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Technology

Apple suppressed competitors in its App Store — until it got caught, a lawsuit alleges



Dan and Ben Volach, co-founders of Blix, maker of BlueMail, which is suing Apple for patent infringement and antitrust violations. (Blix, Inc.)

By [Reed Albergotti](#)

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An email app developer says it has uncovered new data that suggests Apple has long been suppressing the rankings of apps in the App Store that compete with Apple's own offerings, according to new court filings by the developer, which [sued Apple in October](#) alleging patent infringement and antitrust violations.

Blix, which developed the BlueMail app, made the discovery only when Apple's rankings suddenly changed in its favor. At the end of September, Blix unexpectedly jumped from 143rd in Apple's ranking for mail apps to 13th. Blix had for years been highly ranked in the competing Android app stores, run by companies like Google, Samsung, Amazon and Huawei. But on Apple's iOS, where it competes with Apple's own mail app, it had long been ranked very low.

Blix started looking at other apps that also compete with Apple's preinstalled apps. Several others, such as a mail app from Russian tech company Yandex, had also seen dramatic spikes in their rankings. Blix says it used market research firm Sensor Tower to research the unexplained spike in BlueMail's ranking on the iOS store, which happened on Sept. 26. Using Sensor Tower's historical data, it was able to determine that BlueMail wasn't the only app that had experienced the spike.

"Multiple different types of Apple app competitors enjoyed a sudden, unexplained rise in search rankings," according to Blix's latest filing in court, which appeared Friday. The spike came roughly two weeks after a [New York Times article](#) examined how Apple ranked its own apps higher than competitors'.

[How Apple uses the App Store to copy the best ideas](#)

Apple spokesman Fred Sainz declined to comment on the litigation. On its website, Apple says its App Store provides "equal opportunities to developers to deliver their apps and services across iPhone, iPad, Mac, Apple TV, and Apple Watch."

The allegations come as Apple faces increased scrutiny for how it treats smaller competitors. The House Judiciary Committee and the U.S. Department of Justice are investigating whether Apple has violated antitrust laws. Last month, the top Democrat in charge of the House investigation [raised concerns](#) that Apple was using privacy as a way to shield itself from antitrust scrutiny. The committee has requested information from Apple on how it uses the innovations of app developers on its platform [in its own services](#), one of the key allegations in Blix's lawsuit.

The suit brought by Blix is unusual. Most app developers are careful about saying anything that might be construed as critical of Apple. That's because the only way to distribute software to Apple users is with express approval from the company. Apple also decides which apps are included in the lists of apps that it recommends, one of the most important methods of marketing to Apple customers. Taking the company to court is an almost-unheard-of method of resolving a dispute with Apple.

"It was not an easy decision to proceed with this lawsuit against the largest tech company in the world," said Ben Volach, who founded Blix with his brother, Dan. "Blix, and its BlueMail product, are the latest in Apple's long line of victims. Apple's monopoly

over app distribution forecloses competition and harms consumers. Apple has also harmed additional developers who would otherwise compete fairly,” he said. The Volaches are longtime entrepreneurs who have a big dream: to unify email, calendar, contacts and messaging into one app. (They sold a previous mobile messaging company for \$140 million in 2006.) Blix, whose 40 employees are based in New Jersey, Britain and Israel, competes against some of tech’s biggest giants, including Microsoft and Slack.

But the Volaches, who are represented by the law firm Quinn Emanuel Urquhart & Sullivan, say Apple may be particularly threatened by mail applications like Blix, according to its latest court filings. That’s because Blix, unlike Microsoft’s Outlook and Slack, appeals to everyday consumers looking for more feature-rich alternatives to Apple’s bare-bones “Mail” app that comes preinstalled on iPhones. And unlike Apple’s Mail app, Blix works across platforms including Android, Windows and Mac desktops. “Apple’s dominance in the MacOS Email client market, as well as its Mac computer sales generally, are threatened by cross-platform messaging solutions, such as BlueMail,” the company says in its latest filing.

Blix has also been locked in a battle with Apple to get its corresponding BlueMail app accepted back into the Mac App Store, the desktop version of the App Store for iPhone, after Apple removed it in June.

On Nov. 22, the Volaches wrote an [open letter](#) on the BlueMail website to Apple chief executive Tim Cook. “Mr. Cook, we are asking you personally, please bring BlueMail back to the Mac App Store. Please treat small developers with fairness and empathy. Please recognize your own roots as a small business, struggling to compete against the establishment, in our struggle for fairness,” they wrote. Blix said Apple informed them that BlueMail was in violation of App Store rules because it duplicated another app, TypeApp, that Blix also owned. But Blix had already taken TypeApp down. The open letter was first reported by [Wired](#).

In Friday’s filing, Blix cited examples where Apple has allowed duplicate apps from the same developer. Encrypted messaging service Telegram for instance, has two desktop apps, Telegram and Telegram Desktop. The lawsuit alleges they are “highly similar.”

Blix claims that Apple has put barriers in the way of users downloading the software directly onto their computers. That’s because Apple users are discouraged from installing any software that is not downloaded through Apple. Apple says the warnings, which it calls “Gatekeeper,” are meant to prevent the spread of malware. Blix says Apple uses Gatekeeper to give itself an unfair advantage, calling it an effort by Apple to consolidate power over its desktop software, in the same way it controls its mobile ecosystem, essentially giving the company “monopoly power over MacOS applications,” the complaint alleges.

In its latest filing, Blix has also taken aim at the layout of Apple’s iOS App Store. Where Google’s Play Store shows eight apps in the search results, and Amazon’s app store

shows nine, Apple shows only an advertisement and a “story,” its own handpicked list of apps. Users don’t get to see the search results at all until they scroll down. That means, according to the suit, that it is even more important for app developers to appear at the top of the App Store.

The Blix suit also alleges that Apple avoids scrutiny and competition for its own apps by preventing users from giving apps ratings and reviews. “Apple immunizes itself from a form of competition its competitors must all face — effectively making Apple the only software developers whose apps are listed (usually as the first result) without any negative feedback or comments.” The suit says that Apple’s own Podcast app was rated lower than 2 stars out of 5 before Apple removed ratings for its own apps, citing a [Wall Street Journal article](#) from July.

The new Blix filing also cites examples in which Apple has highlighted apps on its App Store that have very low ratings, in an alleged effort to confuse consumers. “Apple intentionally decided to promote low-quality competitors, to give consumers the illusion that only low-quality applications were available as substitutes for Apple’s pre-installed Mail application.

Apple said Qualcomm's tech was no good. But in private communications, it was 'the best.'

Apple has not yet responded to Blix’s lawsuit, but the complaint anticipates one of the key counterarguments to the claim that Apple is a monopoly: Developers and Apple customers can choose another operating system if they’re not happy with Apple.

The suit argues Apple, because its applications are not interchangeable with other operating systems, should be treated as a market unto itself. “The operating system on one’s computer therefore defines the market for applications in which that consumer looks for options,” the suit reads.

“Apple has crippled true competition for its default apps through a ‘thousand different cuts.’ This is illegal and must be stopped,” it says.



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Reed Albergotti is The Washington Post's consumer electronics reporter, taking readers inside powerful and secretive companies such as Apple and shedding light on the murky and global industry responsible for building the myriad devices that touch every aspect of our lives. He spent 12 years at the Wall Street Journal and four at the Information. Follow