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To: Read, John [John.Read@ATR.USDOJ.gov]
Subject: U.S. vs. Apple, Inc., et al., 12-cv-2826 (DLC) (SDNY)

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As a book lover, reader, and author, this matter interests me greatly. My involvement with books over the years extends to volunteer work with libraries (I served on the board of the Mid-Hudson Library System in NY for 12 years, three as president). As an author of some two dozen books on technical topics, I have seen the production process from the inside; in 1999, I converted a book that I had written for AP Professional (then an imprint of Academic Press) to the Rocket eBook.

When I read the Complaint filed on 4/11/12, I was disturbed that there was no clear description of ebooks beyond the brief mention on page 2: "books sold to consumers in electronic form and read on a variety of electronic devices, including dedicated ebook readers (such as the Kindle or the Nook), multipurpose tablets, smartphone and personal computers." There are two very different types of ebooks, and I believe that the complaint lumps them together. This is not a minor simplification because, in my opinion, the failure to differentiate the two types of ebooks leads to proposed remedies that may have unintended consequences in the ebook world.

For many years now, the production of books has followed a pattern at most publishers. The book is written usually with word processing software, and ancillary items such as charts, tables, figures, and illustrations are prepared separately in most cases. Editing is done on these various files, and, at a certain point, a line in the sand is drawn and everything is moved from word processing software and other tools into page layout software (often Quark or InDesign). After layout and pagination, PDF files are created, and they are sent off to the printer as well as to conversion routines that take in PDF files and spit out files for Nook, Kindle, and other devices. In many cases, there is one final step: because minor corrections are made in the laid-out pages, the whole kit-and-caboodle of the laid-out book is then converted back to word processing software so that it can be edited and rewritten for future editions. (This is called backed-out text -- BOT). You will note that the production of ebooks is an add-on to the page-based production system. It adds little time or cost to the process, and, for that reason, it is not surprising that publishers, readers, and the Department of Justice often view ebooks as commodities or add-ons to the main product: the printed book. In many cases, they are.

There is another way of producing ebooks, and that is by building software that is designed to present the book's content as if it were an app or game. In that process, the content is produced much as it always is, but the detour into the world of page layout is skipped unless the publisher wants both an ebook and a printed book. Quark and InDesign add nothing

whatsoever to an ebook; in fact, this excursion into the world of page layout can actually degrade both the printed book and the ebook as little snippets of text are inserted to guide the page-based reader to tables and charts that, for production reasons, need to be placed somewhere other than in the most logical place.

The Complaint makes no distinction between the two types of ebooks. In its discussions of pricing, I believe that it deals with commoditized ebooks that are a by-product of the existing production process, but because this is not clear, I fear that the Department may be inadvertently setting up standards and expectations with regard to ebooks across all types of ebooks. Informal discussions with friends in the publishing industry convince me that many of us who actually are thinking about and working with ebooks see the future in the second type of ebook particularly for books that are more complex than primarily text-based books. (The fact that the Complaint focuses on best sellers which are generally primarily text has pretty much excluded the second type of ebook from analysis.)

Although I realize that the Department's comment period is drawing to a close and it may be a bit late in the day for you to go back to page two of the Complaint and revisit it, I think that is critical. The fact that we have two types of ebooks is indisputable, and, furthermore, it is not unprecedented. The book industry and its readers have had no difficulty adjusting to a similar situation with regard to paperback books: mass market paperbacks and trade paperbacks co-exist.

The lower prices that the Complaint envisions may turn out to be lower only for ebooks produced via the existing word processing/page layout process. Ebooks that are designed from the ground up to take advantage of digital technologies may be at a disadvantage and, it is not inconceivable, that the part of the ebook world that now exhibits the greatest innovation and creativity may suffer.

Although I am a member of the Authors Guild, have written extensively on Apple products, and have worked with a number of publishers over the years, I am writing this on my behalf and have not discussed it with those parties.

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