

EXHIBIT 15

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,

Plaintiff,

vs.

No. 11-cv-4060

APPLE, INC.,

Defendant.

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CONFIDENTIAL

VIDEOTAPED DEPOSITION OF
30(b)(6) JOHN T. COLBY, JR.

New York, New York

Wednesday, July 18, 2012

10:20 a.m.

Reported by:
Jennifer Ocampo-Guzman, CRR, CLR

Ref: 7845

1 Confidential-Colby

2 25 to 50 percent for eBooks, but that's the
3 percentage of net proceeds.

4 Q. Then there's a line for inventory
5 write-off, do you see that?

6 A. I do.

7 Q. What is encompassed under that
8 heading?

9 A. That is the value of inventory that
10 we sold or destroyed in those specific years.

11 Q. So for example, for 2011 there is
12 -- in the line inventory write-off there is
13 approximately \$121,000. Do you see that?

14 A. I do.

15 Q. Does that mean you sold 121,000 in
16 inventory or that you destroyed \$121,000 of
17 inventory or a combination of the two?

18 MR. CHATTORAJ: Objection.

19 A. That is a debit to inventory
20 write-off and a credit to inventory.

21 Q. But does that indicate then that --
22 does that reflect sales or destruction of
23 inventory?

24 A. It reflects the -- in this case,
25 the destruction of inventory, right,

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2 destruction of inventory, correct.

3 Q. And why was there a destruction of
4 inventory?

5 A. The returns from orders and other
6 independence were nonsalable.

7 Q. And so in 2011 you received
8 approximately \$121,000 worth of returns that
9 had to be destroyed; is that right?

10 A. No.

11 Q. Correct me.

12 A. That's an inventory valuation that
13 once was an asset that needed to be removed
14 from the balance sheet to show the
15 destruction and removal of that asset.

16 Q. I understand. But the reason the
17 asset had to be removed from the balance
18 sheet is that when you got the returns from
19 Border's and some of the independence, they
20 couldn't be sold so you destroyed the books
21 instead?

22 A. That is part of the reason, yes.

23 Q. Is there any other part of the
24 reason?

25 A. My distributor NBN was having its

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2 A. Three reasons: One, they wanted
3 our business; Two, NBN couldn't sell our
4 stuff satisfactorily; and, three, they
5 offered better marketability and
6 merchantability of our iBooks list than NBN
7 could do.

8 Q. Does Lightning Source also
9 distribute any of your books electronically?

10 A. They do.

11 Q. Does that include books, iBook or
12 ipicturebooks imprints?

13 A. That's correct.

14 Q. And do you plan on phasing out NBN?

15 MR. CHATTORAJ: Objection.

16 A. I don't know. I don't know.

17 Q. Was NBN happy that you brought on a
18 new distributor?

19 A. Not really, no.

20 Q. In 2010 it looks like under total
21 cost of sales or under inventory write-off
22 there is a write off of about \$88,000. Do
23 you see that?

24 A. I do.

25 Q. Was that the same situation of

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2 returns that needed to be destroyed?

3 A. That's right. And also inventory
4 needed to be liquidated, yes, that's right.

5 Q. So you ended up with a line called
6 gross margin, and in 2011 it's listed as
7 negative \$51,790.55; is that right?

8 A. That's right.

9 Q. What does that mean?

10 A. The 51,790?

11 Q. Yes, when it says negative
12 51,000 -- there is a negative sign there,
13 right?

14 A. Right.

15 Q. Does that mean that you didn't make
16 a profit, you were at a loss in 2011 in terms
17 of profitability?

18 A. On what basis?

19 Q. I'm just trying to understand. It
20 said gross margin. What is supposed to be
21 captured by gross margin?

22 A. That's the operating loss for 2011.

23 Q. So even though you had increased
24 sales in 2011, you ended up having an
25 operating loss; is that true?