

IN THE
Supreme Court of the United States

GOOGLE LLC, *et al.*,

Petitioners,

v.

EPIC GAMES, INC.,

Respondent.

**MOTION TO HOLD PETITION IN ABEYANCE PENDING OUTCOME OF
PROCEEDINGS RELATED TO POTENTIAL SETTLEMENT**

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MOTION TO HOLD PETITION IN ABEYANCE PENDING OUTCOME OF PROCEEDINGS RELATED TO POTENTIAL SETTLEMENT

Pursuant to Rule 21 of the Rules of this Court, Petitioners (“Google”) respectfully move to defer consideration of the pending petition for certiorari in this case because the parties have submitted to the District Court a joint motion to modify the permanent injunction in this case. The District Court granting that joint motion is a condition of a settlement reached between Google and respondent Epic Games, Inc. (“Epic”) to resolve this litigation, and it remains pending before the District Court at this time.

This Court docketed Google’s petition for a writ of certiorari on October 29, 2025. The petition challenges the liability verdict and injunction in an antitrust suit that Epic brought against Google regarding Google’s operation of its app store, Google Play. After Google’s petition for certiorari was docketed, the parties reached a comprehensive settlement that is contingent on the District Court entering a modified injunction on the terms proposed by the parties. That request is currently pending before the District Court. *See Joint Motion to Modify Permanent Injunction*, Dkt. 1119, *In re Google Play Store Antitrust Litig.*, No. 3:21-md-02981-JD (Nov. 4, 2025). The District Court has indicated that it intends to hold an evidentiary hearing on January 22, 2026, to determine “whether material circumstances have changed to warrant a modification.” Minute Entry at 1-2, Dkt. 1124, *In re Google Play Store Antitrust Litig.*, No. 3:21-md-02981-JD (Nov. 7, 2025); *see also* Order, Dkt. 1130, *In re Google Play Store Antitrust Litig.*, No. 3:21-md-02981-JD (Dec. 1, 2025) (setting hearing date).

On November 28, Epic filed a waiver of its right to respond to the petition. As a result, the petition will be distributed for consideration at the Conference scheduled for January 9, 2026. The District Court will not have completed its proceedings related to the joint motion to modify the injunction at that time because the hearing is set for later in January.

Google respectfully requests that this Court hold Google's petition for certiorari in abeyance until the District Court has resolved the parties' joint motion to modify the permanent injunction. Holding the petition in abeyance will preserve this Court's judicial resources by ensuring that the petition only comes before the Court for consideration if there remains a live controversy between the parties. This Court has previously deferred consideration of certiorari petitions to allow for consideration and finalization of settlement agreements. *See, e.g., Premier Nutrition Corp. v. Montera*, --- S. Ct. ---, 2025 WL 2906483 (Oct. 14, 2025) (granting motion to hold petition in abeyance pending approval of settlement agreement); *Jordan v. Howell*, 144 S. Ct. 692 (2024) (same); *Peterson v. Linear Controls, Inc.*, 141 S. Ct. 83 (2020) (same); *Ortiz v. United States*, 578 U.S. 943 (2016) (same); *Dow Chem. Co. v. Indus. Polymers, Inc.*, 577 U.S. 1191 (2016) (same). Google respectfully requests that this Court take the same approach here.

Upon completion of the proceedings related to the joint motion to modify the permanent injunction, Google will promptly notify the Court. If the parties' requested modification is approved, Google intends to withdraw the pending petition for certiorari. If the parties' requested modification is not approved, however, the

conditions for the settlement will not be fulfilled and the controversy between the parties will remain. In that circumstance, certiorari review will remain warranted on the issues raised in its petition. To enable the Court to promptly resolve Google's petition if a live controversy remains, the Court may wish to call for a response to the petition while holding the grant or denial of the petition in abeyance.

For these reasons, Google respectfully requests that the Court hold the petition in No. 25-521 in abeyance pending resolution of the joint motion to modify the permanent injunction following any additional briefing on the petition that the Court might order.

December 2, 2025

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