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**UNITED STATES DISTRICT COURT
 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.¹ 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 ¹ *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

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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