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# Ghost of Microsoft Stalks Apple as DOJ Takes Its Shot

Bill Gates has said his legal battle distracted him from the rise of mobile



By [Tim Higgins](#) [Follow](#)

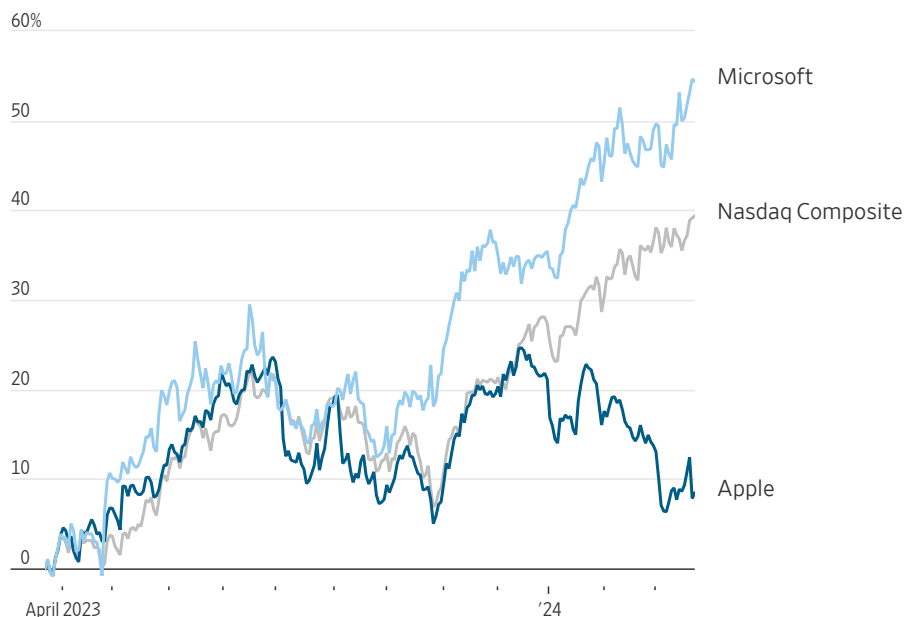
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The ghost of old Microsoft **MSFT 1.12% ▲** hung in the air this past week as the Justice Department took aim at Apple **AAPL 3.12% ▲**, accusing the tech giant of an improper monopoly with its iPhone.

Chief Executive Tim Cook faces the likelihood that the next several years will be consumed with fighting antitrust lawyers intent on dismantling the pillars of the business empire he helped build after the death of Steve Jobs.

Cook, who has overseen extraordinary profit and revenue growth since becoming Apple CEO in 2011, can hardly afford the timing of the latest fight. It comes amid a slowdown in iPhone growth and investor jitters that he is behind in the current wave of excitement around advanced artificial intelligence.

## Share price and index performance over the past year



Source: FactSet

It is a situation reminiscent of almost 25 years ago, when then-Microsoft CEO Bill Gates faced his own antitrust battle with the Justice Department.

On Thursday, the government invoked Microsoft's name several times in a lawsuit challenging Apple's iPhone business model. The lawyers accused the Silicon Valley giant of excluding rivals from its digital ecosystem—and are seeking changes to the way it operates. It is the latest legal effort by the Biden administration to curb the power of Big Tech.

For its part, Apple has long defended itself against monopoly claims, saying it faces intense competition from the likes of Samsung and Google's Android and enforces rules that limit the iPhone ecosystem to protect customers' privacy and security. Apple responded this past week that it will vigorously defend against the government's claims.



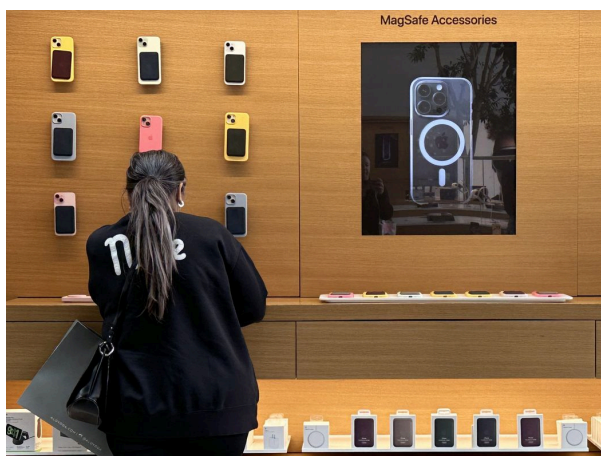
Bill Gates at a press conference amid Microsoft's long-ago antitrust fight with the Justice Department. PHOTO: DAN LEVINE/AGENCE FRANCE-PRESSE/GETTY IMAGES

If history is any guide, Apple faces years of tedious litigation—including hearings, document discoveries and the sort of in-the-weeds legal maneuvering that mostly doesn't involve senior leadership. But the maelstrom will hang over Cook.

