

1 Renata B. Hesse (SBN 148425)  
 (hesser@sullcrom.com)  
 2 Brendan P. Cullen (SBN 194057)  
 (cullenb@sullcrom.com)  
 3 SULLIVAN & CROMWELL LLP  
 550 Hamilton Avenue  
 4 Palo Alto, California 94301  
 Telephone: (650) 461-5600  
 5 Facsimile: (650) 461-5700

6 Shane M. Palmer (SBN 308033)  
 (palmersh@sullcrom.com)  
 7 SULLIVAN & CROMWELL LLP  
 125 Broad Street  
 8 New York, New York 10004  
 Telephone: (212) 558-4000  
 9 Facsimile: (212) 558-3588

10 *Attorneys for Amicus Curiae Meta  
 Platforms, Inc.*

11 Reid M. Figel (SBN 135684)  
 (rfigel@kelloggghansen.com)  
 12 KELLOGG, HANSEN, TODD, FIGEL &  
 13 FREDERICK, P.L.L.C.  
 1615 M Street, N.W., Suite 400  
 14 Washington, D.C. 20036  
 Telephone: (202) 326-7918  
 15 Facsimile: (202) 326-7999

16 *Attorney for Amicus Curiae Microsoft  
 Corporation*

Joel Kurtzberg (*pro hac vice* forthcoming)  
 (jkurtzberg@cahill.com)  
 John S. MacGregor (SBN 304330)  
 (jmacgregor@cahill.com)  
 CAHILL GORDON & REINDEL LLP  
 32 Old Slip  
 New York, New York 10005  
 Telephone: (212) 701-3000  
 Facsimile: (212) 269-5420

William R. Warne (SBN 141280)  
 (bwarne@DowneyBrand.com)  
 DOWNEY BRAND LLP  
 621 Capitol Mall, 18th Floor  
 Sacramento, California 95814  
 Telephone: (916) 444-1000  
 Facsimile: (916) 520-5617

*Attorneys for Amicus Curiae X Corp.*

Douglas J. Dixon, State Bar No. 275389  
 ddixon@hueston.com  
 HUESTON HENNIGAN LLP  
 620 Newport Center Drive, Suite 1300  
 Newport Beach, CA 92660  
 Telephone: (949) 229-8640

Tate E. Harshbarger, State Bar No. 328622  
 tharshbarger@hueston.com  
 HUESTON HENNIGAN LLP  
 523 West 6th Street, Suite 400  
 Los Angeles, CA 90014  
 Telephone: (213) 788-4340

*Attorneys for Amicus Curiae Match Group,  
 LLC*

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

21 EPIC GAMES, INC., )  
 22 )  
 Plaintiff, )  
 23 )  
 v. )  
 24 )  
 APPLE INC. )  
 25 )  
 Defendant. )  
 26 )  
 27 )  
 28 )

Case No. 4:20-cv-05640-YGR-TSH  
**MOTION OF META PLATFORMS,  
 INC., MICROSOFT CORPORATION,  
 X CORP., AND MATCH GROUP,  
 LLC FOR LEAVE TO FILE BRIEF  
 AS *AMICI CURIAE* IN SUPPORT OF  
 EPIC GAMES, INC.’S MOTION TO  
ENFORCE INJUNCTION**

Judge: Hon. Yvonne  
 Gonzalez-Rogers  
 Hearing Date: April 30, 2024  
 Hearing Time: 2:00 p.m.  
 Courtroom: 1, 4th Floor

1 TO THE COURT, ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Meta Platforms, Inc. (“Meta”), Microsoft  
3 Corporation (“Microsoft”), X Corp. (“X”), and Match Group, LLC (“Match Group”), through their  
4 undersigned counsel, will move this Court, in Courtroom 1 of the Oakland Courthouse, 1301 Clay  
5 Street, Oakland, California 94612, on April 30, 2024, at 2:00 p.m. for leave to file a brief as *Amici*  
6 *Curiae* in this litigation.<sup>1</sup> This Motion is supported by the accompanying proposed order granting  
7 the Motion.

