia-Pacific Economic Cooperation (APEC) CEO Summit Nov. 16, 2023, in San Francisco. A federal court jury is expected to begin its deliberations Monday, Dec. 11, 2023, in an antitrust trial focused on whether Google's efforts to thwart competition against its app store for Android smartphones has also been illegally gouging consumers and stifling innovation. Credit: AP Photo/Eric Risberg, File

A federal court jury has decided that Google's Android app store has been protected by anticompetitive barriers that have damaged smartphone consumers and software developers, dealing a blow to a major pillar of a technology empire.

The unanimous verdict reached Monday came after just three hours of deliberation following a four-week trial revolving around a lucrative payment system within Google's Play Store. The store is the main place where hundreds of millions of people around the world download and install apps that work on smartphones powered by Google's Android software.

Epic Games, the maker of the popular Fortnite video game, filed a lawsuit against Google three years ago, alleging that the internet search giant has been abusing its power to shield its Play Store from competition in order to protect a gold mine that makes billions of dollars annually. Just as Apple does for its iPhone app store, Google collects a commission ranging from 15% to 30% on digital transactions completed within apps.

Apple prevailed in a similar case that Epic brought against the iPhone app store. But that 2021 trial was decided by a federal judge in a ruling that is under appeal at the U.S. Supreme Court.

The nine-person jury in the Play Store case apparently saw things through a different lens, even though Google technically allows Android apps to be downloaded from different stores—an option that Apple prohibits on the iPhone.

Just before the Play Store trial started, Google sought to avoid having a jury determine the outcome, only to have its request rejected by U.S. District Judge James Donato. Now it will be up to Donato to determine what steps Google will have to take to unwind its illegal behavior in the

Play Store. The judge indicated he will hold hearings on the issue during the second week of January.

Epic CEO Tim Sweeney broke into a wide grin after the verdict was read and slapped his lawyers on the back and also shook the hand of a Google attorney, whom he thanked for his professional attitude during the proceedings.

"Victory over Google!" [Sweeney wrote in a post](#) on X, the platform formerly known as Twitter. [In a company post](#), Epic hailed the verdict as "a win for all app developers and consumers around the world."



The San Francisco-Oakland Bay Bridge is seen behind a Google sign at the company's office in San Francisco on April 12, 2023. A federal court jury is expected to begin its deliberations Monday in an antitrust trial focused on

whether Google's efforts to thwart competition against its app store for Android smartphones has also been illegally gouging consumers and stifling innovation. Credit: AP Photo/Jeff Chiu, File

Google plans to appeal the verdict, according to a statement from Wilson White, the company's vice president of government affairs and public policy.

"Android and Google Play provide more choice and openness than any other major mobile platform," White said.

Depending on how the judge enforces the jury's verdict, Google could lose billions of dollars in annual profit generated from its Play Store commissions. The company's main source of revenue—digital advertising tied mostly to its [search engine](#), Gmail and other services—won't be directly affected by the trial's outcome.

The jury reached its decision after listening to two hours of closing arguments from the lawyers on the opposing sides of the case.

Epic lawyer Gary Bornstein depicted Google as a ruthless bully that deploys a "bribe and block" strategy to discourage competition against its Play Store for Android apps. Google lawyer Jonathan Kravis attacked Epic as a self-interested game maker trying to use the courts to save itself money while undermining an ecosystem that has spawned billions of Android smartphones to compete against Apple and its iPhone.

Much of the lawyers' dueling arguments touched upon the testimony from a litany of witnesses who came to court during the trial.

The key witnesses included Google CEO Sundar Pichai, who sometimes

seemed like a professor explaining complex topics while standing behind a lectern because of a health issue, and Sweeney, who painted himself as a video game lover on a mission to take down a greedy tech titan.

In his closing argument for Epic, Bornstein railed against Google for exploiting its power over the Android software in a way that "has led to higher prices for developers and consumers, as well as less innovation and quality."



Epic Games CEO Tim Sweeney leaves a courtroom at the Ninth Circuit Court of Appeals in San Francisco, Nov. 14, 2022. A federal court jury is expected to begin its deliberations Monday, Dec. 11, 2023, in an antitrust trial focused on whether Google's efforts to thwart competition against its app store for Android smartphones has also been illegally gouging consumers and stifling innovation. The case was filed by Epic Games, the maker of the popular Fortnite video

game. Credit: AP Photo/Jeff Chiu, File

Google has staunchly defended the commissions as a way to help recoup the more than \$40 billion that it has poured into building into the Android software that it has been giving away since 2007 to manufacturers to compete against the iPhone.

"Android phones cannot compete against the iPhone without a great app [store](#) on them," Kravis asserted in his closing argument. "The competition between the app stores is tied to the competition between the phones."

But Bornstein ridiculed the notion of Google and Android competing against Apple and its incompatible iPhone software system. "Apple is not the 'get out of jail for free' card that Google wants it to be," Bornstein told the jury.

Google also pointed to rival Android app stores such as the one that Samsung installs on its popular smartphones as evidence of a free market. Combined with the rival app stores pre-installed on devices made by other companies, more than 60% of Android phones offer alternative outlets for Android apps.

Epic, though, presented evidence asserting the notion that Google welcomes competition as a pretense, citing the hundreds of billions of dollars it has doled out to companies, such as game maker Activision Blizzard, to discourage them from opening rival app stores. Besides making these payments, Bornstein also urged the jury to consider the Google "scare screens" that pop up, warning consumers of potential security threats when they try to download Android apps from some of the alternatives to the Play Store.

"These are classic anticompetitive strategies used by dominant firms to protect their monopolies," Bornstein said.

Google's empire could be further undermined by another major antitrust trial in Washington that will be decided by a [federal judge](#) after hearing final arguments in May. That trial has cast a spotlight on Google's cozy relationship with Apple in online search, the technology that turned Google into a household word a few years after two former Stanford University graduate students started the company in a Silicon Valley garage in 1998.

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Citation: Epic Games wins antitrust lawsuit against Google over barriers to its Android app store (2023, December 12) retrieved 29 April 2024 from <https://techxplore.com/news/2023-12-epic-games-antitrust-lawsuit-google.html>

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