

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.12-CV-2826 (DLC)
)	
APPLE, INC.,)	
HACHETTE BOOK GROUP, INC.,)	
HARPERCOLLINS PUBLISHERS, L.L.C.)	
VERLAGSGRUPPE GEORG VON)	
HOLTZBRINK PUBLISHERS, LLC)	
d/b/a MACMILLAN,)	
THE PENGUIN GROUP,)	
A DIVISION OF PEARSON PLC,)	
PENGUIN GROUP (USA), INC. and)	
SIMON & SCHUSTER, INC.,)	
)	
Defendants.)	

BRIEF OF BOB KOHN AS *AMICUS CURIAE* *

* Five-page version of Proposed Brief *Amicus Curiae* at Docket No. 97.

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Cases

<i>Barry Wright Corp. v. ITT Grinnell Corp.</i> , 724 F.2d 227, 231-33 (1 st Cir. 1983).....	3
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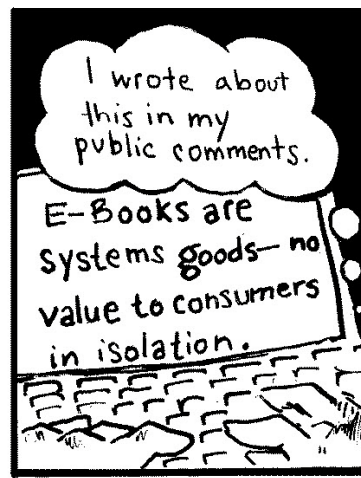
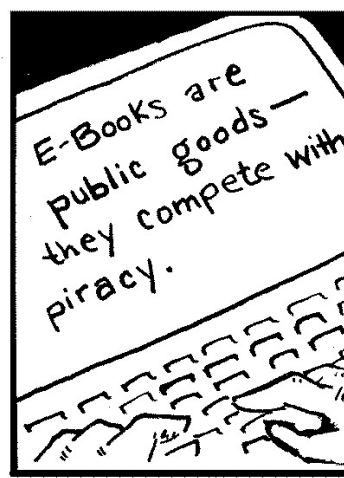
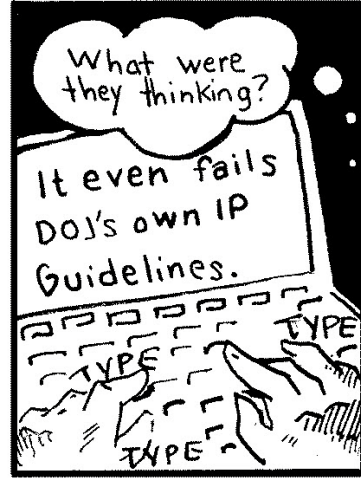
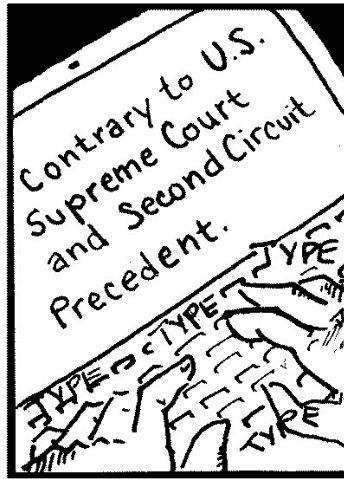
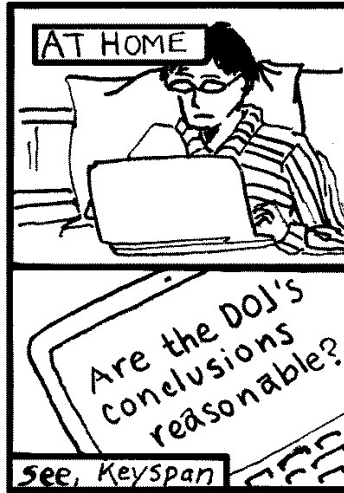
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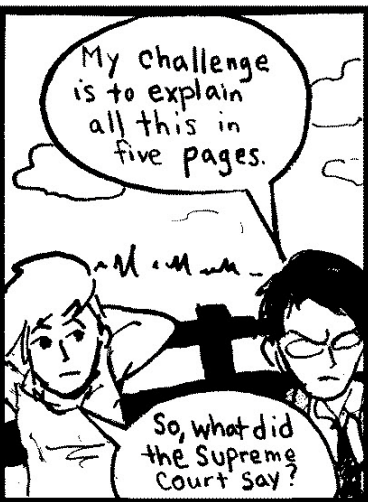
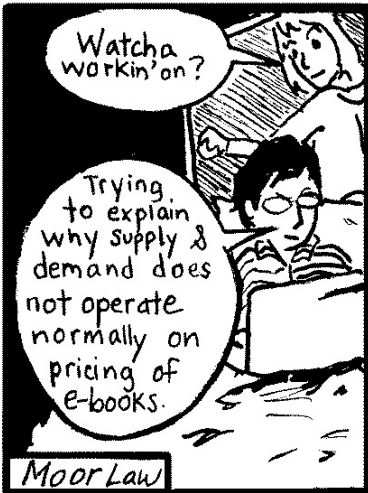
Articles & Treatises