8 Through this Motion, *Amici* respectfully request that the Court grant them  
9 permission to file a brief as *Amici Curiae* in support of Plaintiff Epic Games, Inc.’s Motion to  
10 Enforce Injunction. A copy of *Amici*’s proposed brief is attached hereto as Exhibit A. The  
11 undersigned counsel have consulted counsel for the parties in this matter. Plaintiff has consented  
12 to the filing of *Amici*’s brief and Defendant does not consent to the filing of that brief.

13 **INTEREST OF *AMICI CURIAE***

14 Meta is a technology company, founded in 2004, whose mission is to give people  
15 the power to build communities and to bring the world closer together. Meta develops and operates  
16 some of the world’s most popular apps, including Facebook, Instagram, WhatsApp, and  
17 Messenger, which are used daily by people worldwide to connect, find communities, and grow  
18 businesses. Meta’s products and services enable people to connect and share with friends, family,  
19 co-workers, and customers through mobile devices, personal computers, virtual reality headsets,  
20 and wearables.

21 Microsoft is a technology industry leader, founded in 1975, that offers a wide range  
22 of services, software, and hardware products. Microsoft’s mission is to enable individuals and  
23 businesses throughout the world to realize their full potential by creating technology that  
24 transforms the ways people work, play, and communicate. Microsoft develops, manufactures,  
25 licenses, sells, and supports a wide range of programs, devices, and services, including Windows,  
26 Microsoft Office, Surface, Xbox and Xbox Game Pass, and Bing. Microsoft offers many of its

27 <sup>1</sup> *Amici* noticed their Motion for the same date and time selected by Epic for the hearing on  
28 its Motion to Enforce Injunction.

1 products as mobile apps, including on iOS, such as Microsoft Office, Teams, the Xbox app, and  
2 games including Candy Crush and Minecraft.

3 X (formerly “Twitter”) is an international technology company that operates an  
4 online discussion platform used by more than 500 million active users around the world. X is a  
5 real-time, open, public conversation platform that allows people to create, distribute, and discover  
6 content. X allows users to create and share ideas and information instantly through various  
7 product features, including public posts and videos.

8 Match Group owns and operates online dating brands, including Tinder, which is  
9 Match Group’s most popular dating brand. Tinder is available to users at no charge, including on  
10 iOS mobile device applications and on the web. Tinder users have the option of purchasing various  
11 subscription tiers as well as certain features on an á la carte basis.

12 *Amici* are each directly impacted by Apple’s App Store Review Guidelines  
13 (“Guidelines”) and have a substantial interest in ensuring that the Court’s September 10, 2021  
14 injunction against Apple is enforced. As developers of some of the most popular apps on the App  
15 Store, *Amici* have been subject to Apple’s anti-steering restrictions for years. *Amici* therefore have  
16 a unique perspective that can aid the court in its resolution of Plaintiff’s Motion to Enforce  
17 Injunction.

## 18 ARGUMENT

19 The Court possesses broad discretion over the question of whether to grant  
20 permission to file an *amicus* brief, and “generally courts have exercised great liberality” in  
21 permitting such briefs. *Woodfin Suite Hotels, LLC v. City of Emeryville*, 2007 WL 81911, at \*3  
22 (N.D. Cal. Jan. 9, 2007) (internal quotation omitted). “There are no strict prerequisites that must  
23 be established prior to qualifying for amicus status; an individual seeking to appear as amicus must  
24 merely make a showing that his participation is useful or otherwise desirable to the court.”  
25 *California v. U.S. Dep’t of the Interior*, 381 F. Supp. 3d 1153, 1164 (N.D. Cal. 2019). “District  
26 courts frequently welcome amicus briefs from non-parties concerning legal issues that have  
27 potential ramifications beyond the parties directly involved or if the amicus has unique information  
28 or perspective that can help the court beyond the help that the lawyers for the parties are able to

1 provide.” *Sonoma Falls Developers, LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925  
2 (N.D. Cal. 2003) (internal quotation omitted). *Amici*’s proposed brief fulfills that purpose.

3 The resolution of Plaintiff’s Motion to Enforce will directly affect *Amici*. As  
4 explained in their proposed brief, Apple has failed to comply with this Court’s injunction that  
5 prohibited Apple from blocking developers such as *Amici* from steering users to alternative  
6 payment methods outside of Apple’s in-app purchasing mechanism. Apple’s proposed scheme for  
7 permitting external purchase links within an app imposes burdensome and unjustified restrictions  
8 on the flow of information to users that will ultimately inhibit price competition. These new anti-  
9 steering restrictions will have broad real-world impacts on all app developers and their users —  
10 not just gaming apps.

