

U.S. Department of Justice

Antitrust Division

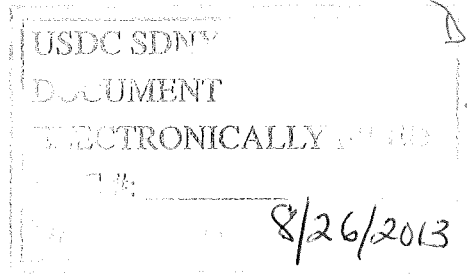
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August 24, 2013

BY E-MAIL

The Honorable Denise L. Cote
United States District Judge, S.D.N.Y.
Daniel P. Moynihan U.S. Courthouse
500 Pearl Street
New York, NY 10007-1312



Re: United States v. Apple, Inc., et al., No. 12-cv-2826 (DLC)
State of Texas v. Penguin Group (USA), Inc., No. 12-cv-3394 (DLC)

Dear Judge Cote:

We write in response to Apple's letter of August 23 regarding Plaintiffs' Memorandum of Law in Support of Plaintiffs' Revised Proposed Injunction. It is apparent that there was a misunderstanding between the parties as to the form for Friday's submission, and we apologize for any inconvenience it may have caused. However, given that Apple did provide the Court on August 23 with three separate letters that address its positions and present its arguments on the proposed injunction, Plaintiffs respectfully submit that Apple has not suffered any prejudice.

As is plain from Plaintiffs' memorandum, almost all of the exhibits submitted were provided in order to correct the various affirmative misstatements Apple made to this Court regarding how its own App Store operates and why, in 2011, Apple changed its App Store policies. Plaintiffs' submission of those exhibits would not have been necessary had Apple, at any point after the August 9 conference, sought to fix the record. Plaintiffs did raise the issue with Apple multiple times during the recent meet and confer sessions, and Apple nonetheless remained silent on the matter.

Respectfully Submitted,

/s/ Lawrence E. Buterman
Lawrence E. Buterman