

EXHIBIT 33

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JT COLBY AND COMPANY, INC., D/B/A
BRICK TOWER PRESS, J. BOYLESTON AND
COMPANY PUBLISHERS, LLC, AND
IPICTUREBOOKS, LLC,

Plaintiffs,

-against-

Index No.
11-CV-4060 (DLC)

APPLE, INC.,

Defendant.

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VIDEOTAPED DEPOSITION OF
SUSAN SCHWARTZ MCDONALD
New York, New York
December 12, 2012, 9:56 a.m.

Reported By:

Nicole Sesta

Ref: 8606

1 S. Schwartz McDonald

2 a source.

3 Q Would you agree that the company
4 that makes a book available is not necessarily
5 the same as the company that prints the book?

6 A It isn't necessarily the same as
7 the company that prints the book. It isn't
8 necessarily the same as the company that
9 conceives of the book, edits the book. That's
10 the nature of books. They are different. It's
11 almost reminiscent of movies in which you have
12 multiple producers, multiple sources and you see
13 this cascade of production hands.

14 Q Is it fair to say that Apple is
15 generally known for making content available on
16 the internet?

17 A I think Apple is not thought of as
18 a publisher. That's precisely the problem.
19 Apple is not at this point in time thought of as
20 a publisher. It is thought of as a distribution
21 vehicle for books.

22 Q So you'd agree that Apple is
23 thought of as a distribution vehicle for things
24 like books and CDs, movies, and films?

25 MR. RASKOPF: Objection to