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Sent: Sunday, June 24, 2012 7:13 PM
To: Read, John [John.Read@ATR.USDOJ.gov]
Cc: AuthorsGuild Staff; collettena[REDACTED]
Subject: U.S. vs. Apple, Inc., et al., 12-cv-2826 (DLC) (SDNY)

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Re: U.S. vs. Apple, Inc., et al., 12-cv-2826 (DLC) (SDNY)

Dear Attorney Read:

A few years ago the microcomputer software industry was crippled by a mistake in the legal system. The judges who decided on the anti-trust suit against Microsoft, experienced judges with years of experience, relied on the input of others to make a decision. The problem was they still employed secretaries and typewriters in their own daily activities and did not truly understand the issue of the pirating of the graphical user interface by Microsoft. It has taken years for the computer world to recover and many very good programs were lost at that time, never to be revived.

A similar decision is pending, now, that will once again impact the work of not just a few smart people but a whole field of endeavor. The best interest of authors is closely tied to the best interest of our whole society. In case you are not already familiar with the arguments against the DOJ's proposed settlement, please look at the following three points provided by The Authors Guild:

1. Amazon controls the market for an estimated 90% of in-print titles. Amazon has long commanded 75% of the online market for trade books in print form. Since only 10% of in-print books (frontlist books and core backlist titles) have substantial sales in brick-and-mortar stores, the online market is the only market that matters for most books. (Estimates vary, but it appears that there are about 2 million books in print. The largest brick-and-mortar stores might carry 150,000 titles; a typical independent bookstore carries a fraction of that.)

2. Amazon's predatory pricing targets 1% of in-print books: the books that its brick-and-mortar competitors rely on to bring customers to their stores. When not constrained by agency pricing, Amazon takes substantial losses on each sale of a specific subset of frontlist e-books – the bestsellers, near bestsellers, and might-be bestsellers. Losing \$2 or \$3 on each of these e-books pays immediate dividends. Since Amazon owns online bookselling (see Item #1), keeping readers out of bookstores keeps them on Amazon's turf.

3. A healthy literary marketplace depends on brick-and-mortar bookstores. Many books will never find their audience unless they're displayed on bookstore shelves and tables. These books include, of course, children's picture books, art books, and many cookbooks, which have to be seen and held to be appreciated. Bookstores are also destinations for readers, in a way that no online store can replicate. No one plans to take their kids to Amazon on Saturday to browse and pick out a book, for example, and people don't escape to Amazon to unplug and relax for a while. Those trips matter. Marketing studies confirm that readers are far more likely to buy unknown books by unfamiliar authors if they see them in a bookstore. Amazon, on the other hand, excels as a search engine for books readers have already heard of. This is one of the reasons the online market skews heavily toward familiar authors.

* In agency pricing, the vendor acts as the publisher's agent, taking a 30% commission and selling at the publisher's undiscounted retail price. Amazon's e-book market share has fallen from 90% to 60% since agency pricing was introduced in 2010.

Please do not allow Amazon to do the same thing Microsoft did when it took over nearly the entire PC operating system market by permission of the U.S. justice system. Please keep the market fair for authors and book stores.

Sincerely,
Collette Nagy
Member, The Authors Guild

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