

Justice Department, eBay settle antitrust lawsuit

May 1 2014, by Eric Tucker



US online giant eBay agreed to pay \$3.75 million to settle allegations it colluded with other Silicon Valley technology firms not to "poach" each other's employees, officials said Thursday

The Justice Department on Thursday settled a lawsuit against eBay that accused the company of anticompetitive practices in the recruitment and hiring of skilled employees.

The settlement resolved a 2012 lawsuit that accused eBay of having an agreement with the Intuit software company preventing each firm from

recruiting the other's employees. That deal, entered into by top-level executives, was designed to limit competition between the two firms for highly specialized technology employees and denied workers the chance for better, higher-paying job opportunities, the federal government said.

"The behavior was blatant and egregious. And the agreements were fully documented in company electronic communications," Assistant Attorney General Bill Baer, head of the Justice Department's Antitrust Division, said in a conference call with reporters.

The settlement, which requires court approval, would bar eBay from entering into or enforcing any agreement that restricts the recruitment or hiring of employees for the next five years. The e-commerce company also reached a separate settlement with the California attorney general's lawsuit, agreeing to pay a \$3.75 million sum that includes restitution to Californians who worked at eBay or Intuit since 2005 and were affected by the actions. Intuit is not a defendant in the case because it is already subject to a similar Justice Department consent decree.

eBay, which admitted no wrongdoing as part of the settlement, said it still believes the policy that prompted this lawsuit was "acceptable and legal" and that any recruitment practices that raised concerns with the Justice Department ended several years ago.

"eBay competes aggressively to attract and retain the best talent, while conforming to the hiring practices standards established by the Department of Justice in prior hiring-related cases against other companies," the company said in a written statement.

The case against eBay grew out of a broader Justice Department investigation into claims that some of Silicon Valley's biggest companies had entered into a secret pact forbidding them from recruiting each other's employees. That probe resulted in a 2010 settlement requiring

Google, Apple, Intel, Adobe Systems, Intuit and Pixar to scrap their no-poaching agreements, which were common in Silicon Valley.

A class-action lawsuit representing more than 64,000 engineers, programmers and other technology companies subsequently was filed against all the companies involved in the original Justice Department investigation. Intuit, Pixar and another company, Lucasfilm, negotiated a \$20 million settlement of the claims against them a few months ago, and last week, the remaining defendants reached a settlement that still hasn't been disclosed. Media outlets citing unnamed people familiar with the terms say Google, Apple, Intel and Adobe collectively will pay about \$325 million to settle the suit, which was seeking up to \$9 billion.

Although eBay wasn't targeted in the class-action suit, evidence in the case revealed that former CEO Meg Whitman had complained to Google about its attempt to lure away the company's employees.

In a sworn deposition, former Google CEO Eric Schmidt said Whitman was "particularly incensed" about a recruiter's attempt to hire Maynard Webb, then eBay's chief operating officer. In a September 2005 email summarizing a phone conversation between the two executives, Schmidt wrote that "Google is the talk of the valley because we are driving up salaries across the board."

Schmidt concluded the email by saying he had decided the recruiter that infuriated Whitman should be fired. "This was a rough call from a good friend," Schmidt wrote. "We need to get this fixed."

In the Justice Department case, officials say, Whitman complained after Intuit sent a recruiting flyer to an eBay employee and urged Intuit founder Steve Cook to "remind your folks not to send this stuff to eBay people."

Cook apologized and said he would "find out how this slip up occurred again."

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