

C/2024/563

8.1.2024

Action brought on 16 November 2023 — Apple v Commission**(Case T-1080/23)**

(C/2024/563)

*Language of the case: English***Parties**

Applicant: Apple Inc. (Cupertino, California, United States) (represented by: D. Beard, S. Love, J. Bourke, Barristers-at-Law, W. Knibbeler and T. van Helfteren, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul wholly or in part Article 2(b) of the European Commission decision of 5 September 2023 and notified to Apple on 6 September 2023, reference DMA.100013, DMA.100025 and DMA.100027, to designate the Applicant as gatekeeper pursuant to Article 3 of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act), which specifies Apple's operating system iOS as an important gateway for business users to reach end users, insofar as it imposes on Apple an obligation to comply with the interoperability obligations of Article 6(7) of Regulation (EU) 2022/1925, and/or declare Article 6(7) of Regulation (EU) 2022/1925 inapplicable pursuant to Article 277 TFEU;
- annul wholly or in part Article 2(a) of the European Commission Decision of 5 September 2023 which specifies that Apple's online intermediation service App Store is a single core platform service that constitutes an important gateway for business users to reach end users;
- annul the European Commission Decision of 5 September 2023 insofar as it wrongly concludes that iMessage is a number-independent interpersonal communications service within the meaning of Regulation (EU) 2022/1925 and Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code; and
- order the European Commission to pay the applicant's costs pursuant to Article 134 of the Rules of Procedure of the General Court, including the costs relating to any intervening parties.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that Article 6(7) of Regulation (EU) 2022/1925 is inconsistent with the requirements of the European Charter of Fundamental Rights and the principle of proportionality, and that Article 2(b) of the European Commission Decision of 5 September 2023 is unlawful insofar as it imposes the obligations under Article 6(7) of Regulation (EU) 2022/1925 on Apple in relation to iOS.
2. Second plea in law, alleging misinterpretation and misapplication of Regulation (EU) 2022/1925, and material factual errors, in concluding that the applicant's five App Stores are a single core platform service.
3. Third plea in law, alleging misinterpretation and misapplication of Regulation (EU) 2022/1925 and Directive (EU) 2018/1972, and material factual errors, in concluding that iMessage is a number-independent interpersonal communications service.