

# Exhibit 50

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable James Donato, Judge

IN RE GOOGLE PLAY STORE )  
ANTITRUST LITIGATION ) NO. 21-md-02981-JD

THIS DOCUMENT RELATES TO:

Epic Games, Inc. vs. Google LLC, et al., )  
Case No. 3:20-cv-05671-JD )

In Re Google Play Consumer Antitrust )  
Litigation, Case No. 3:20-cv-05761-JD )

State of Utah, et al. v. Google LLC, )  
et al., Case No. 3:21-cv-05227-JD )

Match Group, LLC, et al. vs. Google LLC, )  
et al., Case No. 3:22-cv-02746-JD )

San Francisco, California  
Tuesday, January 31, 2023

**TRANSCRIPT OF PROCEEDINGS**

**IN RE EVIDENTIARY HEARING ON CHAT PRESERVATION**

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1 chats, because I have not heard a rational explanation for why  
2 you just didn't say: Can I tell you about our chat system?  
3 Here's how it works. What do you want to do about it? Here's  
4 our view. It doesn't mean anything. People talk about gossip.  
5 It's expensive. So we don't really want to do it.

6 Just have the -- Mr. Pomerantz, you and I have been around  
7 the block a million times. You know that's what you do at the  
8 beginning of a case. You tell the other side so that we don't  
9 have to have hearings like this three years into the case,  
10 "Here's our situation."

11 I don't understand -- I've not heard a single credible  
12 explanation for why that didn't happen, which leads me to infer  
13 it was an intentional effort not to preserve chat.

14 **MR. POMERANTZ:** Your Honor, I am absolutely certain that  
15 it wasn't intentional.

16 **THE COURT:** How could it not have been? You made no  
17 effort --

18 **MR. POMERANTZ:** I guess what I would say, Your Honor, is  
19 I've been working with this team for the last year. We have  
20 done everything we can to turn over anything the other side  
21 has, and we've worked through so many issues. I've seen the  
22 behavior day in and day out.

23 You know, this case has involved a lot of discovery  
24 questions that never hit Your Honor's desk. And the reason why  
25 is because there's reasonable people on their side and there's

1 reasonable people on our side and we work it out.

2 I don't think there was any intent back then to say, "I  
3 don't want to tell them this." There's nothing in the record  
4 that suggests that's happening, and there's nothing in my  
5 experience that would suggest that's what happened either with  
6 Mr. Rocca and his firm or anybody I've met at Google. I just  
7 think people didn't talk about it, and I wish they had, and I  
8 don't believe there was any intent.

9 **THE COURT:** Okay. I'm with you on that second point. I'm  
10 not going to ask again. And maybe there's no answer and I'll  
11 accept that. But I just need to know why people just didn't  
12 talk about it, because you have documents -- Google has  
13 internal document policies that expressly reference Chat as an  
14 alternative to e-mail, expressly guide people to using Chat, as  
15 we've seen. We've seen all the evidence, Google training and  
16 other documents saying: Hey, if it's sensitive, you might want  
17 to use Chat.

18 It's plain as day to any objectively reasonable lawyer,  
19 any objectively reasonable lawyer, that Chat is going to  
20 contain possibly relevant evidence; and yet it's never  
21 mentioned just because. I don't -- it's just very hard for me  
22 to understand the "just because" part. That's all that I'm  
23 saying.

24 **MR. POMERANTZ:** I will do my best to persuade you  
25 otherwise through my presentation. I will probably be not as

**CLOSING ARGUMENT / POMERANTZ**

1 long as Mr. Summers, but I have some details that I want to  
2 share with you.

3 **THE COURT:** All right.

4 **MR. POMERANTZ:** Details that you didn't see from  
5 Mr. Summers.

6 **THE COURT:** Okay.

7 **MR. POMERANTZ:** So, Your Honor --

8 **THE COURT:** Do you have a hard copy, by the way?

9 **MR. POMERANTZ:** I do. I'm sorry. Yes.

10 **THE COURT:** If you have two of them, that would be great.  
11 Okay. Thank you.

12 **MR. POMERANTZ:** Your Honor, I apologize for the size. I  
13 have a smaller one because I couldn't handle the big ones up  
14 here, but I have the same slides you do.

15 Does anybody else need slides?

16 **THE COURT:** Oh, okay. Yeah.

17 **MR. POMERANTZ:** Slides over there? Okay.

18 **THE COURT:** All right. Go ahead.

19 **MR. POMERANTZ:** All right. Thank you, Your Honor.

20 **CLOSING ARGUMENT**

21 **MR. POMERANTZ:** So you just heard plaintiffs' counsel  
22 weave together portions of documents and testimony to accuse  
23 Google of some pretty serious things. And the question,  
24 Your Honor, is whether he fairly captured all of the relevant  
25 facts. Your Honor, respectfully, I don't think he has, and