**In court filing, Justice Dept. accuses Apple of e-book price fixing**

**By** [**Cecilia Kang**](http://www.washingtonpost.com/cecilia-kang/2011/02/28/ABFs9eL_page.html)**, Published: May 14, 2013**

The Justice Department accused Apple executives, including its late chief executive Steve Jobs, of leading a conspiracy that raised e-book prices in an attempt to hurt Amazon and other competitors, according to documents filed in federal court Tuesday.

At one point, Eddy Cue, Apple’s lead e-books negotiator, counseled the chief executive of Random House to withhold e-books from Amazon unless it agreed to higher prices, the Justice Department said. Another publisher, Macmillan, would later employ this strategy, Justice said.

In its own court filing, Apple vehemently denied allegations of price fixing, saying it brought fresh competition to a market dominated by Amazon. “The evidence proves that Apple acted independently, to further its own legitimate business goals,” the company said.

The dueling documents with the U.S. District Court of the Southern District of New York detail for the first time aspects of the government’s case against Apple. The court is scheduled on June 3 to hear the price-fixing trial that has reverberated beyond the fast-growing digital books market.

As consumers migrate from paper books to e-readers, publishing firms have struggled to maintain profits with discounted version of their works online. Meanwhile, Google, Apple and Barnes & Noble have fought to break into a lucrative market for e-readers and have angled for a cut of the proceeds of selling books through those devices.

“This case has a huge impact on competition as everyday consumers are being hit in the pocketbook when they want to buy e-books,” said David Balto, a former policy director for the Federal Trade Commission. “This not only sets the standards for digital books but also on Internet conduct on retailing. It ensures the Internet prospers and that consumers benefit.”

Apple is the only holdout of the Justice’s lawsuit, originally brought in April 2012 against Apple and five of the country’s major publishing houses: Macmillan, Penguin, HarperCollins, Simon & Schuster and Hachette Book. The publishers have since settled.

In its pretrial arguments, Justice said publishers Hachette and HarperCollins came up with an “agency model” in which publishers rather than retailers would set the prices consumers would pay for e-books.

They had complained that Amazon was setting prices for e-books too low — often at around $9.99 — to attract more buyers of the company’s Kindle e-readers. Through the agency model, publishers allegedly plotted to raise prices to around $12.99 to $14.99.

But they needed a willing technology partner.

In December 2009, they met with Apple to adopt their plan. At that point, according to Justice, Apple ran with the idea.

Cue played the key role, Justice documents contend. He summarized meetings with publishers for Apple’s late CEO, telling Jobs that publishers, “saw . . . the plus” of the agency model and that it “solves [the] Amazon issue,” Justice quoted him as saying.

The company also quoted Jobs as telling biographer Walter Isaacson that Apple had “told the publishers, ‘We’ll go the agency model, where you set the price, and we get our 30 percent, and yes, the customers pays a little more, but that’s what you want anyway.’ ”

Those statements, Justice said, demonstrated an illegal scheme that broke antitrust laws and harmed consumers.

“Apple knew that the plan it was proposing involved a ‘dramatic business change’ for publisher defendants,” Justice wrote in its arguments. “Accordingly, Apple kept each publisher defendant aware that it was orchestrating and coordinating a common approach for all of them.”

But Apple argued in its filing that the negotiations between publishers and its technology partners were much more complicated than presented by Justice. The publishers had also talked to firms such as Barnes & Noble about the agency model idea.

Apple said Amazon also considered the agency model and spoke in detail to publishers who at one point offered an exclusive arrangement that would cut out Apple.

“Amazon knew that the e-book market was on the cusp of some dramatic changes. Apple’s device promised to transform the digital reading experience,” Apple’s documents stated.

“We helped transform the eBook market with the introduction of the iBookstore in 2010 bringing consumers an expanded selection of eBooks and delivering innovative new features,” Apple spokesman Tom Nuemayr wrote in an e-mail.

“The market has been thriving and innovating since Apple’s entry, and we look forward to going to trial to defend ourselves and move forward,” he said.

http://www.washingtonpost.com/business/technology/justice-dept-accuses-apple-of-conspiring-to-raise-e-book-prices-court-documents-say/2013/05/14/bb59a55c-bce3-11e2-89c9-3be8095fe767\_story.html