

Exhibit 4

CONFIDENTIAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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J.T. COLBY & COMPANY, INC.
d/b/a BRICK TOWER PRESS, J.
BOYLSTON & COMPANY, PUBLISHERS
LLC and IPICTUREBOOKS LLC,

Plaintiffs,

vs.

No. 11-cv-4060

APPLE, INC.,

Defendant.

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CONFIDENTIAL

VIDEOTAPED DEPOSITION OF

JOHN T. COLBY, JR.

New York, New York

Friday, July 20, 2012

9:41 a.m.

Reported by:
Jennifer Ocampo-Guzman, CRR, CLR

Ref: 7827

1 Confidential-Colby

2 A. The five or 6,000 I mentioned
3 earlier.

4 Q. How many -- sorry. Are you
5 claiming that you sold approximately 295,000
6 copies of books bearing the ibooks mark since
7 you inquired the assets of ibooks, Inc.?

8 MR. CHATTORAJ: Objection.

9 A. No.

10 Q. Have you destroyed books bearing
11 the ibooks mark?

12 A. Me personally?

13 Q. Have you caused to destroy and
14 reduce some of your inventory of physical
15 books bearing the ibooks mark?

16 A. Yes.

17 Q. Approximately how many books
18 bearing the ibooks mark have you destroyed
19 since you acquired the assets from ibooks,
20 Inc.?

21 A. I would have to check their actual
22 counts but a lot.

23 Q. Why?

24 A. Why what?

25 Q. Why did you destroy them?

1 Confidential-Colby

2 A. My distributor didn't want to sell
3 them any more.

4 Q. And what distributor was that?

5 A. National Book Network.

6 Q. And when did this occur?

7 A. When did what occur?

8 Q. When -- was there a single time
9 when books were destroyed or were there
10 multiple times that books bearing the ibooks
11 mark were destroyed?

12 A. To the best of my knowledge, there
13 were pulped in September, October of 2011.

14 Q. How many physical copies of books
15 bearing the imprint ipicturebooks existed
16 when you purchased ipicturebooks LLC?

17 A. Print books?

18 Q. Correct.

19 A. I don't know, without looking at
20 the licensee records.

21 Q. Do you have any best estimate, were
22 there under a thousand, ten million?

23 A. Oh, I probably, print runs are
24 generally between five and 10,000 copies and
25 at that time there could have been at least

1 Confidential-Colby

2 been returned?

3 MR. CHATTORAJ: Objection.

4 A. I'm sorry. Say that again, please.

5 Q. Isn't it true as we discussed on
6 Wednesday that by 2004 and 2005 many of the
7 books that had been sold by ibooks, Inc., in
8 2003, had begun to be returned?

9 MR. CHATTORAJ: Objection.

10 A. That's correct.

11 Q. And isn't it true that that caused
12 a worsening of the company's financial
13 position?

14 MR. CHATTORAJ: Objection.

15 A. It's possible.

16 Q. Let's look at Exhibit 97.

17 (Defendant's Exhibit 97, E-mail
18 dated 4/18/05, Bates No. COLBYHD0025424,
19 marked for identification, this date.)

20 Q. COLBY HARD DRIVE 25424, an e-mail
21 exchange from Byron Preiss to various people
22 including John Dane and B.C.
23 Ashmall-Liversidge at ipicturebooks.com; do
24 you see that?

25 A. I do.