

EXHIBIT 40

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 A. Okay.

3 Q. In addition to studies is there any
4 facts that you are aware of that you believe
5 supports the view that ipicturebooks has
6 awareness among consumers?

7 MR. CHATTORAJ: Objection.

8 A. I don't know.

9 Q. Who is the owner of the domain name
10 iBooksInc.com?

11 A. J. Boylston & Company.

12 Q. And is this domain name one of the
13 assets you acquired in the bankruptcy?

14 A. Yes.

15 Q. And are you using that domain name
16 currently?

17 A. And by "using," what do you mean?

18 Q. Do you have a site at
19 iBooksInc.com's name?

20 A. We have a domain iBooksInc.com.

21 Q. And what happens if you go to that
22 domain?

23 A. I don't know. There might be a
24 to-be-built message or something like that.

25 Q. Isn't it true that you have not