

Unfair Competition

**By Reg P. Wydeven
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Friday marks the busiest shopping day of the year. My dad and I again plan to brave the crowds and the violence to get some sweet deals. We hope to find some treasure for all of our loved ones to find under the tree. Some members of my family, however, are harder to shop for than others.

No matter how hard I wrack my brain, I struggle to come up with ideas for some of my family. That's where eBay comes in. If you look hard enough, you can find something for everybody on eBay, which has everything. That's where I found some great gems like an autographed picture of Jordan Taylor, a beloved but out-of-print book and a vintage Easy Bake oven, all which were big hits.

eBay is the ultimate global rummage sale. The site allows amateur pack rats to become small businessmen. eBay is the epitome of American free enterprise. Unless, of course, you work there.

The U.S. Justice Department is actually suing eBay Inc. for unfair employment practices. The suit, filed in federal court in San Jose, California, accuses the online auction site of entering into an agreement with Intuit Inc. to not hire one another's employees, eliminating a significant form of competition.

Intuit is a financial software company that provides its customers with accounting software, credit card processing and mobile payments. These services are strikingly similar to those offered by PayPal, the company owned by eBay that allows winning bidders to pay for their winning auctions online. So it's no surprise that both eBay and Intuit would vie for employment candidates with computer engineering and scientific skills.

According to the Justice Department, the agreement between the companies was in place from 2006 to 2009. It was purportedly enforced at the highest levels of both companies and precluded either organization from soliciting the other's employees. The lawsuit alleges that the agreement harmed employees by depriving them of access to better jobs and salaries.

Restrictions on employees are prevalent in the workplace. Many workers, especially those that are highly skilled and sought after, are subject to covenants not to compete. Under these types of contracts, an employer offers consideration to the employee to not work for a competitor or within geographic proximity of the employer should the employee quit.

Covenants not to compete are between employers and employees. The government is suing eBay, however, because the Internet juggernaut's employees' job opportunities are being restricted without their consent. The agreement involving eBay and Intuit was strictly between two employers.

The Justice Department's suit is seeking to prevent eBay from enforcing the agreement and from entering into similar agreements with other companies in the future. Intuit was not named as a defendant, as it is already subject to a settlement barring it from making such agreements.

Apparently officials at eBay have employment law firm gift cards on their Christmas lists.

Have a happy and blessed Thanksgiving!