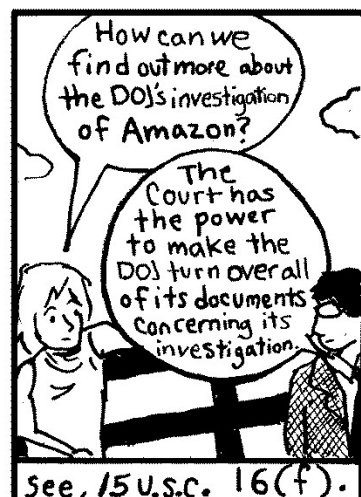
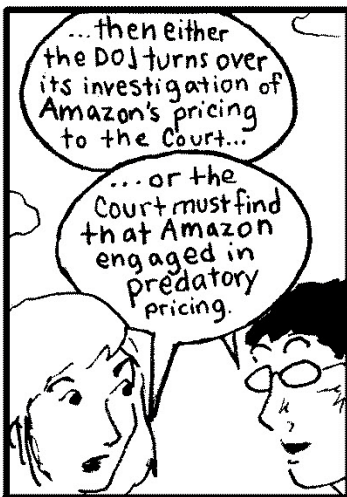
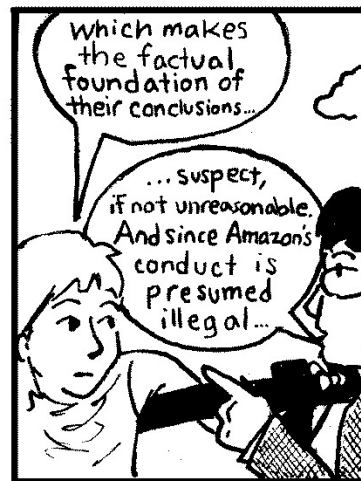
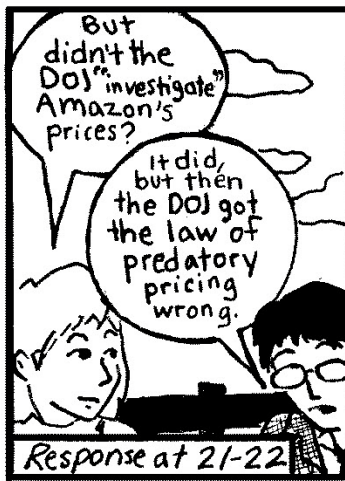
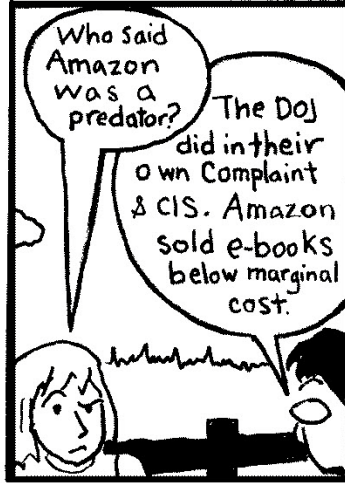
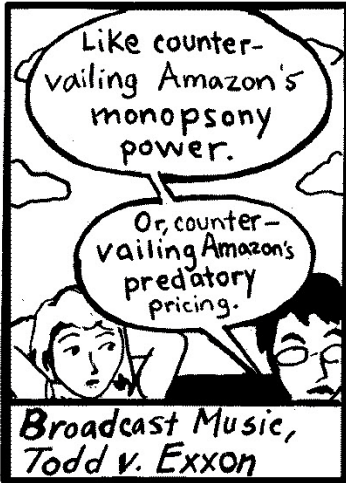
John Cirace, <i>CBS v. ASCAP: An Economic Analysis of a Political Problem</i> , 47 FORDHAM L. REV. 277, 293-94 (1978-79)	2, 3, 5
Philip E. Areeda & Donald F. Turner, <i>Predatory Pricing and Related Practices Under Section 2 of the Sherman Act</i> , 88 HARV. L. REV. 697, 712 (1975).....	4
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Roger D. Blair & Jeffrey L. Harrison, <i>Antitrust Policy and Monopsony</i> , 76 CORNELL LAW REV. 297, 308 (1991).....	3

