

Here's who Apple and Epic are calling to testify in next week's trial

Next week, Epic Games and Apple will appear in court for a long-anticipated legal battle. Epic argues that Apple unfairly kicked its hit game *Fortnite* off the App Store last year, exercising an illegal monopoly over the ubiquitous iOS platform. Apple claims Epic is trying to break the iOS platform's vaunted safety and security for its own gain. Both parties have laid out how they expect to win their respective cases, and this week, they've provided near-final lists of the people they expect to call for testimony.

Apple and Epic both filed revised tentative witness lists on April 26th. The lists don't guarantee every witness will be called, and crucially, they don't tell us *when* we'll see a given person on the stand. But with the closely watched trial kicking off on Monday – and likely running until the last week of May – they offer a good picture of each party's planned strategy and what we can expect to see throughout the trial. An Apple spokesperson described its list as being a fairly reliable indicator of who it would call in the trial, while Epic said it could vary its strategy based on how the trial proceeds.

Unsurprisingly, the lists are heavy on Apple and Epic executives and other employees. That includes Epic CEO Tim Sweeney (who appears on both witness lists), Apple CEO Tim Cook (who appears only on Apple's list), and other big names like Craig Federighi, Eddy Cue, and Phil Schiller. Since these figures were deposed before the trial, court documents have

already revealed a few interesting details about the companies' businesses – and we'll probably see more as they take the stand.

Epic and Apple are also preparing to call on outside parties with a stake in the app and gaming world. Both lists include Microsoft Xbox executive Lori Wright, for instance, and Epic is calling Adrian Ong from Match Group, which recently criticized Apple in a congressional hearing. However, as *Bloomberg* notes, Epic withdrew a request for testimony from Facebook's gaming head Vivek Sharma – whose name doesn't appear in the latest filings.

Apple's witness list

Apple employees

- **Tim Cook, CEO** – covering “Apple's corporate values; Apple's business and operations; development and launch of the App Store; competition faced by Apple.” (Scheduled for one hour examination, 30 minutes cross examination.)
- **Craig Federighi, senior vice president, software engineering** – covering “iOS operating system; competition faced by Apple; Apple's investment and efforts to combat malware, spyware, and other issues relating to app security and iOS device user protection.” (Scheduled for two hours examination, one hour cross examination.)
- **Matt Fischer, App Store VP** – covering “marketing of apps available in the App Store; competitors and competition in the sale of apps and the different app marketplaces; Apple's business relationships with app developers.”
- **Eric Gray, director of commerce and payments** – covering the “design and operation of Apple's payment processing policies and practices.” (Scheduled for one hour examination, 15 minutes cross examination.)

- **Trystan Kosmyнка, senior director of marketing** – covering “App Store policies and guidelines; Apple’s app review and curation process and procedures; Apple’s investment in efforts to protect iOS device users’ safety and privacy.”
- **Phil Schiller, Apple fellow** – covering “Apple’s business and operations; Development and launch of the App Store; App Store policies and guidelines; the App Store business model; the App Store commission; app distribution; iOS operating system; competition faced by Apple; design, development, launch, and marketing of the iPhone.” (Scheduled for six hours examination, three hours cross examination.)
- **Michael Schmid, head of game business development, App Store** – covering “the tools, services, and benefits that Apple provides to developers, including to Epic; Apple’s relationship with Epic, Epic’s breaches of its agreements with Apple, and Epic’s other misconduct.” (Scheduled for 1 hour examination, 30 minutes cross examination.)
- **Scott Forstall, former senior vice president, iOS Software** – covering “differences between mobile devices and PCs; security and privacy considerations for mobile devices; historical App Store policies and practices.”
- **Phillip Shoemaker, former technology director, app review** – covering “App Store policies and guidelines; Apple’s app review and curation process and procedures; Apple’s investment in efforts to protect iOS device users’ safety and privacy.”

Epic employees

- **Steve Allison, Epic Games Store general manager** – covering “the Epic Games Store business model and financial projections; the Epic Games Store’s revenue split; the Epic Games Store’s market share.”
- **Andrew Grant, engineering fellow** – covering “enforcement

of platform rules; *Fortnite* anti-cheat measures; the importance to Apple's brand of protecting user privacy and security; Epic's use of Apple-provided tools and services; Epic's interest in workarounds to undercut Apple's 30% commission; Epic's efforts to subvert app review; Epic's campaign against app stores."

