

**EXHIBIT 23**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
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.  
-----X

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 told you about.

3 Q. Are you aware of any other  
4 advertising during the Preiss era relating --  
5 that depicts the mark ipicturebooks?

6 A. I'm not aware of any.

7 Q. What advertising are you aware of  
8 during the period end of 2006 to the present  
9 depicting the ipicturebooks mark?

10 MR. CHATTORAJ: Objection.

11 A. Not that I'm aware of.

12 Q. You're not aware of any  
13 advertising?

14 A. That's right.

15 Q. Mr. Colby, are you claiming that  
16 Apple has infringed both your iBooks and your  
17 ipicturebooks mark?

18 A. I am.

19 Q. So now we've talked -- are you  
20 aware of any -- so we've talked about  
21 advertising. What marketing activities were  
22 you aware of that utilized the iBooks mark  
23 during the Preiss era?

24 MR. CHATTORAJ: Objection.

25 A. The ones already mentioned to the

1 Confidential-Colby  
2 consumers, plus the work by Simon & Schuster  
3 and PGW and -- yes, and PGW, though you  
4 defined it through the Preiss era, so.

5 Q. And what activities by Simon &  
6 Schuster and PGW during the Preiss era are  
7 you referring to in terms of marketing?

8 A. These are the catalogs, trade show  
9 material, book store mailings, in-store  
10 promotions, in-store author promotions,  
11 anything that Simon and PGW would do to  
12 promote a book if they spent money on it.

13 Q. What -- the catalogs that you're  
14 referring to, were those catalogs that were  
15 sent to book stores to see if they wanted to  
16 order titles?

17 A. Yes.

18 Q. How else would those catalogs be  
19 used?

20 MR. CHATTORAJ: Objection.

21 A. The -- among many things, the  
22 salesmen, sales reps would have copies in  
23 their little bag, so when they went into an  
24 account they would go through the iBooks'  
25 list with the buyer.

1 Confidential-Colby

2 Q. The catalogs weren't distributed to  
3 consumers; is that correct?

4 MR. CHATTORAJ: Objection.

5 A. Not technically, no.

6 Q. Then in terms of the trade shows,  
7 what trade shows do you know of that had the  
8 iBooks mark depicted?

9 MR. CHATTORAJ: Objection.

10 A. The Book Expo America show, and I  
11 think the Comi-Con show had a lot of science  
12 fiction genre promoted at it.

13 Q. Do you know whether the iBooks mark  
14 was actually featured at the Comi-Con show?

15 A. I don't know.

16 Q. Do you know whether the iBooks mark  
17 was actually featured at the Book Expo Show?

18 A. I do know that.

19 Q. And how do you know that?

20 A. I put it there.

21 Q. During the Preiss era, do you know  
22 whether the iBooks mark was ever featured at  
23 a trade show?

24 A. I don't know. Oh, you mean the  
25 book expo or any trade show?