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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

IN RE APPLE IPHONE ANTITRUST
LITIGATION

Case No. 4:11-cv-06714-YGR

**[PROPOSED] ORDER GRANTING
DEFENDANT APPLE INC.'S MOTION FOR
SUMMARY JUDGMENT**

The Honorable Yvonne Gonzalez Rogers

Date:

Time:

Courtroom: 1, 4th Floor

1 Before the Court is Defendant Apple Inc.’s (“Apple”) Motion for Summary Judgment. The
2 Court, having considered all the papers submitted by the parties, the arguments presented at the
3 evidentiary hearing on Apple’s motion, and the relevant authorities, HEREBY ORDERS AS
4 FOLLOWS:

- 5 1. The Court GRANTS Apple’s Motion for Summary Judgment in its entirety; and
- 6 2. The Court directs that JUDGMENT SHALL BE ENTERED for Apple and against
7 Plaintiffs on all claims under Section 2 of the Sherman Act asserted in the Third
8 Amended Complaint, for the reasons below:

- 9 a. Plaintiffs bear the burden of defining and proving a relevant market for their
10 Section 2 claims. *See Thurman Indus., Inc. v. Pay ‘N Pak Stores, Inc.*, 875 F.2d
11 1369, 1373–74 (9th Cir. 1989). Plaintiffs’ definition of the relevant market as a
12 one-sided aftermarket for iOS apps is unsupported by the record and contrary to
13 binding precedent. The App Store is a two-sided transaction platform serving
14 both developers and consumers. *See Epic Games, Inc. v. Apple Inc.*, 67 F.4th
15 946, 1000–01 (9th Cir. 2023); *see also Coronavirus Rep. v. Apple Inc.*, 85 F.4th
16 948, 956–57 (9th Cir. 2023); *Reilly v. Apple Inc.*, 578 F. Supp. 3d 1098, 1111
17 n.3 (N.D. Cal. 2022); *see also In re Google Play Store Antitrust Litig.*, 2025 WL
18 2167402, at *6–7 (9th Cir. July 31, 2025). Disinterested academic studies
19 corroborate the App Store’s two-sided nature. *See Sundararajan Rep.* ¶ 145.
20 But Plaintiffs have adduced no proof of a two-sided market in which they can
21 sustain their claims. Where a plaintiff “cannot sustain a jury verdict on the issue
22 of market definition, summary judgment is appropriate.” *Rebel Oil Co. v. Atl.*
23 *Richfield Co.*, 51 F.3d 1421, 1435 (9th Cir. 1995).

- 24 b. Apple’s policy of barring competing distribution of native iOS apps, including
25 third-party iOS app marketplaces (whether within the App Store or via
26 sideloading); its technical design of iOS software that implements a closed
27 system; its policy of barring in-app bypass of Apple’s payment system for digital
28 in-app purchases; and its former anti-steering policy, are lawful refusals to deal

1 on terms and conditions preferred by rivals or would-be competitors. Plaintiffs
2 expressly claim here that Apple has refused to deal with “developers who sell
3 [or would sell] apps in competition with Apple” in “the iOS applications
4 aftermarket.” Third Am. Compl. ¶¶ 79, 84. But Apple is not required under
5 antitrust law to assist competitors or alter its business model to accommodate
6 them. *See Pac. Bell Tel. Co. v. linkLine Commc’ns, Inc.*, 555 U.S. 438, 450
7 (2009); *Verizon Commc’ns Inc. v. L. Offs. of Curtis V. Trinko, LLP*, 540 U.S.
8 398, 408 (2004). Plaintiffs cannot meet the narrow exception to refusal-to-deal
9 doctrine from *Aspen Skiing Co. v. Aspen Highlands Skiing Corp.*, 472 U.S. 585
10 (1985). Nor can Plaintiffs establish any exception to the presumption that
11 Apple’s refusal to license intellectual property rights is justified. *Image Tech.*
12 *Servs., Inc. v. Eastman Kodak Co.*, 125 F.3d 1195, 1216 (9th Cir. 1997).

13 c. Apple’s technical design of iOS software that implements a closed system
14 constitutes lawful product innovation. Indeed, “Apple’s on-device protections,”
15 including “sandboxing and enforcement of code signing and entitlements,” are
16 “an essential part of iOS’s approach to security.” Ex. 3 (Federighi Dep.) at
17 78:15–20, 201:13–204:10, 356:19–22, 360:19–24, 363:12–18, 364:12–20.
18 Apple’s technical restrictions challenged here bestow benefits on consumers,
19 and Plaintiffs have identified no valid “associated anticompetitive conduct.”
20 *Allied Orthopedic Appliances Inc. v. Tyco Health Care Grp. LP*, 592 F.3d 991,
21 998, 1000 (9th Cir. 2010).

