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Apple Claim Over 'App Store' Gets More Appsurd

by Mark Walsh, Friday, May 20, 2011, 3:00 PM

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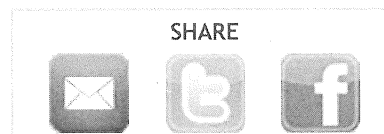
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Apple's trademark case against Amazon over the term "app store" appears to be growing more absurd as it goes along. Apple sued the online retail giant for trademark infringement in March in connection with the launch of its Amazon Appstore for Android, which offers apps for Android phones.

In its latest filing, Apple rejects Amazon's claim that "app store" is a generic term for a store that sells application programs.

"Apple denies that, based on their common meaning, the words 'app store' together denote a store for apps," the company stated in its response to Amazon's counterclaim seeking to have the lawsuit thrown out. Huh? What else would it mean? A store for mangos?

The papers filed Thursday in California federal court go on to state: "Apple denies that the words 'app store' are commonly used among many businesses to describe mobile software download services and further denies that the term 'app store market' is used to describe the market for mobile software download services." Looks like Apple is in denial.

It's true, other branded app storefronts such as "Android Market," "BlackBerry App World," and "Windows Marketplace for Mobile" haven't incorporated the term "app store" into their names. But the term is used to generically refer to these types of businesses as a whole, or individually, as in: "Amazon opened a rival app store to the Android Market."

Apple even cites an American Dialectic Society press release earlier this year announcing "app" as Word of the Year for 2010, which states: "App has been around for ages, but with millions of dollars of marketing muscle behind the slogan 'There's an app for that,' plus the arrival of 'app stores' for a wide spectrum of operating systems and computers, app really exploded in the last 12 months."

Nevertheless, Apple reiterates its denial "that the mark APP STORE is generic and, on that basis, denies that the Amazon Appstore for Android service is an 'app store.'" The company seems to be arguing there's only one App Store -- Apple's own mobile software download service. The term "app store" otherwise has no meaning. Which is ridiculous on its face. It can refer specifically to Apple's app portal or another one, depending on the context.

If Amazon had called its service simply "App Store," Apple might have a stronger case for arguing that would cause confusion in the marketplace. But it uses a different formulation, with "Amazon" as part of the name of its app business. There's little chance for confusion, especially since Amazon's apps are only for Anroid devices. Apple may have popularized the term "app store," but it shouldn't be allowed to own it.



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**Russell Cross** from **Prentke Romich**

commented on: May 20, 2011 at 4:42 PM

The word "app store" is clearly a compound noun based on the word "store" as the head word and "app" as an attributive noun that is derived patently from a shortening of "application." The OED's first citation of "app" for "application" is from 1985, coincidentally in reference to a Mac application: "One step in that direction is Apple's recent beta testing of the new programming tools called Mac App." (Info World, 29th July).

I have no doubt that Apple can use "Apple's App Store" as a mark, but that's based on using "Apple" as an adjectival modifying on the generic "app store." What we are seeing here is another example of overzealous and overpaid corporate attorneys wasting time in order to collect money.

As we hear time and time again, "litigation stifles innovation" and the one-time darling of the "independents" has now become the jack-booted domineering corporate thug that its seminal "1984" TV ad railed against.

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**Noah Wieder** from **SearchBug, Inc.**  
commented on: May 20, 2011 at 3:30 PM

Apple, get over it. Stop the nonsense and get on with business. Let it go. No one cares. I own an iPad and and an Motorola Android Phone.

I can only download ipad apps from the Apple App Store, but I can download Android Apps from the Android Market or the Amazon App Store for Android. I know the difference, it's not confusing.

When I'm in a grocery store and ask a grocery clerk where the apples are, they don't think I'm asking where the computing devices are.

Are Apple products great, sure. Are people that dumb that they confuse Apple to apples or an Android App Store to an iPhone/ipad/ipod App Store, seriously?

Apple, stop the nonsense, you're making yourself look bad. Unless the lawsuit is part of some ridiculous marketing plan, but I really think you could do better.

How about dressing some guys up on TV.. I'm an App Store, no I'm an App Store. Oh yeah, do you have iPhone Apps, um.. no, well, do you have Android Apps, um.. no. hmm.. nuff said..



**Chris Binding** from **DEA**  
commented on: May 20, 2011 at 3:20 PM

App is also an abbreviation of application. So generically they should actually be application stores.



**Chris Binding** from **DEA**  
commented on: May 20, 2011 at 3:16 PM

I disagree. App Store should absolutely be Apple's.

The only reason you and I refer to all other rivals as 'app stores' in themselves is because of Apple's App Store. If Apple had called it App Market or App Shop, we would be using that as the generic term instead.

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