

Apple, Google, Intel fail to dismiss staff-poaching lawsuit

Jonathan Stempel, Reuters

(Reuters) - Apple Inc, Google Inc, Intel Corp and four other technology companies were ordered by a judge to face an antitrust lawsuit claiming they illegally conspired not to poach each other's employees.

District Judge Lucy Koh in San Jose, California, rejected the companies' bid to dismiss claims brought under the federal Sherman antitrust law and California's own antitrust law, the Cartwright Act.

In a decision on Wednesday night, Koh said the existence of "Do Not Cold Call" agreements among various defendants "supports the plausible inference that the agreements were negotiated, reached, and policed at the highest levels" of the companies.

"The fact that all six identical bilateral agreements were reached in secrecy among seven defendants in a span of two years suggests that these agreements resulted from collusion, and not from coincidence," Koh added.

Other defendants in the case included Adobe Systems Inc, Intuit Inc, Walt Disney Co's Pixar unit and Lucasfilm Ltd. Koh dismissed a claim brought under California's unfair competition law.

Lawyers for the defendants were not immediately available for comment.

The proposed class-action lawsuit was brought by five software engineers who accused the companies of conspiring to limit pay and job mobility by eliminating competition for labor, costing workers hundreds of millions of dollars.

Their claims are similar to those raised in 2010 by the Department of Justice when it settled antitrust probes against the companies.

Without admitting wrongdoing, the companies agreed not to take steps to restrict competition for workers, including setting limits on cold-calling and recruiting.

Among the revelations stemming from the litigation was a 2007 email trail involving the late Steve Jobs and Eric Schmidt, then respectively Apple's and Google's chief executives, over Google's apparent effort to recruit an Apple engineer.

"I would be very pleased if your recruiting department would stop doing this," Jobs wrote Schmidt, an Apple director at the time.

Schmidt forwarded that email to various people, asking if they could "get this

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stopped."

Eventually, Google's staffing director said the employee who recruited the engineer would be fired, and added: "Please extend my apologies as appropriate to Steve Jobs."

Joseph Saveri, a lawyer for the five plaintiff engineers, said their case remains on track for a June 2013 trial.

"This is a significant step forward," Saveri said in an email.

All of the defendants are based in California: Adobe in San Jose; Apple in Cupertino; Google and Intuit in Mountain View; Intel in Santa Clara; Lucasfilm in San Francisco; and Pixar in Emeryville. Walt Disney is based in Burbank.

The case is In re: High-Tech Employee Antitrust Litigation, District Court, Northern District of California, No. 11-02509.

(Reporting By Jonathan Stempel in New York; Editing by Gerald E. McCormick and [Richard Chang](#) [1])

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