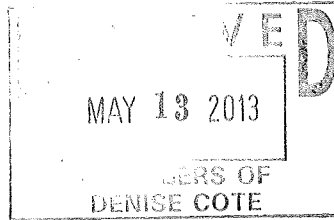


GIBSON DUNN



May 13, 2013

VIA ELECTRONIC MAIL

The Honorable Denise L. Cote
 United States District Judge
 United States District Court for the Southern District of New York
 500 Pearl Street, Room 1610
 New York, New York 10007-1312

5/13/13

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Re: United States v. Apple Inc., 12 Civ. 2826 (DLC), Texas v. Penguin Group (USA) Inc., 12 Civ. 3394 (DLC)

D & F
 5/13/13

Dear Judge Cote:

We write to briefly respond to the DOJ's letter dated today. The DOJ has mischaracterized Apple's position in two respects. First, the procedure we propose is designed to streamline, not prolong, the third-party confidentiality review process. We are not proposing adding an unnecessary step. Rather, our proposed procedure will enable the Court to efficiently resolve any confidentiality objections directly by reviewing the exhibit at issue. To be clear, we still have not received Amazon's proposed redactions to any of our trial exhibits, nor has Amazon shared its reaction to the excerpts from our pre-trial papers that relate to those of its documents Amazon considers to contain confidential information.

Second, as my earlier letter makes clear, Apple is not suggesting that any and all confidentiality concerns with the parties' trial exhibits be addressed before the pre-trial papers are publicly filed. Instead, as my letter of earlier today states, Apple asks Your Honor only to order that where a third party's proposed redactions affect the public filing of the pre-trial submissions themselves, that party submit the relevant exhibits containing the purportedly confidential information to the Court.

We appreciate the Court's attention to this matter.

Respectfully submitted,

Orin Snyder

cc: All Counsel