

Competition Tribunal



Tribunal de la Concurrence

Citation: *Alexander Martin v Alphabet Inc., Google LLC, Google Canada Corporation, Apple Inc., and Apple Canada Inc.*, 2025 Comp Trib 15

File No.: CT-2025-004

Registry Document No.: 48

IN THE MATTER OF the *Competition Act*, RSC 1985, c C-34, as amended;

AND IN THE MATTER OF an application by Alexander Martin for an order pursuant to section 103.1 granting leave to bring an application under sections 79(1) and 90.1(1) of the *Competition Act*;

BETWEEN:

Alexander Martin
(applicant)

and

**Alphabet Inc., Google LLC, Google
Canada Corporation, Apple Inc., and
Apple Canada Inc.**
(respondents)



Decided on the basis of the written record.

Before: Justice Andrew D. Little (Chairperson)

Date of order: August 27th, 2025

CONFIDENTIALITY ORDER

- A. **UPON INFORMAL MOTION** made by letter from counsel for Apple Inc. and Apple Canada Inc. (the “Apple Respondents”) dated August 26, 2025;
- B. **AND CONSIDERING** that this Tribunal’s order of August 12, 2025, granted the Apple Respondents leave to file certain affidavit evidence as part of their written representations in response to the applicant’s leave application by September 2, 2025;
- C. **AND CONSIDERING** the affidavit of Aaron T. Chiu sworn on August 25, 2025;
- D. **AND CONSIDERING** the draft confidentiality order provided by Apple Respondents, which was also provided to all Parties and the Commissioner of Competition for comments, and the consent of all Parties to the issuance of the confidentiality order;
- E. **AND UPON DETERMINING** that a confidentiality order should be issued, in substantially the form proposed;

THEREFORE THE TRIBUNAL ORDERS THAT:

[1] For the purpose of this Order:

- (a) “**Act**” means the *Competition Act*, RSC 1985, c C-34, as amended;
- (b) “**Affiliate**” has the same meaning as in subsection 2(2) of the Act;
- (c) “**Apple Respondents**” means Apple Inc. and Apple Canada Inc. and their directors, officers, employees, agents, representatives, successors and assigns; and all joint ventures, subsidiaries, divisions, groups and Affiliates controlled by the foregoing entities, and their respective directors, officers, employees, agents, representatives, successors and assigns of each;
- (d) “**Applicant**” means Alexander Martin and his agents, representatives, successors and assigns;
- (e) “**Commissioner**” means the Commissioner of Competition appointed pursuant to section 7 of the Act or any person designated by the Commissioner to act on his behalf;
- (f) “**Google Respondents**” means Alphabet Inc., Google LLC and Google Canada Corporation, and their directors, officers, employees, agents, representatives, successors and assigns; and all joint ventures, subsidiaries, divisions, groups and Affiliates controlled by the foregoing entities, and their respective directors, officers, employees, agents, representatives, successors and assigns of each;
- (g) “**Parties**” means the Applicant and the Respondents collectively, and “**Party**” means any one of them;

- (h) “**Person**” means any individual or corporation or partnership, sole proprietorship, trust or other unincorporated organization capable of conducting business, and any Affiliates thereof;
- (i) “**Proceeding**” means the application for leave filed by the Applicant pursuant to section 103.1 of the Act on June 20, 2025;
- (j) “**Protected Record**” means any Record (including the information such Record contains) that is produced in the Proceeding, including affidavits, Records listed in affidavits, and submissions that:
 - i. the Party producing the Record claims is confidential by designation under paragraph 2 of this Order; or
 - ii. the Tribunal has determined is confidential;
- (k) “**Public Record**” means any Record that is not designated as a Protected Record;
- (l) “**Record**” has the same meaning as in subsection 2(1) of the Act and, for greater certainty, includes any email or other correspondence, memorandum, pictorial or graphic work, spreadsheet or other machine-readable record and any other documentary material, regardless of physical form or characteristics;
- (m) “**Respondents**” means the Apple Respondents and the Google Respondents, collectively;
- (n) “**Tribunal**” means the Competition Tribunal established pursuant to subsection 3(1) of the *Competition Tribunal Act*, RSC 1985, c 19 (2nd Supp), as amended.

