

1 THE HONORABLE JOHN C. COUGHENOUR

2
3
4
5
6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 In re VALVE ANTITRUST
10 LITIGATION

CASE NO. C21-0563-JCC

11 ORDER
12
13
14

15 This matter comes before the Court on Plaintiffs' surreply (Dkt. No. 341), asking the
16 Court to strike portions of Defendant's reply (Dkt. No. 337) and the entirety of Defendant's reply
17 expert report (Dkt. No. 338-1). For the reasons described below, the Court DENIES the motion
18 but will allow Plaintiffs to provide the Court with a supplemental submission.

19 As to the issue of a new argument allegedly raised for the first time on reply—the Court
20 disagrees with Plaintiffs' assessment. Defendant raised each issue now subject to Plaintiffs'
21 surreply, (*see* Dkt. No. 341 at 2–4), either directly or by reasonable implication, in its original
22 motion. (*See* Dkt. No. 232 at 9, 13; 233-1 at 115) (motion and supporting exhibit addressing (a)
23 impact of Steam Key sales and (b) relevant facts in assessing whether the Steam platform is best
24 analyzed as a one-sided versus two-sided market). Therefore, the Court FINDS that Plaintiffs'
25 request to strike argument on these issues is without merit.

26 As to the issue of Defendant's reply expert report, the applicable scheduling order is

ORDER
C21-0563-JCC
PAGE - 1

1 silent. (*See generally* Dkt. No. 176.) Given that the order (as proposed by the parties and adopted
2 by the Court) is not clear on this particular issue, rather than strike the offending report, the
3 Court will permit Plaintiffs the same opportunity as Defendant. They may submit a rebuttal
4 (surreply) expert report. (*See* Dkt. No. 341 at 4.)

5 For the reasons described above, the Court DENIES Plaintiffs' motion to strike (Dkt. No.
6 341) except that Plaintiffs may submit a supplemental brief¹ and expert surreply report. That
7 submission is due September 9, 2024. The Court will entertain no further response or reply from
8 Defendant on this issue, following Plaintiffs' submission.

9 The Clerk is DIRECTED to renote Defendant's motion to exclude expert testimony (Dkt.
10 No. 232) and Plaintiffs' motion for class certification (Dkt. No. 181) to September 9, 2024.

11
12 DATED this 30th day of August 2024.

13
14
15 

16 John C. Coughenour
17 UNITED STATES DISTRICT JUDGE

18
19
20
21
22
23
24
25
26 ¹ Plaintiffs' brief shall be limited to four pages of argument and may only address the issues
identified above, as further described in Plaintiffs' surreply (Dkt. No. 341).