Tim Cook’s Fortnite trial testimony was unexpectedly revealing

The *Epic v. Apple* trial was bookended by Tims. Epic Games called its CEO Tim Sweeney as the first witness nearly three weeks ago. Yesterday, Apple called Tim Cook as the last to take the stand, before both sides make their final case to a judge on Monday. Cook was supposed to bring home Apple’s defense of its ecosystem. He did it by laying out Apple’s most high-minded principles — but also its hard financial calculations.

Epic v. Apple covers two separate issues: whether the market for in-app purchases within the App Store is unfairly monopolistic, and whether iOS *itself* is a monopoly that should be opened up to third-party stores and side-loaded apps. Cook addressed both with an appeal to user safety and privacy. “Privacy from our point of view is one of the most important issues of the century, and safety and security are the foundation that privacy is built upon,” he explained to an Apple attorney, echoing countless iPhone ad campaigns. “Technology has the ability to vacuum up all kinds of data from people, and we like to provide people tools to circumvent that.”

“Technology has the ability to vacuum up all kinds of data”
Supporting side-loaded apps would remake iOS, and it’s much easier for Cook and Apple to outline the potential downsides. Giving users control creates risk, and Cook argued that people choose iOS specifically so they won’t have to make risky decisions with sensitive data. “We’re trying to give the

customer an integrated solution of hardware, software, and services," he said. "I just don't think you replicate that in a third party."

Epic mustered its own arguments: people can still choose to keep their phones locked down, and they might want to access stores with even more carefully curated apps or even better privacy controls. It's previously accused Apple of hypocrisy, pointing out anecdotal failures to catch specific apps (like a game called *Ganja Farmer: Weed Empire*) that violate App Store guidelines. "It's not 100 percent. It's not perfect. You will find mistakes being made," Cook said when Apple's counsel asked about those incidents. "But if you back up and look at it in the scheme of things, with 1.8 million or so apps on the store, we do a really good job."

Luckily for Apple, Judge Yvonne Gonzalez Rogers hasn't demonstrated much interest in completely opening up iOS. She's asked a steady trickle of questions about in-app purchases, anti-steering provisions, and the structure of individual apps like *Roblox*, but rarely about third-party app distribution or sideloading. (One of those rare incidents seemed critical of Epic, too.) While Rogers' questions don't necessarily indicate how she'll rule, there's a fairly conspicuous lack of requests for more detail or clarification.

"IAP helps Apple efficiently collect a commission"

But losing mandatory in-app purchase commissions would still be a big blow for Apple. Cook used more privacy and safety claims to defend that system, saying it would be both insecure and inconvenient to let apps process payments separately. He was also, however, a little blunter about Apple's own interests. "IAP helps Apple efficiently collect a commission" — for payment processing, but also customer service and the use of Apple's intellectual property. Without in-app purchases, "we would have to come up with another system to invoice developers, which I think would be a mess." If Apple let developers tell users about other payment methods, Cook

said later, “we would in essence give up our total return on our IP.”

Apple called an expert yesterday to describe how its multibillion-dollar research and development costs help developers, including through APIs like Metal and CoreML. It’s not necessarily sinister for Apple to profit from these investments. But unlike better privacy and safety features, higher profit margins don’t directly improve consumer welfare, the key standard in antitrust trials. Judge Rogers ended Cook’s testimony with some of her most interesting questions yet, grilling Cook on whether in-app game purchases — like *Fortnite* V-Bucks and *Candy Crush* gold — were effectively subsidizing the rest of the App Store.

Rogers doesn’t seem to personally *like* video game microtransactions; she’s mused multiple times about potentially predatory impulse buys. But it matters that she singled out games. Epic has pushed to make this suit cover all App Store purchases, while Apple has been trying to limit it to digital video game sales. (That’s why witnesses spent so much time trying to define a game.) Cook’s interrogation suggested that even if iOS stays intact and “gamers” are the only audience in question, Apple still has battles left to fight.

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