[2] The following Record may be designated as a Protected Record, on a temporary basis, until such time as it is redesignated as a Public Record pursuant to paragraph 7 below:

- (a) The transcript of Mr. Eddy Cue’s May 7, 2025 testimony in the remedies hearing before Judge Amit P. Mehta of the United States District Court of the District of Columbia in *United States of America et al. vs Google LLC*, No. 20-cv-3010-APM (D.D.C.) (the “U.S. Search Case”), as redacted in accordance with the order of the Tribunal issued on August 12, 2025.

[3] If confidential information from a Protected Record is incorporated into any other Record, or into a document to be filed in this proceeding, that Record or document shall also be a Protected Record.

[4] Any Protected Record shall cease to be a Protected Record if:

- (a) it or the information contained therein becomes publicly available (except if it becomes publicly available through a breach of this Order);

(b) the Parties agree in writing that the Record shall cease to be a Protected Record;
or

(c) the Tribunal determines that the Record shall cease to be a Protected Record.

[5] Protected Records will be identified in the following manner for the purpose of all steps of the Proceeding:

(a) a Party claiming that a Record is a Protected Record shall, at the time of production of a Protected Record, mark it with the name of the Party producing the Record and with “Confidential” on each page that is claimed as confidential; and

(b) subject to paragraphs 3 and 4 of this Order, all Records designated as Protected Records shall be treated as a Protected Record onwards, save for re-designation pursuant to paragraph 7 below.

[6] Subject to a further order of the Tribunal, the consent of the Party or Parties that produced and claimed confidentiality over the Protected Record, or as required by law, Protected Records may be disclosed only to:

(a) any personnel of the Tribunal and of the presiding judicial member’s chambers as may be necessary for the conduct of the Proceeding;

(b) outside counsel to the Parties and outside counsel’s staff who are directly involved in the Proceeding; and

(c) the Commissioner, counsel to the Commissioner, and the Commissioner’s staff.

[7] A Party claiming that a Record is a Protected Record may re-designate such Record as a Public Record after becoming aware that the Record or the information contained therein becomes publicly available (except if it becomes publicly available through a breach of this Order).

[8] If a Party is required by law to disclose a Protected Record, then that Party shall give prompt written notice to the Party that claimed confidentiality over the Protected Record so that a protective order or other appropriate remedy may be sought.

[9] Outside counsel to the Parties and their staff, counsel to the Commissioner, and the Commissioner and his staff may make copies of any Protected Record as they require in connection with the Proceeding.

[10] Nothing in this Order prevents any Party from having full access to Protected Records that originated from that Party.

[11] Nothing in this Order shall preclude or impede outside counsel to the Parties’ ability to communicate with or advise their client of general or high-level conclusions based on their review and evaluation of Protected Records produced by any Party, provided that such communications

or advice shall not disclose or reveal the specific contents of any Protected Record in violation of this Order.

[12] The Parties shall bear their own costs associated with the request for and issuance of this Order.

[13] Nothing in this Order prevents or affects the ability of a Party from applying to the Tribunal for further orders or directions with respect to the use or disclosure of Records or information produced by another Party.

[14] The termination of the Proceeding shall not relieve any Person to whom Protected Records were disclosed pursuant to this Order from the obligation of maintaining the confidentiality of such Protected Records in accordance with the provisions of this Order, subject to any further order of the Tribunal.

[15] Upon completion or final disposition of the Proceeding and any related appeals, all Protected Records and any copies of Protected Records (except Protected Records in the possession of the Tribunal) shall be destroyed or returned to the Party that produced them.

[16] The Tribunal shall retain jurisdiction to deal with any issues relating to this Order, including, without limitation, the enforcement of this Order. This Order shall be subject to further direction of the Tribunal and may be varied by order of the Tribunal.

DATED at Ottawa, this 27th day of August, 2025.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Andrew D. Little

COUNSEL OF RECORD:

For the applicant:

Alexander Martin

Albert Pelletier
Ian Literovich
Edwina Mayama

For the respondents:

**Alphabet Inc., Google LLC and Google
Canada Corporation**

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Neil Campbell
Éric Vallières
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