Judge deals blow to high-tech workers' lawsuit

MICHAEL LIEDTKE - AP Technology Writer - Associated Press

A federal judge on Friday struck down an effort to form a class action lawsuit to go after Apple, Google and five other technology companies for allegedly forming an illegal cartel to tamp down workers' wages and prevent the loss of their best engineers during a multiyear conspiracy broken up by government regulators.

U.S. District Judge Lucy Koh in San Jose, California, issued a ruling Friday concluding that the companies' alleged collusion may have affected workers in too many different ways to justify lumping the individual claims together. She denied the request to certify workers' lawsuits as a class action and collectively seek damages on behalf of tens of thousands of employees.

The allegations will be more difficult to pursue if they can't be united in a single lawsuit. Koh, though, will allow the workers' lawyers to submit additional evidence that they have been collecting to persuade her that the lawsuit still merits class certification.

"Plaintiffs appreciate the court's thorough consideration of the evidence and are prepared to address the court's concerns fully in a renewed motion," employee attorney Kelly Dermody wrote in a Friday email.

Apple Inc., Google Inc. and the other companies targeted in the lawsuit have been vigorously fighting the allegations. More is at stake than potentially paying out significant damages to more than 100,000 workers. If the lawsuit proceeds, it could also expose secret discussions among prominent technology executives who entered into a "gentlemen's agreement" not to poach employees working at their respective companies.

The case, filed in San Jose federal court, already has disclosed emails raising questions about the tactics of Apple's former CEO, the late Steve Jobs, and Google's former CEO, Eric Schmidt. Other sensitive information has so far been redacted in various court documents, including parts of Koh's 53-page ruling, but more dirty laundry could be aired if the lawsuit proceeds.

The lawsuit is trying to hold the companies accountable for an alleged scheme that cheated employees by artificially suppressing the demand for their services. The complaint hinges on the contention that the workers would have gotten raises either from their current employers or at other jobs if an anti-poaching provision hadn't been imposed. In most instances, the recruiting restrictions were in place from March 2005 through December 2009, according to the lawsuit.

Besides Apple and Google, the lawsuit is aimed at computer chip maker Intel Corp., software makers Intuit Inc. and Adobe Systems Inc., and film makers Pixar and LucasFilm, both of which are now owned by Walt Disney Co.

With the exception of LucasFilm, all the companies being sued settled similar allegations of an anti-poaching conspiracy with the U.S. Justice Department in 2010. The government opened its investigation in 2009 after finding evidence that the companies had reached behind-the-scenes agreements not to recruit each other's employees without permission. Apple, Google and the other companies lifted their poaching prohibitions without acknowledging any wrongdoing, as part of their settlement with the Justice Department.

Documents filed in the lawsuit indicated executives knew they were behaving badly. Both Schmidt and Intel CEO Paul Otellini indicated that they were worried about the anti-recruiting agreements being discovered, according to declarations cited in Koh's ruling. Nevertheless, Schmidt still fired a Google recruiter who riled Jobs by contacting an Apple employee, according to evidence submitted in the case.

Sometimes, workers who applied for a vacant position of their own volition were turned away if they were employed by one of the companies already adhering to the recruiting restrictions.

In her ruling, Koh said there's evidence that some of the employees working at the companies named in the lawsuit probably didn't earn as much money as they would have in a completely free market.

"The sustained personal efforts by the corporations' own chief executives...to monitor and enforce these agreements indicate that the agreements may have had broad effects on (their) employees," she wrote.

The problem with the lawsuit, Koh said, is that the circumstances for each employee differ too widely to qualify as a class action.

Source URL (retrieved on *07/23/2014 - 6:41pm*):
http://www.ecnmag.com/news/2013/04/judge-deals-blow-high-tech-workers-lawsuit