

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
2012 AUG 7 PM 4:00
8/7/12

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IN RE: ELECTRONIC BOOKS ANTITRUST : 11 MD. 2293 (DLC)
LITIGATION :
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Related to all
matters

ORDER

UNITED STATES OF AMERICA, :
:
Plaintiff, :
:
-v- : 12 Civ. 2826 (DLC)
:
APPLE, INC., et al., :
Defendants. :
:
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DENISE COTE, District Judge:

At a conference on April 18, 2012, the Department of Justice described the Tunney Act procedure that would be followed in connection with settlements that had been reached with three publisher defendants in this case. The public would be given notice of the settlement and have sixty days to comment on the proposed settlement. After that comment period, the Government would review the comments and if it deemed it appropriate, it would file a motion seeking Court approval of the settlement. As described at the conference, the parties in this litigation were expected to make their comments on the proposed settlement during the public comment period. One of the defendants, however, requested an opportunity to bring to the Court's attention "corrections" or "observations" on the

Government's motion papers, and a scheduling order of April 23, permitted such comments to be made by August 8 in a submission no longer than five pages. An Order of June 25 extended this deadline to August 15. The Court emphasized during the April 18 conference that the principal response by any party to the settlement itself should be made during the public comment period. Counsel for Apple made no objection to the procedure.

Apple filed a nine-page submission responding to the proposed settlement on June 25. This submission was part of the public comment process. There was no page limit imposed on the documents that could be submitted during the public comment period. Apple provided a courtesy copy of its submission to the Court on July 25. The Government's Response to Public Comments is dated July 23. At the time the Response was filed with the Court, the Government made available to the Court all of the comments received during the public comment period.

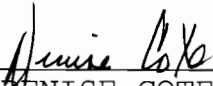
On August 3, the Government filed its motion for entry of final judgment in connection with the three proposed settlements, incorporating by reference its July 23 Response. In a letter of April 6, Apple requests permission to file a ten page document to set forth its views of the "substantive deficiencies in the proposed settlement". It contends that the five pages permitted in the April 23 Order are insufficient. It also seeks a "hearing" on the settlement. It is hereby

ORDERED that any corrections or observations by Apple that pertain to the Government's Response and motion remain limited to five pages. Apple was required to set forth its analysis of any "substantive deficiencies in the proposed settlement" in its submission during the public comment period. In reviewing the Government's motion, the Court will consider Apple's nine-page public comment as well as any submission it makes on August 15.

IT IS FURTHER ORDERED that the Court will inform the parties after the motion is fully submitted whether either oral argument or a hearing on the motion would be of assistance to the Court.

SO ORDERED:

Dated: New York, New York
August 7, 2012



DENISE COTE
United States District Judge