



IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1378/5/7/20

BETWEEN:

(1) EPIC GAMES, INC.
(2) EPIC GAMES INTERNATIONAL S.À.R.L

Claimants

and

(1) ALPHABET INC.
(2) GOOGLE LLC
(3) GOOGLE IRELAND LIMITED
(4) GOOGLE COMMERCE LIMITED
(5) GOOGLE PAYMENT LIMITED

Defendants

ORDER

UPON hearing counsel for all parties at a case management conference on 6 December 2021

IT IS ORDERED THAT:

A. Disclosure

1. The parties shall by way of disclosure produce the documents produced by the Epic and Google parties in current proceedings taking place before the United States District Court for the Northern District of California (San Francisco Division) (Case 3:20-cv-05671-JD) (the "**US Proceedings**") (the "**US Documents**").

2. Documents withheld or produced subject to redactions in the US Proceedings for reasons of privilege shall be treated as privileged in these proceedings, and may be withheld or reproduced with the same redactions (as applicable) without further review.
3. Documents withheld or produced subject to redactions in the US Proceedings for reasons of data privacy may be reproduced with the same redactions, and either party may apply such further redactions as are necessary to comply with the UK General Data Protection Regulation and/or the Data Protection Act 2018.
4. The US Documents shall be supplemented as necessary by the parties by supplemental disclosure in respect of any UK-specific custodians and/or issues (the “**Supplemental UK Disclosure**”).
5. By 4pm on 18 March 2022, the parties shall each serve and file (i) a disclosure report (as defined in Rule 60(1)(b) of the Tribunal Rules) and (ii) a completed Electronic Documents Questionnaire (in the form of the questionnaire in the Schedule to Practice Direction 31B of the Civil Procedure Rules 1998 (the “**CPR**”). These documents shall be confined to identifying such Supplemental UK Disclosure as the parties intend to undertake in respect of any UK-specific custodians and/or issues.
6. The parties shall give disclosure of the US Documents by 5pm on 1 April 2022, with simultaneous inspection. If any further US Documents are produced in the US Proceedings after this date, the parties shall disclose and offer inspection of such documents for the purposes of these proceedings on the same terms as are set out in paragraphs 2 and 3 above no later than 28 days following their production in the US Proceedings.
7. The parties shall give any Supplemental UK Disclosure under paragraph 5 by the time and date ordered by the Tribunal at the Second CMC.

B. Directions to Trial

Case Management Conferences

8. A further case management conference (the “**Second CMC**”) to be listed for the first convenient date following 3 May 2022, with a provisional time estimate of a day, at which the Tribunal will decide what if any further orders to make.
9. An additional case management conference, with a provisional time estimate of two days, shall be listed after judgment has been handed down in the substantive trial of the US Proceedings to consider questions pertaining to issue estoppel.

Witness Statements

10. The parties shall file and exchange signed statements of witnesses of fact and hearsay notices where required by CPR 33.2 by 4pm on 9 December 2022, such witness statements to stand as evidence-in-chief at trial.
11. The parties shall have permission to file and exchange any reply statements of witness of fact and any hearsay notices where required by CPR 33.2 by 4pm on 27 January 2023, such witness statements to stand as evidence-in-chief at trial.

Admission of Expert Evidence

12. The number of expert witnesses to be adduced by each party and their area of expertise shall be considered at the Second CMC, referred to in paragraph 8 of this Order. The parties shall liaise and seek to agree the scope of issues for expert evidence by a date to be determined at the Second CMC.
13. The parties shall file and exchange expert reports by 4pm on 17 March 2023.
14. Any expert reports in reply shall be filed and served by 4pm on 12 May 2023.
15. The experts shall meet to discuss the expert reports on 16 June 2023 and shall file and serve a joint expert report by no later than 4pm on 14 July 2023.

C. Trial

16. The provisional estimated length of the trial is 6 weeks, including 1 week pre-trial reading time for the Tribunal.

17. By no later than 14 days after the outcome of the US Proceedings, the parties are to attend on the CAT Registry to fix (i) a Pre-Trial Review; and (ii) the date for trial which shall not be before 9 October 2023.

18. The Claimants shall file and serve their written openings by 4pm on 4 September 2023. The Defendants shall file and serve their written openings by 4pm on 18 September 2023.

D. General

19. By agreement the parties may vary without further order any deadline in this Order provided that they inform the Tribunal of such agreement in advance of the expiry of the relevant deadline and the extension does not affect the date of the Pre-Trial Review or the Trial.

20. Costs shall be in the case.

21. There shall be liberty to apply.

The Hon Mr Justice Marcus Smith
President

Dr Catherine Bell CB

Andrew Young QC

Made: 6 December 2021

Drawn: 21 December 2021