Government Lobbies Court to Keep Apple Monitor in Place

Larry Neumesiter, Associated Press

NEW YORK (AP) — The Justice Department asked a federal appeals court Friday to let a monitor continue reviewing Apple's antitrust policies over the company's objections.

Government lawyers filed papers with the 2nd U.S. Circuit Court of Appeals in Manhattan, saying Apple Inc.'s arguments are without merit as the company tries to stop the monitoring it complains is "a roving investigation."

The monitor, Washington lawyer Michael Bromwich, was appointed for two years in October by a judge who concluded last summer that the Cupertino, Calif.-based company had colluded with book publishers in 2010 to raise electronic book prices.

An appeals court judge on Tuesday suspended the appointment until a three-judge panel decides if the monitor's work should continue. Arguments are scheduled for Feb. 4.

In its papers, the government noted that the Manhattan jurist who appointed the monitor did so only after Apple failed to show that a monitor was unnecessary.

"Almost immediately following the monitor's appointment, Apple began resisting his efforts to do his job," the government lawyers wrote. They said Apple so far has let the monitor conduct only 13 hours of interviews with 11 people, seven of whom are lawyers, and has provided the monitor with only 303 pages of documents.

It said the court has authority to appoint a monitor to aid in enforcing compliance with its orders and the appeals court should not interfere unless Apple can prove the lower court abused its discretion by requiring a monitor.

Bromwich, a former inspector general for the Justice Department, said in a December court filing that he had encountered unprecedented obstacles in dealing with Apple when compared with his experiences in 20 years of doing oversight work, including three times before as a monitor and scores of investigations in the public and private sector.

In court papers, Apple has argued that Bromwich launched a "broad and amorphous inquisition" that was "interfering with Apple's business operations, and imposing substantial and rapidly escalating costs on Apple that it will never be able to recover it if prevails on its pending appeal."

Apple also had complained that it was "suffering from Mr. Bromwich's unwarranted inquisition of the company's high-level executives and board of directors."

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