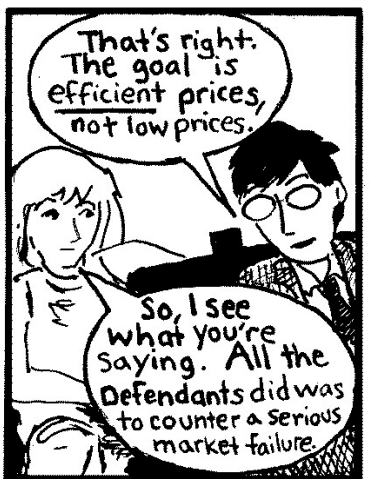
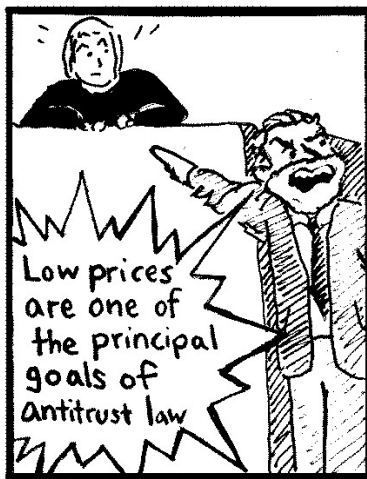
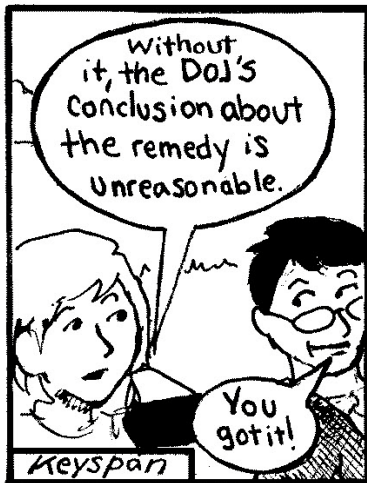
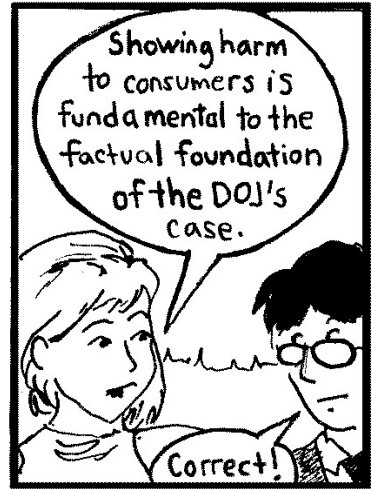
Court Documents & Public Comments

Comments of Bob Kohn, ATC-0143 (May 30, 2012)	1
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Competitive Impact Statement, 12-02826 (DLC), Docket No. 5 (April 11, 2012)	3
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Respectfully submitted,



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