- **Joseph Kreiner, VP of business development** – covering "benefits of cross-platform play; Epic's relationships with console manufacturers, including contractual terms, commissions paid by Epic, and payment processing terms; fraud on the Epic Games Store." (Scheduled for 30 minutes examination, 10 minutes cross examination.)
- **Thomas Ko, senior director, head of online business strategy and operations** – covering "Epic's relationship with Samsung, including Epic's contracts with Samsung, commissions paid to Samsung, and communications with Samsung; Epic's campaign against app stores."
- **Mark Rein, VP of business development** – covering "the Epic Games Store business model and commission; benefits of Apple marketing and other support provided to Epic; Epic's plans and practices concerning distribution through iOS, competing platforms, and alternative channels; Epic's campaign against app stores." (Scheduled for 15 minutes examination, five minutes cross examination.)
- **Tim Sweeney, CEO** – covering "Epic's business model, operations, and strategy; Epic's financial performance; Epic's dealings with Apple and competing platforms, including commissions paid; Epic Games Store profitability; Epic's relationship with Samsung, including Epic's contracts with Samsung, commissions paid to Samsung, and communications with Samsung; Epic's campaign against app stores."
- **Daniel Vogel, COO** – covering "Epic's exploration of sideloading on iOS and Android; Epic's launch of *Fortnite* outside of the Google Play Store; security of *Fortnite* and the Epic Games Store, including the Xsolla

payment processor; concerns over cross-platform arbitrage of 'V-bucks' purchases; Epic's attempts to avoid Apple's App Store review process; Epic's campaign against app stores." (Scheduled for 15 minutes examination, five minutes cross examination.)

- **Matthew Weissinger, VP of marketing** – covering "Epic's pricing and marketing activities, including as to *Fortnite*; *Fortnite*'s profit margin; *Fortnite*'s weaknesses on mobile systems relative to game consoles; Epic's campaign against app stores."
- **Joseph Babcock, former CFO** – covering "Epic's financial performance; Epic's business model and strategy; Epic's dealings with Apple and competing platforms, including commissions paid; Epic Games Store profitability." (Scheduled for 15 minutes examination, five minutes cross examination.)
- **Haseeb Malik, former marketing manager** – covering "tools, services, and benefits that Apple provided to Epic; platforms on which Epic makes its games available; Epic's campaign against app stores." (Scheduled for 15 minutes examination, five minutes cross examination.)
- **David Nikdel, online gameplay systems lead** – covering "engineering and technology benefits received from Apple; quality of non-iOS platforms; Epic's direct payment hotfix." (Scheduled for 15 minutes examination, five minutes cross examination.)
- **Nick Penwarden, VP of engineering** – covering "the Unreal Engine business model; iOS and Android proprietary software and tools; engineering support from Apple; cross-platform play." (Scheduled for 15 minutes examination, five minutes cross examination.)
- **Alec Shobin, senior marketing manager** – covering "marketing for mobile games; the App Store review process; Epic's campaign against app stores." (Scheduled for 15 minutes examination, five minutes cross examination.)

Third-party witnesses

- **Lori Wright, VP of Xbox business development, Microsoft** – covering “the Microsoft Store; Xbox video game console business and operations; Xbox cloud gaming; distribution of apps on the App Store.”
- **Benjamin Simon, founder and CEO of Yoga Buddhi Co.** – covering “Yoga Buddhi’s apps and business model; tools, services, and benefits that Apple provided to Yoga Buddhi; participation in the Coalition for App Fairness; App Store review process.”
- **Shelley Gould, president and co-founder of Neuro-Fin / SmartStops** – covering “SmartStops’ apps and business model; tools, services, and benefits that Apple provided to SmartStops; App Store review process; communications with Apple.”
- **Aashish Patel, director of product management, Nvidia** – covering “tools, services, and support that Apple provided to Nvidia; distribution on competitor platforms and through alternative channels; communications with Apple; compliance with Apple’s App Review Guidelines; Nvidia’s affiliation with Epic.”
- **Alphabet** – documents submitted
- **App Annie** – documents submitted
- **Roblox Corporation** – documents submitted

Expert witnesses

- **Richard Schmalensee**, emeritus professor of economics, MIT
- **Lorin Hitt**, professor of operations, information, and decisions, University of Pennsylvania Wharton
- **Francine LaFontaine**, professor of economics, University of Michigan
- **Daniel Rubinfeld**, professor of law, NYU
- **James Malackowski**, CEO, Ocean Tomo
- **Aviel Rubin**, technical director, Johns Hopkins University Information Security Institute

- **Dominique Hanssens**, distinguished research professor of marketing, UCLA Anderson Graduate School of Management

Epic's witness list

Epic employees

- **Steve Allison, Epic Games Store general manager** – covering “Epic Games Store (business).” (Scheduled for 30 minutes examination, 30 minutes cross examination.)
- **Andrew Grant, engineering fellow** – covering “Epic’s membership in the Apple Developer Program; engineering and development of Epic’s products for various platforms; Epic Direct Payment on iOS.” (Scheduled for one hour examination, 30 minutes cross examination.)
- **Thomas Ko, senior director, head of online business strategy and operations** – covering “Epic’s payment processing services; Apple’s payment processing services; Epic Direct Payment on iOS.” (Scheduled for 30 minutes examination, 15 minutes cross examination.)
- **Tim Sweeney, CEO** – covering “Epic’s history and business; Epic’s business discussions with Apple and Google; Epic Direct Payment on iOS; App Store policies and practices; Epic’s marketing and promotional activities; Epic’s efforts to compete in app distribution and in- app payment processing.” (Scheduled for three hours examination, three hours cross examination.)
- **Matthew Weissinger, VP of marketing** – covering “Epic’s marketing and promotional activities; marketing and promotional support services offered by video game consoles and mobile operating system providers, including Apple.” (Scheduled for 30 minutes examination, 30 minutes cross examination.)

