MORE RIP OFF FOR ARTISTS !!!!!

Slinger, 2018

Songs on iTunes are so cheap 99p! (or 99 cents!) that you probably don't spend much time wondering why the price of them rarely changes. Different songs' prices are all the same. Yet supply and demand for them changes all the time. Why don't song prices ever get cheaper or more expensive, like stocks?

In a court case that opened in California yesterday a group of lawyers and iTunes customers are arguing that Apple has essentially conducted a price-fixing operation within iTunes that has stymied competition in the music business that might have led to the price of songs dropping, or at least responding properly to supply and demand. Generally, iTunes prices are in three bands: 79p, 99p and £1.29, with equivalents in dollars.

The case asks a fanciful question: If iTunes is so great, why was it the case that, for years after the launch of the iPod, Apple's software prevented other companies from selling cheaper music for your iPod? Competing companies tried to sell Apple customers songs for 49 cents, the suit claims, but Apple kept the price high.

If their class action antitrust lawsuit succeeds it could lead to an award that refunds iTunes customers a portion of the money they spent over an eight-year period in the 2000s. We are, of course, a long way from that.

But as a legal argument, the case is fascinating. It's also worth bearing in mind that Apple has lost two antitrust cases recently: one about price fixing in the e-book market and one about the suppression of wages for tech workers. So it is not inconceivable that Apple may lose a third time.

Apple, naturally, regards the case as garbage. It has also successfully persuaded the court to seal from public view many of the documents and evidence in the case.

cueKTLA
Eddy Cue wants 'FairPlay' kept secret

Eddy Cue, Apple's VP/internet services, is one of many execs who has filed declarations in the case. Cue argued in a statement written in 2010 that was refiled in court on Nov 30 this year that details of FairPlay, Apple's technology for restricting where MP3 music files are played, should not be discussed in open court.

Phil Schiller is also listed as a witness.

Other companies already offer music players and download services, so competition is not restricted. (We contacted Apple for comment and didn't hear back.) Apple does not have a monopoly over music, its lawyers have argued in a Northern California federal district court, and the suit should therefore be rejected by the court. The case is a class action on behalf of iPod and iTunes customers, who presumably want a cash payout for perceived overcharges that stemmed from Apple's

alleged 99p song monopoly.

Steve Jobs' old emails

The case has so far made headlines because it has exposed yet more of Steve Jobs old emails messages in which he was, as usual, highly disparaging of anyone who disagreed with him. He called Real Networks, a competing music service, "hackers" when they figured out how to sell songs for the iPod back in July 2004. "'We are stunned that Real is adopting the tactics and ethics of a hacker and breaking into the iPod,'" he suggested as a line for a press release attacking Real Networks.

That Jobs email is, arguably, key to the case. It demonstrates Jobs' intent. To understand that, you need to know the background: Apple had designed iTunes and the iPod so that songs within it contained a digital rights management scheme (DRM) that both protected artists' copyright, by preventing songs from being copied and pirated and prevented iTunes songs from being played on non-Apple devices. (Apple later abandoned DRM in 2009.)

The lawsuit argues that the DRM format prevented other companies like Real Networks from selling songs that could be imported onto the iPod. In fact, Real Networks actually developed a product that let users do exactly this, and it offered songs for 49 cents each and Jobs stamped it out by banning Real's music from the iPod/iTunes system. He said in that email he regarded Real's attempt to offer Apple customers some choices beyond iTunes made them "hackers".

Here is how the lawsuit describes the effect of Apple's DRM system.

It wasn't so much about copyright as it was about making sure that only iPods could play the songs, the case alleges:
apple ipod
US Fed. Ct.

In 2004, Real Networks launched a product that let people buy cheap songs they could play on their iPods:
apple ipod
US Fed. Ct.

Apple immediately moved to make sure Real Network's software wouldn't work:
apple ipod
US Fed. Ct.

Apple's argument here is obvious: These are Apple devices and Apple software, why should the company let Real offer services on them? There are plenty of other companies that sell music players, and they offer price competition. (For instance, readers might want to check out Google Music Manager in the Play store it offers a lot of music cheaper than iTunes does.)

That brings in the other interesting legal aspect of the case: Whether Apple unlawfully engaged in "tying" or "bundling" its products in a way that violates antitrust law. In general, companies are allowed to develop monopolies over markets if that dominance occurs simply because their products are superior. iPod became the dominant music player because of that. But

companies are not allowed to use their dominance in one market to distort competition in another market.

The suit argues that Apple's strength in the music business through iTunes let it force customers to buy only one device to play that music on the iPod. (The suit mostly covers the period from 2001 through 2009.) The music market and the device market ought to be separate, and leveraging your dominance in one to distort the other is a violation of antitrust law, the suit claims.

If the suit succeeds, Apple customers could be in for a huge refund. But don't hold your breath.

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