

EXHIBIT 17

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 Minnesota -- we did some things to promote
3 "Code Black" in Minnesota through one of the
4 local book sellers there. And Phil promoted
5 the book at the LA -- Phil Donlay, the author
6 D-O-N-L-A-Y, "Code Black" author, promoted
7 the book at the BEA in Los Angeles and flew
8 from one place to the other to promote -- to
9 promote his book as a semifinalist in the
10 Minnesota Book Award space.

11 Q. Are you aware of any other
12 marketing activities that depicted the iBooks
13 mark during your ownership period?

14 MR. CHATTORAJ: Objection.

15 A. I can't think of anything right
16 now, but hopefully I've answered the ones I
17 know about.

18 Q. In terms of book store author
19 events, do you know whether there were any
20 book store author events during the Preiss
21 era that depicted the iBooks mark?

22 A. I knew there were author signings
23 at stores to promote the other iBooks books,
24 but I didn't go to them myself to see them.

25 Q. Are you talking about the Preiss

1 Confidential-Colby

2 era?

3 A. The Preiss era, that's right.

4 Q. And in terms of the Colby era, you
5 aware of any book store signings that
6 depicted the iBooks mark?

7 A. Yes.

8 Q. What are you aware of?

9 A. The specific author tours I
10 mentioned before, the autographing at local
11 book stores in Connecticut and in Santa Fe,
12 New Mexico, and in -- I've forgotten where
13 else. I guess New York City, various authors
14 promoted their books within Barnes & Noble or
15 Border's and they promoted their iBooks
16 books, NBN, put a little poster together to
17 sell the authors book.

18 Q. And you also mentioned the
19 possibility of in-store display. Are you
20 aware of any in-store display that depicted
21 the iBooks mark during the Preiss era?

22 A. I am aware of the mass market
23 pocket promotions done by Simon for iBooks
24 and mass market books that would be in a --
25 in a retail dump display, one of those little

1 Confidential-Colby

2 turn things with the little pockets, so Simon
3 put some of those, take the whole thing out
4 of a box and put it in a store. You get all
5 the iBooks stuff spinning around in a circle.

6 Q. And when was this done?

7 A. During the Simon & Schuster
8 distribution days. I don't know. Somewhere
9 in those years.

10 Q. Do you know for what period of
11 time?

12 A. '99 through 2005, that's where we
13 spent the \$662,000.

14 Q. \$600,000 was spent on this dump?

15 A. That's one way of looking at it.
16 Mass market does not sell very well, unless
17 you like similar returns out of your
18 warehouse. No, that's part of the
19 expenditure but that would have been a direct
20 pocket promotion and Simon was really good at
21 that, selling mass markets.

22 Q. So I'm just trying to find out in
23 what stores was this promotion featured?

24 A. I don't know the answer to that.

25 Q. And do you know -- I know Simon was