

Justice Department Sues eBay over No Hire Agreement with Intuit

AntitrustConnect Blog

November 18, 2012

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Please refer to this post as: Jeffrey May, 'Justice Department Sues eBay over No Hire Agreement with Intuit', AntitrustConnect Blog, November 18 2012, <http://antitrustconnect.com/2012/11/18/justice-department-sues-ebay-over-no-hire-agreement-with-intuit/>

Online marketplace eBay, Inc. has been charged by the Department of Justice with entering into an agreement with business and financial management solutions provider Intuit, Inc. not to hire each other's employees. On Friday, the Justice Department filed an 11-page civil antitrust complaint against eBay in the federal district court in San Jose, California.

The complaint details a naked no-solicitation and no-hire agreement reached at the highest levels of the companies. Meg Whitman, then eBay's CEO, and Scott Cook, Intuit's founder and executive committee chair, were allegedly involved in forming, monitoring, and enforcing the pact.

According to the government, the agreement 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. The challenged conduct began in 2006 and continued into 2009. The alleged agreement remained in effect even after the Justice Department's investigation into technology company hiring practices became public.

The Justice Department asserted that eBay and Intuit are direct competitors for employees, including specialized computer engineers and scientists. The alleged agreement lowered salaries and benefits and deprived employees of better job opportunities.

“eBay insisted that Intuit refrain from recruiting its employees in exchange for the limitation on eBay’s ability to recruit and hire Intuit employees,” the complaint alleged. eBay purportedly declined opportunities to hire Intuit employees, even when it had open positions for “quite some time.”

The complaint does not name Intuit, because the company settled similar charges, under the terms of a March 2011 consent decree ((CCH) 2011-1 Trade Cases ¶77,483). That settlement also resolved charges against five other technology companies—Adobe Systems, Inc., Apple, Inc., Google Inc., Intel Corporation, and Pixar. A June 2011 consent decree resolved similar U.S. charges against digital animation studio Lucasfilm, Inc. ((CCH) 2011-1 Trade Cases ¶77,477).

The complaint was signed by Joseph Wayland, in one of his final acts before stepping down as Acting Assistant Attorney General in charge of the Department of Justice Antitrust Division. Renata B. Hesse is now the Acting Assistant Attorney General for Antitrust.

This most recent case is *U.S. v. eBay, Inc.*, Case No. 12-58690.