11 *Amici* have been subject to Apple’s anti-steering restrictions for years — often in  
12 direct competition with Apple’s own apps and services — and have extensive experience with  
13 developing apps under Apple’s Guidelines. *Amici* can provide the Court with a broader  
14 understanding of how Apple has used, and continues to use, the Guidelines to restrict price  
15 competition and why the link entitlement process it has now proposed is a clear violation of the  
16 Court’s injunction. *Amici* are also well positioned to explain how Apple’s new restrictions will,  
17 in practice, constrain price competition in different contexts and across a wide variety of apps.  
18 *Amici*’s perspective on the negative impact of Apple’s new anti-steering restrictions will be useful  
19 to the Court in determining whether Apple’s has adequately complied with this Court’s injunction,  
20 and *Amici* believe it will help in resolving Plaintiff’s Motion to Enforce.

### 21 CONCLUSION

22 For the foregoing reasons, *Amici Curiae* respectfully request that the Court enter an  
23 order granting leave to file their proposed brief.

1 Dated: March 20, 2024

2 /s/ Brendan P. Cullen

3 Renata B. Hesse  
4 Brendan P. Cullen  
5 SULLIVAN & CROMWELL LLP  
6 550 Hamilton Avenue  
7 Palo Alto, California 94301  
8 Telephone: (650) 461-5600  
9 Facsimile: (650) 461-5700  
10 Email: hesser@sullcrom.com  
11 cullenb@sullcrom.com

12  
13 Shane M. Palmer  
14 SULLIVAN & CROMWELL LLP  
15 125 Broad Street  
16 New York, New York 10004  
17 Telephone: (212) 558-4000  
18 Facsimile: (212) 558-3588  
19 Email: palmersh@sullcrom.com

20 *Attorneys for Amicus Curiae Meta Platforms,*  
21 *Inc.*

22 /s/ Reid M. Figel

23 Reid M. Figel  
24 KELLOGG, HANSEN, TODD, FIGEL &  
25 FREDERICK, P.L.L.C.  
26 1615 M Street, N.W., Suite 400  
27 Washington, D.C. 20036  
28 Telephone: (202) 326-7918  
Facsimile: (202) 326-7999  
Email: rfigel@kellogghansen.com

*Attorney for Amicus Curiae Microsoft*  
*Corporation*

Joel Kurtzberg  
John S. MacGregor  
CAHILL GORDON & REINDEL LLP  
32 Old Slip  
New York, New York 10005  
Telephone: (212) 701-3000  
Facsimile: (212) 269-5420  
Email: jkurtzberg@cahill.com  
jmacgregor@cahill.com

/s/ William R. Warne

William R. Warne  
DOWNEY BRAND LLP  
621 Capitol Mall, 18th Floor  
Sacramento, California 95814  
Telephone: (916) 444-1000  
Facsimile: (916) 520-5617  
Email: bwarne@DowneyBrand.com

*Attorneys for Amicus Curiae X Corp.*

/s/ Douglas J. Dixon

Douglas J. Dixon  
HUESTON HENNIGAN LLP  
620 Newport Center Drive, Suite 1300  
Newport Beach, CA 92660  
Telephone: (949) 229-8640  
Email: ddixon@hueston.com

Tate E. Harshbarger  
HUESTON HENNIGAN LLP  
523 West 6th Street, Suite 400  
Los Angeles, CA 90014  
Telephone: (213) 788-4340  
Email: tharshbarger@hueston.com

*Attorneys for Amicus Curiae Match Group, LLC*

**ATTESTATION**

I, Brendan P. Cullen, am the ECF User whose ID and password are being used to file this document with the Clerk of the Court using CM/ECF, which will send electronic notification of such filing to all registered counsel. In compliance with Local Rule 5-1(i)(3), I hereby attest that all signatories concur with this filing.

Dated: March 20, 2024

/s/ Brendan P. Cullen  
Brendan P. Cullen