

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

APPLE INC., *et al.*,

Defendants.
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No. 12 CV 2826 (DLC)

DECLARATION OF TIMOTHY COOK

Pursuant to 28 U.S.C. § 1746, I, Timothy Cook, declare:

1. I am the Chief Executive Officer (“CEO”) and a director of Apple Inc. (“Apple”).

I respectfully submit this declaration in opposition to the Department of Justice’s motion to compel my deposition in this litigation and in support of Apple’s cross-motion for a protective order precluding my deposition from proceeding. I have personal knowledge of the facts stated in this declaration, and, if ordered by the Court to testify, I would testify truthfully to these facts at my deposition or at any hearing in or trial of this matter.

2. Apple is a multinational corporation that employs more than 75,000 people around the world. Apple also offers its innovative devices, including iPhone, iPad, Mac, and iPod; services, such as iTunes, the App Store, the iBookstore, and iCloud; and iOS software across the globe. Although not every Apple device, service, or software offering is available through each country in which Apple sells or distributes its products, consumers have access to Apple products and services in more than 150 countries and through more than 204,000 points of sale worldwide, including 401 Apple retail stores.

3. Apple has experienced especially dramatic growth over the past few years; its net sales for fiscal year 2012 were \$156.5 billion, increasing over \$48 billion, or 46%, from 2011 alone. Over \$60.9 billion of those sales were domestic.

4. I became CEO of Apple on August 24, 2011 when its co-founder, Steve Jobs, resigned as CEO and became chairman of the board. In my capacity as CEO, I am responsible for the management and oversight of every aspect of Apple's complex global operations. I direct the overall strategy of the company, and Apple's top executives report directly to me. I am closely involved in Apple's day-to-day strategic decisions and the marketing of Apple's products and services.

5. Immediately prior to becoming Apple's CEO, I served as Apple's Chief Operating Officer ("COO") from October 2005 through August 2011. In that role, I was responsible for the company's worldwide sales and operations, including the end-to-end management of Apple's supply chain and customer service and support in all markets worldwide. My responsibilities also included heading the Macintosh division and, together with other Apple executives, developing strategic reseller and supplier relationships. However, I did not directly participate in or oversee the iBookstore's development or Apple's relationships with book publishers (either in connection with Apple's entry into the e-book business or its sale of e-book-related apps) at any time during my tenure as COO.

6. Before he resigned as Apple's CEO, Steve Jobs took three medical leaves of absence: (1) August 2004 through September 2004, (2) January 2009 through June 2009, and (3) January 2011 through August 2011. During those leaves, Steve continued to serve as CEO and was involved in the company's major strategic decisions, and I had responsibility for Apple's day-to-day operations. Between December 2009 through April 2010—the time period that I

understand to be central to the claims against Apple in this litigation—Steve had returned to his duties as CEO, and I had returned to my duties as COO.

7. I am extremely busy meeting the many diverse demands unique to my roles as CEO and a director of Apple. My time is a critical asset for Apple, and, because my absence can be burdensome, I carefully manage my schedule to ensure that I can devote the necessary attention, energy, and focus to my duties and responsibilities for the benefit of Apple's employees, shareholders, and customers.

8. I have been informed that the Department of Justice ("DOJ") would like to take my deposition in this antitrust case. If I am required to prepare for and testify at a deposition in this litigation, it will be disruptive to my duties at Apple.

9. From December 2009 through April 2010, I was aware that Apple was developing an e-bookstore for the iPad. However, I did not have any involvement in Apple's development of the iBookstore or iBooks, Apple's e-reading software, in 2009 and 2010.

10. I did not play any meaningful role in the commercial launch of either iBooks or the iBookstore in April 2010.

11. I was not personally involved in any negotiations with any book publisher, including the five publisher defendants in this case, concerning their sale of trade e-books through the iBookstore in 2009 or 2010. I did not communicate with anyone from Hachette, HarperCollins, Macmillan, Simon & Schuster, Penguin, or Random House about trade e-books in 2009 or 2010.

12. I do not recall discussing with Eddy Cue in 2009 or 2010 any of Apple's negotiations with publishers about Apple's sale of e-books or any terms of the contracts Apple offered to and/or executed with such publishers.

13. I do not recall discussing with Steve Jobs in 2009 or 2010 any of Apple's negotiations with publishers about Apple's sale of e-books or any terms of the contracts Apple offered to and/or executed with such publishers.

14. I do not recall anyone raising Apple's negotiations with publishers or any terms of the contracts Apple offered to and/or executed with any such publishers during executive team meetings I attended in 2009 or 2010.

15. I do not recall anyone asking for my input or contributing to any decision-making regarding Apple's entry into the e-books business, the iBookstore, iBooks, or Apple's relationships with any book publishers in 2009 or 2010.

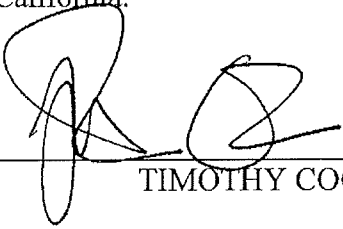
16. I have no unique personal knowledge about the iPad as it functions as an e-reading device that other Apple employees, including Eddy Cue, Keith Moerer, Philip Schiller, Rob McDonald, Jeffrey Robbin, and/or Michael Tchao, would not possess.

17. I have no unique personal knowledge about iBooks or the iBookstore software that other Apple employees, including Eddy Cue, Keith Moerer, Philip Schiller, Rob McDonald, Jeffrey Robbin, and/or Michael Tchao, would not possess.

18. I have no unique personal knowledge about Apple's interactions with other e-book retailers with regard to those retailers' apps for iPhone or iPad that other Apple employees, including Philip Schiller, Keith Moerer, Rob McDonald, Michael Tchao, or Kevin Saul, would not possess.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this 8th day of March, 2013 in Cupertino, California.



TIMOTHY COOK