

United States District Court  
Northern District of California

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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**EPIC GAMES, INC.,**

Plaintiff,

vs.

**APPLE INC.,**

Defendant.

**AND RELATED COUNTERCLAIM**

Case No. 4:20-cv-05640-YGR

**PRETRIAL ORDER NO. 6 RE: OBJECTIONS  
TO EXPERT WRITTEN DIRECT TESTIMONY**

Dkt. Nos. 517, 518, 520

**TO ALL PARTIES AND COUNSEL OF RECORD:**

The Court is in receipt of Defendant Apple Inc.’s Objections to Expert Testimony and Epic Games, Inc.’s Statement of Objections to Apple Expert’s Written Direct Testimony. (Dkt. Nos. 518 (redacted)/517-5(unredacted) and 520.) The Objections indicate the “written testimony of each of these experts sets forth new material that was not disclosed in their reports, and/or relies on internal Apple documents that they expressly disclaimed reliance on at the time of their depositions. Apple objects to these previously undisclosed opinions—¶¶ 86–96 of Prof. Athey’s written direct, ¶ 94 of Prof. Mickens’ written direct, ¶¶ 26, 38–39, 55–56, 58–59, 66–68, 72, 97–104 of Dr. Cragg’s written rebuttal, ¶¶ 39, 48–50 of Dr. Evans’ written rebuttal, and ¶¶ 19, 76–77, 80, 103–04 of Dr. Lee’s written rebuttal.” In its Statement, “Epic objects to ¶¶ 7, 82 and 84 of Dr. Rubin’s written direct on the basis that they contain opinions outside the scope of his expertise.”

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To assist the Court in evaluating the objections, and given that time is of the essence, each party shall file a chart by 10:00 a.m. on April 30, 2021 that lists each of the referenced paragraphs in one column and the exact paragraph in the disclosed reports of each expert which proves the contrary, i.e. that proves that the opinion was, in fact, disclosed. If no such paragraph exists, the chart shall indicate “None.”

The Court is not inclined to grant Apple’s related, and provisional, motion to seal. (Dkt. No. 517.) To the extent Epic Games believes the provisional motion should be granted, it shall provide justification (not to exceed two pages) in the same filing.

**IT IS SO ORDERED.**

Dated: April 29, 2021

  
YVONNE GONZALEZ ROGERS  
UNITED STATES DISTRICT JUDGE