

**EXHIBIT 36**

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

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2 intended use of the iBooks mark.

3 Q. So what does that have to do --

4 I've had asked you for --

5 MS. CENDALI: Move to strike as

6 nonresponsive.

7 Q. What information do you have that

8 Mr. Gundersen was aware that Boylston was

9 using an imprint called iBooks prior to

10 Apple's selection of the mark?

11 MR. CHATTORAJ: Objection.

12 A. Notify the Apple -- Apple's office.

13 Q. You notified the Apple's office

14 after Apple announced that it was launching a

15 new app called iBooks, right?

16 A. That's right.

17 Q. Okay. Prior to Apple's announcing

18 that it had selected a new mark, iBooks and

19 was launching a new app. What information do

20 you have that Apple was aware of your

21 company's iBooks imprint?

22 A. I don't have any.

23 Q. So what is your factual basis for

24 claiming that Apple's selection of the mark

25 iBooks was willful?

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2 MR. CHATTORAJ: Objection, that's  
3 not what topic 101 says. Stop trying to  
4 mislead the witness.

5 You may answer.

6 A. I don't know.

7 Q. Now, turning to topic 73 of  
8 Exhibit 1 it states, "The policing and or  
9 enforcement of the purported iBooks mark  
10 against third parties by Boylston."

11 In the 6 years that Boylston has  
12 owned iBooks mark, has Boylston done anything  
13 to police third parties who were using the  
14 mark?

15 A. Other than Apple, no.

16 Q. Have you done anything to monitor  
17 the use by third parties of the mark?

18 MR. CHATTORAJ: Objection.

19 A. I have done occasional Google  
20 searches of iBooks to see how it was being  
21 used and whether or not it was referring to  
22 our site and our books.

23 Q. Do you have printouts of any of  
24 these Google searches?

25 A. I do, sure.