



Department of Justice

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JUSTICE DEPARTMENT FILES LAWSUIT AGAINST EBAY INC. OVER AGREEMENT NOT TO HIRE INTUIT INC. EMPLOYEES

Agreement Deprived Employees of Better Salaries and Job Opportunities

WASHINGTON – The Department of Justice filed a civil antitrust lawsuit today against eBay Inc., alleging that it violated antitrust laws when it entered into an agreement not to recruit or hire Intuit Inc.'s employees. The department said that the agreement eliminated a significant form of competition to the detriment of affected employees who were likely deprived of access to better job opportunities and salaries.

The department's Antitrust Division worked closely with the Office of the Attorney General of the State of California, which conducted its own investigation and filed a similar lawsuit today.

The department filed its lawsuit in U.S. District Court in the Northern District of California, in San Jose. The lawsuit seeks to prevent eBay from adhering to or enforcing the agreement and from entering into any similar agreements with any other companies. Intuit is already subject to a settlement prohibiting it from entering into such agreements as part of an earlier case with the department.

The department alleges the agreement, which was enforced at the highest levels of each company, barred either firm from soliciting each other's employees, and for over a year barred at least eBay from hiring any employees from Intuit at all. In court papers, the department alleges that Meg Whitman, then eBay's CEO, and Scott Cook, Intuit's founder and executive committee chair, were intimately involved in forming, monitoring and enforcing the anticompetitive agreement. Cook was serving as a member of eBay's board of directors at the same time he was making complaints about eBay's recruiting of Intuit employees.

"eBay's agreement with Intuit hurt employees by lowering the salaries and benefits they might have received and deprived them of better job opportunities at the other company," said Joseph Wayland, Acting Assistant Attorney General in charge of the Department of Justice's Antitrust Division. "The Antitrust Division has consistently taken the position that these kinds of agreements are per se unlawful under the antitrust laws."

According to the complaint, beginning no later than 2006, and lasting at least until 2009, eBay and Intuit entered an illegal agreement that restricted their ability to actively recruit employees from the other company, and for some period of time even restricted at least eBay

from hiring any employees at Intuit. In 2007, the pact evolved into an agreement that eBay would not recruit Intuit's employees. eBay's recruiting personnel were instructed to not pursue potential applications that came from Intuit and to throw away such resumes, the department said.

As stated in the department's complaint, eBay and Intuit are direct competitors for employees, including specialized computer engineers and scientists covered by the agreements at issue in the case.

The department said it was not necessary to name Intuit in today's complaint because the company had previously been named in the division's September 2010 lawsuit and settlement, and the relief the department obtained in the previous settlement is sufficient to prevent Intuit from entering into these types of agreements. In September 2010, the Antitrust Division filed a lawsuit against six high technology companies—Adobe Systems Inc., Apple Inc., Google Inc., Intel Corp., Intuit Inc. and Pixar—over a series of bilateral agreements not to solicit each other's employees. All six companies entered into a settlement which prohibited them from entering agreements to refrain from, or pressure others to refrain from, soliciting, recruiting, or otherwise competing for another firm's employees. The Antitrust Division also filed a lawsuit against Lucasfilm in December 2010 for entering into a similar agreement with Pixar, and Lucasfilm entered into a similar settlement. The eBay case grew out of the same investigation.

eBay is a Delaware corporation with its principal place of business in San Jose. In 2011, eBay had revenues of \$11.7 billion.

Intuit is a Delaware corporation with its principal place of business in Mountain View, Calif. In 2011, Intuit had revenues of \$3.85 billion.

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