United States v. Apple is pure nerd rage

United States v. Apple is a lawsuit written for the general public, an 88-page press release designed to be read aloud on cable news shows.

A lawsuit is, functionally speaking, a communication between lawyers and a judge. Because it is a specialized missive to a specialized audience, it can become highly technical and jargonistic — this is especially so when it comes to niche areas of law like antitrust or complex sectors of litigation like technology. Tech lawsuits are often obscure even to techies, interspersed with bizarre software terminology that is pretty much meaningless outside of a court of law. (For example, antitrust law loves "middleware," and copyright law loves "technological protection measure.")

Although the dreaded "middleware" does appear in *United States v. Apple*, you can barely tell it was written by lawyers. You only have to compare it to the 1998 complaint in *United States v. Microsoft* to see what I mean. The Apple lawsuit even opens like it's trying to be a magazine feature:

> *In 2010, a top Apple executive emailed Apple's then-CEO about an ad for the new Kindle e-reader. The ad began with a woman who was using her iPhone to buy and read books on the Kindle app. She then switches to an Android smartphone and continues to read her books using the same Kindle app. The executive wrote to Jobs: one* ***"message that can't be missed is that it is easy to switch from iPhone to Android. Not fun to watch."*** *Jobs was clear in his response: Apple would "force" developers to use its payment system to lock in both developers and users on its platform. Over many years, Apple*

> *has repeatedly responded to competitive threats like this one by making it harder or more expensive for its users and developers to leave than by making it more attractive for them to stay.*

A scene! Characters! The invocation of Steve Jobs himself! Personally, I think this paragraph could use a hard edit prior to publication, but then again, *it's supposed to be a lawsuit, not a work of narrative nonfiction*.

In fact, this opening paragraph isn't even numbered: legal filings like this generally have every paragraph numbered. It's instead part of a weird little literary curtain-raiser that's been stuck right before the table of contents. That's not against the rules — note that *United States v. Google* (filed 2023) has a single, terse intro paragraph outside the numbered section — but *US v. Apple* powers up for two whole pages before getting into allegations.

Compare that to the opening paragraph of the complaint in the DOJ's 1998 blockbuster antitrust lawsuit against Microsoft (which is, of course, properly labeled as paragraph 1):

> *1. This is an action under Sections 1 and 2 of the Sherman Act to restrain anticompetitive conduct by defendant Microsoft Corporation ("Microsoft"), the world's largest supplier of computer software for personal computers ("PCs"), and to remedy the effects of its past unlawful conduct.*

It's almost like the lawyers in *US v. Microsoft* wrote a document asking a judge to apply the Sherman Antitrust Act to the market for personal computers! What a snooze!

Meanwhile, although *US v. Apple* does have a lawsuit swimming somewhere inside its massive bulk, it is, for the most part, a fairly readable litany of all the annoying things Apple has

done to me, personally, over the years. Green bubbling my friends and loved ones? Not being able to buy Kindle books in the Amazon app? The way I can't change NFC tap to do anything but open Apple Wallet? The laggy badness of every non-Apple smartwatch when paired with the iPhone? The DOJ knows. The DOJ cares. I feel seen.

There are even a beguiling few paragraphs in which the DOJ compares the need to regularly update AAA video game titles to the onerous process of App Store review and then concludes that "Apple's conduct made cloud streaming apps so unattractive to users that no developer designed one for the iPhone." At no point does the DOJ allege that Apple is why I can't play AAA games on my iPhone…. but it's also not *not* saying that. *Is Apple standing between me and my video games???* I wonder, as I unconsciously rummage around for my pitchfork.

From cloud streaming games to CarPlay, the DOJ complaint tries to rope in the burning grievances of every kind of nerd and then some. The only thing that's missing is a tirade on how ever-increasing screen sizes are victimizing me, a person with small hands. (At the Thursday press conference, Attorney General Merrick Garland made no mention of how Sarah Jeong would like to see the SE return to its 2016 size.)

You can almost forget this is a lawsuit and not just the compiled observations of a single very motivated poster in *The Verge* comments section — until you get to page 57. There, the document suddenly changes voice, finally pivoting into a formal communication to a judge. "Mobile phones," the complaint reads primly, "are portable devices that enable communications over radio frequencies instead of telephone landlines."

It's fun to engage with the legal distillation of nerd rage at the line level, but there's also an overarching narrative here that the DOJ is trying to push, one with potentially enormous

ramifications. At Thursday's press conference, as well as in the complaint, the Justice Department took great pains to call back to *United States v. Microsoft*. It's obvious why, of course. It's not just that it was the last really big W the feds took home in the world of tech antitrust — the present-day battle over iOS's closed garden does, in fact, look a lot like the browser wars of yesteryear that sparked the Microsoft antitrust case!

But while those specific similarities are relevant to a judge, they aren't as much to the general public. What the DOJ wants out of this callback is bigger and more important. It wants to tie these two cases together in the popular consciousness and, in doing so, define itself and its role in history. "When Apple began developing mobile consumer devices, it did so against the backdrop of *United States v. Microsoft*, which created new opportunities for innovation in areas that would become critical to the success of Apple's consumer devices and the company itself," the complaint reads.

The Justice Department wants the public to think of Apple's success as something that was, in part, handed to them by an antitrust division that acts like a recurring banhammer on a 20-year timer. DOJ is a benevolent forest ranger, tending to the United States economy with controlled burns. Microsoft had to be crushed in the early aughts in order for Apple to thrive; now Apple must be crushed in order to bring forth the next era of tech. (The incessant harping on "super apps" in the complaint may be someone at DOJ trying desperately to get Elon Musk's extremely fickle attention.)

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Of course, the long saga of the *Microsoft* antitrust action (especially if you count the lingering tail of the appellate case) coincided with a lot of things: the founding of Google, the dot com crash, the foundings of both Tencent and Baidu,

the “election” of George W. Bush, September 11th, the Iraq War. The United States is no longer in the same position it once was — in diplomacy, in war, or in technology. And the essential dynamics of the American tech sector, not just the names of the major players involved, look very different from how they did just 10 years ago — let alone 20. While *United States v. Microsoft* almost certainly had a substantial effect on the technology industry and society at large, let’s just say we’re not exactly in a place where we can A/B test antitrust. DOJ wants to write a narrative about its role in the technological ecosystem and the American economy, but whether that narrative actually rings true remains to be seen.

Meanwhile, the opening volley in its battle against one of America’s favorite companies is a killer start, not least in part because of an unusual degree of lawyerly insight into the human psyche. The complaint speaks directly to the tech aficionados rather than speaking over them and to a federal judge. After all, the more bought into the Apple ecosystem you are, the more opportunities you have to be annoyed by Apple. And those hundreds of little annoyances, says the DOJ, are *Apple’s fault*, not yours. It’s an extremely tempting invitation to come rage with them. And nobody can bring the hate quite as hard as the nerds do — and sometimes, it’s because the nerds kind of have a point.

https://www.theverge.com/2024/3/22/24109168/us-doj-apple-antitrust-complaint-nerd-rage