22 d. Plaintiffs’ new theories regarding Apple’s policy of mandating developers’ use
23 of Apple’s payment system for digital in-app sales and its prior anti-steering
24 policy, not pleaded in the operative complaint and raised for the first time in
25 expert reports, are not properly at issue in this case. *See Oliver v. Ralphs*
26 *Grocery Co.*, 654 F.3d 903, 909 (9th Cir. 2011); *Navajo Nation v. U.S. Forest*
27 *Serv.*, 535 F.3d 1058, 1080 (9th Cir. 2008). Amendment of the operative
28 complaint to add claims borrowed from the *Epic Games, Inc. v. Apple Inc.* case

1 would be prejudicial and untimely. *See* Dkt. 573 at 7–8 (finding that “plaintiffs
2 were unduly delayed in seeking leave to add” claim from “the Epic
3 Games/Apple case”). Further, amendment would be futile as Plaintiffs lack
4 antitrust standing to challenge the anti-steering policy, given that, *inter alia*,
5 their purported injuries are not proximately caused and involve a significant
6 amount of speculation. *See Associated Gen. Contractors of Cal., Inc. v. Cal.*
7 *State Council of Carpenters*, 459 U.S. 519, 534–45 (1983); *City of Oakland v.*
8 *Oakland Raiders*, 20 F.4th 441, 455–56 (9th Cir. 2021); *Eagle v. Star-Kist*
9 *Foods, Inc.*, 812 F.2d 538, 542 (9th Cir. 1987); *see also Epic Games, Inc. v.*
10 *Apple Inc.*, 67 F.4th 946, 1003 (9th Cir. 2023) (holding that “[c]alculating the
11 damages caused by the anti-steering provision” for developers alone “would
12 require a protracted and speculative inquiry into” the “availability” of substitute
13 platforms, the number and tendencies of multi-homing users, and the
14 “substitution rate” among those users).

15 e. Claims related to alleged restrictions on in-app purchasing are time-barred
16 because in-app purchasing for digital goods was introduced in 2009, but
17 Plaintiffs did not seek to challenge it until September 2020, when they filed the
18 Third Amended Complaint. *See* Dkts. 1, 26, 82, 111; *see also* Dkt. 228 (Apple
19 objecting that any “in-app purchase[]” theories in Third Amended Complaint are
20 time-barred); *Oliver v. SD-3C LLC*, 751 F.3d 1081, 1086 (9th Cir. 2014); 15
21 U.S.C. § 15b (setting forth four-year statute of limitations).

22 f. Plaintiffs have also failed to establish injury or nonspeculative damages on their
23 antitrust claims. Their claim of injury rests on the McFadden-Song damages
24 model, which is unreliable and inadmissible as explained in the Court’s
25 concurrent ruling on Apple’s *Daubert* Motion to Exclude the Opinions of Mr.
26 Darryl Thompson & Prof. Alan McCormack. *See Rebel Oil*, 51 F.3d at 1433.
27 And Plaintiffs cannot show nonspeculative damages because the model rests on
28 the presumed unlawfulness of the conduct found to be lawful above. *See Noohi*

1 v. *Johnson & Johnson Consumer Inc.*, 2025 WL 2089582, at *6 (9th Cir. July
2 25, 2025); *City of Vernon v. S. Cal. Edison Co.*, 955 F.2d 1361, 1373 (9th Cir.
3 1992).

4 g. Plaintiff Edward Hayter’s individual claims fail because, as Plaintiffs’ own
5 damages model calculates, Hayter was benefited by the challenged conduct, Ex.
6 98 (Prince Rebuttal Rep.) ¶ 38, and thus has proved no injury or damage.

7 3. This Judgment applies to all members of the following certified class, with the exception
8 of those individuals who timely requested exclusion:¹

9 All persons in the United States, exclusive of Apple and its employees,
10 agents and affiliates, and the Court and its employees, who purchased
11 one or more iOS applications or application licenses from Defendant
12 Apple Inc. (“Apple”), or who paid Apple for one or more in-app
13 purchases, including, but not limited to, any subscription purchase, for
14 use on an iPhone or iPad (“iOS Device”) at any time since July 10, 2008
15 (the “Class Period”). The Class is limited to those persons who paid
16 more than \$10.00 in total to Apple during the Class Period for iOS
17 application and in-app purchases from any one Apple ID account.

18 **IT IS SO ORDERED.**

19
20 DATED: _____, 2025

21
22 _____
23 THE HONORABLE YVONNE GONZALEZ ROGERS
24 UNITED STATES DISTRICT COURT JUDGE
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¹ [This paragraph should be omitted if the Court grants Apple’s Motion to Decertify the Class.]