

EXHIBIT 32

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs,

vs.

Civil Action
No. 11-cv-4060 (DLC)

APPLE, INC.,

Defendant.

-----)

VIDEOTAPED DEPOSITION OF
JACOB JACOBY, Ph.D.
New York, New York
Thursday, December 6, 2012

Reported by:

SHAUNA STOLTZ-LAURIE

Ref: 8576

1 Jacoby

2 I didn't say it was likely. It's possible.

3 Q. So you just don't have any data one
4 way or the other?

5 A. I don't have any data.

6 Q. Fair enough. Now, looking at
7 paragraph 12 of your -- of I believe that's
8 in your Nowlis report, which is Exhibit --

9 A. Four?

10 Q. -- 4.

11 A. (Inaudible)?

12 Q. Yes.

13 You state "The nature of Apple's
14 business suggests that in the present matter
15 more likely types of confusion are confusion
16 as to affiliation, association --

17 A. (Inaudible).

18 Q. I'm sorry. You see it?

19 A. Yeah. I'm starting in the middle
20 of a sentence (inaudible).

21 Q. I was just focusing on --

22 A. I know where you are. I see now.

23 Q. Okay. All I was trying to do was
24 focus on the operative -- you have some long
25 sentences, but I can't criticize that myself,

1 Jacoby

2 where it says "The nature of Apple's business
3 suggests that the present matter more likely
4 times of confusion with confusion as to
5 affiliation, association, or connection and
6 confusion as to sponsor PIP authorization or
7 permission." Do you see that?

8 A. Yes.

9 Q. What's your basis for that
10 statement?

11 A. Well, they might not think Apple
12 was the publisher of a book, I think, because
13 of the iBooks that is used by Apple -- well,
14 you didn't study that here. I -- I think
15 that given the "i" with the book, that as you
16 said before, that's the paradigm that Apple
17 uses, they would think that there was some
18 kind of relationship or business connection
19 between them. By the way this -- this really
20 is important and it has nothing to do with
21 this case and I just want to make you feel
22 good because it makes me feel good and that
23 is there is research that shows the longer
24 the sentences you right if they're correct
25 sentences, the less likely you are to get