

Apple, Google, Intel, Adobe to reach RM1.04 bil accord

Kinibiz.com

Apr 25, 2014

By Joel Rosenblatt, Bloomberg

Apple Inc, Google Inc, Intel Corp, and Adobe Systems Inc agreed to pay US\$324 million (RM1.04 billion) to settle an employee lawsuit over claims they conspired to suppress salaries by not recruiting one another's workers, a person familiar with the matter said.

The settlement covering more than 64,000 technical employees caps a case that had become an embarrassment for some of Silicon Valley's biggest companies by revealing behind-the-scenes wheeling and dealing among top executives at the expense of their workers. Tech luminaries including Apple co-founder Steve Jobs and Google chairman Eric Schmidt were among those shown in an unflattering light in e-mails and court documents.

Jobs told Google co-founder Sergey Brin, 'If you hire a single one of these people that means war,' according to Brin's description of a conversation cited in a court ruling.

The companies agreed in 2010 to curtail anti-competitive practices as part of a settlement of an antitrust lawsuit brought by the US Justice Department. Unlike the government's case, in which no fines were paid, the employees' lawsuit focused on monetary damages.

Workers settled for about a 10th of the US\$3 billion they planned to seek at a federal trial that was set for May 27, 2014 in San Jose, California. Under federal antitrust law, damages won at a trial might have been tripled. The US\$324 million settlement amounts to 0.4% of the combined total revenue earned by the four companies in each's most recent quarter.

Terms of the agreement weren't disclosed in a joint court filing yesterday by lawyers on both sides. They said they planned to present the accord for a judge's consideration by May 27, 2014. The person who disclosed the amount asked not to be named because the information is confidential.

'Embarrassing E-Mails'

The settlement is “unsurprising because of all the embarrassing e-mails and orchestration from the top that would come out in trial,” Orly Lobel, a law professor at the University of San Diego, said in an e-mail. “I think it’s going to have an effect of sending a message that this level of talent cartel is illegal.”

A downside of not letting the case go to trial is that there will be no final ruling on the companies’ contention that do-not-hire agreements involving just two employers are legal even though they aren’t allowed among a group of firms, Lobel said.

Among the e-mails cited as proof of collusion was one from Schmidt to Jobs in 2007 explaining Google’s terminating “within the hour” a recruiter who contacted an Apple employee in violation of the companies’ “do not call policy.” Jobs responded to the message with a smiling emoticon.

Schmidt Apology

“Apologies again on this and I’m including a portion of the e-mail I received from our head of recruiting,” Schmidt, who was then an Apple board member, wrote to Jobs. “Should this ever happen again please let me know immediately and we will handle. Thanks!! Eric.”

The employees who sued gained leverage in October 2014 when US District Judge Lucy Koh allowed them to proceed as a group. Google’s vulnerability was further exposed when a statement from Facebook Inc chief operating officer Sheryl Sandberg was unsealed in court records in March 2014.

She asserted that while she was an executive at Google in 2006, she knew of an agreement to avoid recruiting some workers from the software company Intuit Inc. She went on to say that she refused to limit hiring of Google employees after she joined Facebook in 2008, according to the filing. Sandberg and Facebook weren’t defendants in the case.

The plaintiffs include software and hardware engineers, programmers, animators, digital artists, Web developers and other technical professionals. They alleged that employers conspired from 2005 to 2009 to suppress their pay.

‘Excellent Result’

“We think it’s an excellent result and we look forward to presenting it,” Kelly Dermody, a lawyer for the plaintiffs, said in an e-mail, while declining to reveal the

amount or terms of the settlement. "It's been a long effort with a whole lot of people working on it."

Kristin Huguet, a spokeswoman for Cupertino, California-based Apple, and Matt Kallman, a spokesman for Mountain View, California-based Google, declined to comment on the settlement.

"We won't comment on the terms of settlement until it is finalized and on file with the court," Chuck Mulloy, a spokesman for Santa Clara, California-based Intel, said in an e-mail. "We continue to deny the allegations contained in the suit and deny that we violated any laws. We elected to settle this matter in order to avoid the risks and burdens and uncertainties associated with ongoing litigation."

Adobe's Belief

Adobe, based in San Jose, said it agreed to resolve the case to avoid the uncertainties and costs of litigation and doesn't expect the settlement to have a material impact on the company's finances.

"We firmly believe that our recruiting policies have in no way diminished competition for talent in the marketplace," the company said. "Adobe strongly denies that it violated any laws or engaged in any wrongdoing,"

Three companies named in the original complaint, Intuit and Walt Disney Co's animation studio Pixar and visual-effects specialist Lucasfilm Ltd, previously agreed to settle the antitrust claims. Intuit pledged to pay US\$11 million, and Pixar and Lucasfilm agreed to pay US\$9 million. Employees from those three companies represented 8% of the class, according to Dermody.

Apple rose 8.2% to US\$567.77 yesterday in New York trading, after reporting an increase in iPhone sales. Google declined 0.3% to US\$525.16 yesterday, while Intel closed unchanged at US\$26.75 and Adobe fell 1.8% to US\$63.22.

The case is *In re High-Tech Employee Antitrust Litigation*, 11-cv-02509, US District Court, Northern District of California (San Jose).

Copyright © 1999-2012 Mkini Dotcom Sdn. Bhd

Source: <http://www.kinibiz.com/story/world-biz/83217/apple-google-intel-adobe-to-reach->

rm1.04-bil-accord.html