

EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JT COLBY AND COMPANY, INC., D/B/A
BRICK TOWER PRESS, J. BOYLESTON AND
COMPANY PUBLISHERS, LLC, AND
IPICTUREBOOKS, LLC,

Plaintiffs,

-against-

Index No.
11-CV-4060 (DLC)

APPLE, INC.,

Defendant.

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VIDEOTAPED DEPOSITION OF
MIKE SHATZKIN
New York, New York
December 4, 2012, 9:35 a.m.

Reported By:

Nicole Sesta

Ref: 8575

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J U R A T

STATE OF NEW YORK)

:ss

COUNTY OF *New York*)

I, MIKE SHATZKIN, hereby certify that I
have read the transcript of my testimony taken
under oath in my deposition of December 4, 2012;
that the transcript is a true and complete
record of my testimony, and that the answers on
the record as given by me are true and correct.

Mike Shatzkin

MIKE SHATZKIN

Signed and subscribed to before me this
17th day of December, 2012.

Vijay Seemangal

Notary Public, State of New York

VIJAY SEEMANGAL
Notary Public - State of New York
NO. 01SE6165227
Qualified in Queens County
My Commission Expires 5/7/2015

12/17/12

1 M. Shatzkin

2 a lot of opinions and so whether there's an
3 opinion that -- whether I can conjure up several
4 more opinions if I look at that again, probably
5 I could.

6 Q Looking at page six of your report
7 in the second paragraph you say in the second
8 line, "That is not true in publishing where
9 almost no money is spent or has been spent
10 creating consumer awareness in recognition of
11 brands." Do you see that?

12 A Uh-huh.

13 Q What is your basis of that
14 statement?

15 MR. RASKOPF: Objection.

16 A 50 years in business.

17 Q Is your testimony that publishers
18 do not spend any money creating consumer
19 awareness?

20 MR. RASKOPF: Objection to
21 the form of the question.

22 A No, it is my contention that
23 publishers spend no money creating consumer
24 awareness of brands. Publishers spend money
25 creating consumer awareness of titles they're

1 M. Shatzkin

2 publishing, of content, not of the names of
3 brands.

4 Q Is it your understanding that
5 publishers do not promote individual imprints or
6 brands?

7 MR. RASKOPF: Objection to
8 the form of the question. You may
9 answer.

10 A Unless the imprint or brand has an
11 audience centric component like Dummies the
12 answer is yes, it is my understanding that they
13 never do.

14 Q But there might be some publishers
15 for whom there is an audience centric component,
16 correct?

17 MR. RASKOPF: Objection to
18 the form.

19 A Even -- yes, and even when that is
20 true, such as Harlequin, we don't often find
21 Harlequin pushing the name Harlequin. They
22 don't need to do it. They do it by publishing
23 books with Harlequin's name on them.

24 Q I think you said that you have not
25 visited Harlequin's web site, correct?

1 M. Shatzkin

2 the same as it was in the first report, which is
3 that he is obviously an intelligent man with a
4 strong command of conventional wisdom and
5 knowledge about branding. I've seen people from
6 outside publishing coming into publishing and
7 failing to understand it for 50 years.

8 In the 1960s it was IT & T
9 acquiring a publishing house and making fools of
10 themselves and RCA acquiring Random House and
11 not knowing what to do with it. It's a common
12 theme that has played out for years and years
13 and years that people who are experts -- Borders
14 killed themselves because they started in 1999
15 hiring management that knew how to run pet
16 stores and knew how to run all kinds of things
17 but didn't know anything about books.

18 It's not only a common thing that
19 experts in other fields fail to understand
20 publishing, the failures are generally of a
21 category which is they don't get the granularity
22 of it. That's exactly what Carpenter failed to
23 get. He looked at Random House, Simon &
24 Schuster, there's six major companies and they
25 can't even establish a brand. So how is a

1 M. Shatzkin

2 little guy going to establish a brand. Well,
3 we're not trying to establish a brand with the
4 universe. Science fiction publishers just want
5 to establish a brand with science fiction
6 readers. I don't know if it's four percent of
7 the people in the country or nine percent of the
8 people in the country, but it's not 50 percent
9 of the people in the country. You're not going
10 to get the kind of brand recognition that you
11 get from Pepsi Cola or the New York Yankees out
12 of a publishing shopper. It's a much more
13 targeted thing.

14 Publishing companies, the big
15 ones, are built on a very, very wide assembly of
16 audiences which each and each book is a separate
17 project to build a market for it. Anybody
18 coming into publishing from the outside just
19 their jaw drops. They don't really know how to
20 cope with it. It looks crazy to them for the
21 most part. I'd be surprised if Professor
22 Carpenter didn't from his view of the publishing
23 business say these guys are nuts.

24 But that's, as I say, this is not
25 a failure of understanding that is unique to him