Steve Jobs threatened patent suit to enforce no-hire policy: filing

Dan Levine, Reuters

(Reuters [1]) - Apple co-founder Steve Jobs threatened to file a patent lawsuit against Palm if that company's chief executive didn't agree to refrain from poaching Apple employees, according to a court filing made public on Tuesday.

The communication from Jobs surfaced in a civil lawsuit brought by five tech workers against Apple Inc, Google Inc, Intel Corp and others, alleging an illegal conspiracy to eliminate competition for each other's employees and drive down wages.

The defendant tech companies have attempted to keep a range of documents secret. However, U.S. District Judge Lucy Koh in San Jose, California rejected parts of that request, which led to details of Jobs' 2007 communications with then-Palm chief executive Edward Colligan becoming part of the public record.

Jobs proposed eliminating competition between the two companies for talent, according to a sworn statement from Colligan cited by the plaintiffs.

"Mr. Jobs also suggested that if Palm did not agree to such an arrangement, Palm could face lawsuits alleging infringement of Apple's many patents," Colligan said in the statement.

An Apple representative could not immediately be reached for comment on Tuesday. A spokesman for Hewlett-Packard Co, which acquired Palm, also could not be reached.

Colligan told Jobs that the plan was "likely illegal," and that Palm was not "intimidated" by the threat.

"If you choose the litigation route, we can respond with our own claims based on patent assets, but I don't think litigation is the answer," he said.

In 2010, Google, Apple, Adobe Systems Inc, Intel, Intuit Inc and Walt Disney Co's Pixar unit agreed to a settlement of a U.S. Justice Department probe that bars them from agreeing to refrain from poaching each other's employees.

The Justice Department and California state antitrust regulators [2] then sued eBay Inc late last year over an alleged no-poaching deal with Intuit.

In a separate court filing on Tuesday, eBay asked a U.S. judge to dismiss the government's lawsuits, saying the company had done nothing wrong.

Antitrust law "does not exist to micromanage the interaction between the officers and directors of a public company," eBay said in its filing. A Justice Department spokesman could not immediately be reached.

Koh is currently mulling whether the civil lawsuit can proceed as a class action, which would give the plaintiffs more leverage to extract a large settlement. Plaintiff attorneys have estimated that damages potentially could run into hundreds of millions of dollars.

At court hearing last week, Koh cited emails between top executives as key evidence for plaintiffs, though the judge also said plaintiffs' economic analysis had "holes."

The Tuesday court filings detail how Google developed its no-hire agreements. When Google's human resources director asked then-chief executive Eric Schmidt about sharing its no-cold call agreements with competitors, Schmidt - now the company's executive chairman - advised discretion.

"Schmidt responded that he preferred it be shared 'verbally, since I don't want to create a paper trail over which we can be sued later?'" he said, according to the court filing. The HR director agreed.

In an email on Tuesday, Google spokeswoman Niki Fenwick said Google has "always actively and aggressively recruited top talent."

Schmidt is scheduled to be questioned by plaintiff lawyers next month.

The civil case in U.S. District Court, Northern District of California is In Re: High-Tech Employee Antitrust Litigation, 11-cv-2509.

(Reporting By Dan Levine; Editing by Daniel Magnowski)

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