The Justice Department's case against Microsoft, filed in 1998, lasted three years before the software giant settled in 2001. That timing doesn't include appeals and legal battles in Europe, which dragged on until the end of 2009.

The U.S. settlement included a series of changes—such as greater freedom to install non-Microsoft products on new machines—to the company's contracts with computer makers.

That case happened when Apple was a very different company, a much smaller one that had narrowly averted bankruptcy and, as the new millennium dawned, was evolving.



Apple says it limits the iPhone's ecosystem to protect customers' privacy and security. PHOTO: ALLISON DINNEN/EPA/SHUTTERSTOCK

"Apple itself was a significant beneficiary of that case," Jonathan Kanter, the Justice Department's assistant attorney general for antitrust, said this past week in announcing the new lawsuit. "The remedy paved the way for Apple to

launch iTunes, the iPod and eventually the iPhone, free from anticompetitive restrictions, excessive fees and retaliation.”

Thursday’s 88-page filing, too, went down memory lane. It suggested Apple’s success with the iPod music player—which came before the advent of the iPhone—flourished in part because the previous antitrust case “constrained Microsoft’s ability to prohibit companies like Apple from offering iTunes on Windows PCs.”

Apple doesn’t like the comparisons to Microsoft of old, when its rival then had more than 90% market share versus the iPhone’s more than 65% hold of the smartphone market today, as alleged in the new lawsuit.

And the government’s suggestion that the Microsoft case fueled Apple’s rise had some techies collectively rolling their eyes, claiming revisionist history.



Tim Cook, speaking with a photo of Steve Jobs in the background, must contend with the likelihood of years of antitrust litigation. PHOTO: JUSTIN SULLIVAN/GETTY IMAGES

The Microsoft case had carried the specter of a court-ordered breakup of the company. In the end, the settlement left the giant intact, poised, as some thought at the time, to march easily into then-new tech frontiers such as online services, music distribution and telecommunications.

Except Microsoft stumbled and, for a time, lagged.

Gates has said the legal battle proved a distraction that contributed to Microsoft’s falling behind in the then-emerging field of smartphones.

“There is no doubt that the antitrust lawsuit was bad for Microsoft,” he said in 2019. “We would have been more focused on creating the phone operating system, so instead of using Android today you would be using Windows Mobile.”

“I was just too distracted,” added Gates, who no longer works at the company. “I screwed that up because of the distraction.”

Just as Gates found himself at a generational crossroads of technological change, Cook, too, is trying to find Apple’s path to the next big thing beyond the iPhone.



Tim Cook at an Apple store in China. PHOTO: LIU YING/ASSOCIATED PRESS

His moonshot bets haven't worked out as some investors had hoped. Apple recently shelved a decadelong project to develop an electric, driverless car. And its newly released augmented reality headset, while winning some critical praise, is still far from overtaking the iPhone as Apple's bestseller.

Some investors worry Apple is behind on work to compete in the burgeoning areas of artificial intelligence being made popular by the likes of OpenAI, which is collaborating with Microsoft.

Microsoft's work in AI, along with its cloud business, has helped infuse a new swagger into the 48-year-old company.

Its stock price has soared, sending its market valuation beyond \$3 trillion this year and dethroning Apple as the world's most valuable publicly traded company.

Meanwhile, Apple shares ended Friday down 7% for the year while the Nasdaq has risen 11%.

For his part, Cook has tried to reassure investors, recently saying that Apple sees "incredible breakthrough potential for generative AI." Apple has held discussions with OpenAI, Baidu and Google about using their AI technology to power the iPhone maker's mobile features.

And not everyone agrees that the fabled legal battle was to blame for Microsoft's post-antitrust funk. Gene Munster, a longtime industry analyst, this past week tweeted that the company's subsequent lackluster performance had little to do with the legal fight and "a lot to do with a culture that did not innovate."

In the end for Apple investors, that's the bet: The Apple of *today* isn't the Microsoft of *yesterday*.

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