

EXHIBIT 119

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Case No. 11-CIV-4060

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

DEPOSITION OF ANTHONY LUPO
Washington, D.C.
September 26, 2012

Reported by: Mary Ann Payonk, RDR-CRR
Job No. 53699

1 A. Lupo

2 MR. RASKOPF: Okay. We're up to
3 Lupo 3. Mark this Lupo 3.

4 (Lupo Exhibit No. 3 was marked for
5 identification.)

6 BY MR. RASKOPF:

7 Q. I show you what's been marked
8 Exhibit 3 for the record and ask you whether
9 you can tell me whether -- if this is the
10 trademark agreement as between Family Systems
11 and Apple that we have been referring to for
12 the last hour or so.

13 A. This appears to be that agreement.

14 Q. Okay. I mean, as you look through
15 it, is there any doubt in your mind that it
16 might not be the agreement?

17 A. There's -- it just looks like the
18 agreement. I haven't read the whole thing
19 through, but this looks like a -- a -- a copy
20 of the agreement.

21 Q. The -- the agreement says "Effective
22 this 26th day of January." See that?

23 A. I do see that.

24 Q. 2010, the effective date. If you
25 turn to the signature page, it's not -- this

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A. Lupo

signature, the dates of the signators are not -- there are no dates that correspond to when these -- this agreement was signed.

A. Okay.

Q. You notice that?

A. I -- I see that from the agreement.

Q. Do you know why there was no date line placed next to the respective parties' signatures?

A. No.

Q. Okay.

A. But I can tell you that it was signed by them --

Q. Okay.

A. -- very late in the night, because we wouldn't have gone forward but for a signature --

Q. Well --

A. -- because I had to -- I mean, I stayed up until 3 or 4 in the morning that night with Brian, who was on a boat in the Carribean, telling him that if this didn't get -- if I didn't get this agreement by the time I woke up in the morning, we were not

1 A. Lupo

2 going to have this deal.

3 Q. Sounds as if you have a recollection
4 of this occasion.

5 A. I have a recollection that he was on
6 a boat --

7 Q. Right.

8 A. -- and that he had to ink this deal.
9 That's what I was -- I was saying.

10 Q. Okay.

11 A. I was up very late in the night.

12 Q. Right.

13 And this -- down at -- this is your
14 firm's document. This was printed on -- it --
15 it was created at your firm?

16 MS. CARLAN: Objection, calling for
17 speculation, assumes facts not in
18 evidence.

19 A. My firm -- I worked on this document,
20 if you're asking me that.

21 Q. Well, I mean, you created the
22 document.

23 A. Yes.

24 Q. Right.

25 And see down on the front, the first