

**From:** Rosen/Gale [mailto:galeros[REDACTED]]  
**Sent:** Saturday, June 23, 2012 1:17 PM  
**To:** Read, John [John.Read@ATR.USDOJ.gov]  
**Subject:** U.S. vs. Apple, Inc., et al., 12-cv-2826 (DLC) (SDNY)

Dear Chief Read:

To John Read, for required submission to Judge Denise Cote

At the suggestion of the Authors Guild--who, below, summarize the points I want to make in a straightforward manner--I'm writing about proposed e-book settlement.

This is of immediate concern to me as an author with a book of short stories coming out in the fall. My publisher (whose owners are themselves authors) is a small, independent firm--Leapfrog Press--that publishes perhaps a dozen books a year. Without the efforts of publishers like Leapfrog and *without the possibility of distribution through actual bricks-and-mortar independent bookstores*, books like mine haven't a chance reaching readers or of having readers even know of the books' existence. (My wife, Barbara Gale, who has worked for more than 40 years as an editor at trade publishers, academic publishers, and major periodicals, wants to add her name to these comments as well.)

It is the monopoly power of Amazon in the book-sales market that is really at stake here and the very real threat of the destruction of the independent--or even the chain--bookstore in America. Please take into account the interests of writers, readers, and booksellers, defined in the largest sense, before making a settlement that will allow Amazon to have a trust-like grasp of the dissemination of speech in our country.

**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.

Clearly, Amazon is committed to capturing the U.S. book market by forcibly moving it online, where it can more easily eliminate its competitors. Economic history tells us that monopolists tend to dictate terms to all participants in their markets. For the sake of our literary culture, our book market deserves a better fate.

Thank you.

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