Apple employees

- **Matt Fischer, App Store VP** – covering “App Store

business strategy; App Store financial performance; App Store policies and practices; Apple's market power over iOS developers; and/or the subjects of designated testimony." (Scheduled for 45 minutes examination, one hour cross examination.)

- **Trystan Kosmyuka, senior director of marketing** – covering "App Store review policies and practices; iOS and macOS engineering, security and privacy issues; and/or the subjects of designated testimony." (Scheduled for one hour examination, two hours cross examination.)
- **Eddy Cue, senior vice president, internet software and services** – covering "lack of competition among mobile devices and mobile operating system software; App Store business strategy; App Store financial performance; current and historical App Store policies and practices; Apple's prior antitrust violations." (Scheduled for one hour examination, 10 minutes cross examination, via deposition rather than live appearance.)
- **Craig Federighi, senior vice president, software engineering** – covering "iOS and macOS engineering, security, privacy and competition issues; App Store policies and practices." (Scheduled for 15 minutes examination, five minutes cross examination, via deposition rather than live appearance.)
- **Scott Forstall, former senior vice president, iOS software** – covering "iOS and macOS engineering, security, privacy and competition issues; historical App Store policies and practices; Apple's in-app purchasing function." (Scheduled for one hour and five minutes examination, 10 minutes cross examination, via deposition rather than live appearance.)
- **Eric Friedman, head of fraud engineering, algorithms, and risk** – covering "App Store review process; fraud and other abuse in Apple's ecosystem." (Scheduled for 30 minutes examination, five minutes cross examination, via deposition rather than live appearance.)
- **Eric Gray, director of commerce, subscriptions, and**

pricing – covering “inefficiencies and lack of integration of Apple’s payment processing services; app pricing and inelasticity of demand; fraud and other abuse in Apple’s ecosystem.” (Scheduled for 15 minutes examination, five minutes cross examination, via deposition rather than live appearance.)

- **C.K. Haun, senior director, developer technical services** – covering “App Store review policies and practices; iOS and macOS engineering, security and privacy issues.” (Scheduled for 50 minutes examination, five minutes cross examination, via deposition rather than live appearance.)
- **Ron Okamoto, former VP of worldwide developer relations** – covering “benefits Apple receives from other software developers, including Epic; Apple’s market power over iOS developers.” (Scheduled for 20 minutes examination, five minutes cross examination, via deposition rather than live appearance.)
- **Carson Oliver, director of business management, App Store** – covering “App Store policies and practices; Apple’s market power over iOS developers.” (Scheduled for 10 minutes examination, five minutes cross examination, via deposition rather than live appearance.)
- **Shaan Pruden, senior director of partnership management and worldwide developer relations** – covering “benefits that Apple receives from other software developers, including Epic.” (Scheduled for 10 minutes examination, five minutes cross examination, via deposition rather than live appearance.)
- **Mark Rollins, finance manager** – covering “Apple financials; App Store profit and loss statements.” (Scheduled for 10 minutes examination, via deposition rather than live appearance.)
- **Phillip Shoemaker, former technology director, app review** – covering “historical App Store review policies and practices.” (Scheduled for 55 minutes examination,

15 minutes cross examination, via deposition rather than live appearance.)

Third-party witnesses

- **Lori Wright, VP of Xbox business development, Microsoft** – covering “distribution of software; Xbox video game console business and operations; Xbox cloud gaming, including xCloud and Game Pass; interactions with Apple.” (Scheduled for one hour examination, one hour cross examination.)
- **Benjamin Simon, founder and CEO of Yoga Buddhi Co.** – covering “app distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple.” (Scheduled for one hour examination, 30 minutes cross examination.)
- **Aashish Patel, director of product management, Nvidia** – covering “app distribution; Nvidia’s GeForce Now service and business model; differences between streamed apps and locally hosted apps; differences between native apps and web apps; App Store review process; interactions with Apple.” (Scheduled for 45 minutes examination, 45 minutes cross examination.)
- **Adrian Ong, senior VP of operations, Match Group** – covering “app distribution; participation in the Apple Developer Program; App Store review process; interactions with Apple; differences between native apps and web experiences; Match Group’s payment processing capabilities; effects of Apple’s 30% fee on Match Group and its users; user acquisition.” (Scheduled for one hour examination, five minutes cross examination, via deposition rather than live appearance.)

Expert witnesses

- **Susan Athey**, economics of technology professor, Stanford University Graduate School of Business
- **Ned Barnes**, managing director, Berkeley Research Group

- **Michael Cragg**, principal and chairman, The Brattle Group
- **David Evans**, chairman, Global Economics Group
- **Wenke Lee**, chair, College of Computing, Georgia Institute of Technology
- **Nancy Mathiowetz**, professor emerita, department of sociology, the University of Wisconsin-Milwaukee
- **James Mickens**, professor of computer science, Harvard University
- **Peter Rossi**, professor of marketing, economics and statistics, UCLA

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