

**EXHIBIT 44**

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 designating a specific URL path so.

3 Q. But you don't know whether those  
4 screen shots are correct or not, right?

5 MR. CHATTORAJ: Objection.

6 A. Correct. The path is  
7 ipicturebooks.com. I can't imagine what else  
8 it could be.

9 Q. You don't know because you never  
10 went to ipicturebooks.com when the site was  
11 active, right?

12 MR. CHATTORAJ: Objection.

13 A. I don't have to have done that to  
14 know that's what the screen looked like.

15 Q. And you don't know how long the  
16 site was active or how many sales were made  
17 on that site, correct?

18 A. That's correct.

19 Q. So in terms of ipicturebooks, what  
20 advertisements are you aware of that were  
21 done in the Preiss era; Preiss era with  
22 regard -- that depicted the mark  
23 ipicturebooks?

24 A. I know there are some. There were  
25 folders, promotional pieces created with the

1 Confidential-Colby

2 ipicturebooks. The site itself is imprinted  
3 on the folder and you guys should have copies  
4 of those actual folders. It might give you  
5 some idea of what the website looked like.

6 There were other documents  
7 indicated, expenses, I'm just not sure how  
8 they were -- how they were made.

9 Q. Okay. But in terms of the mark  
10 ipicturebooks, are you aware of any print ads  
11 using that mark during the Preiss era?

12 A. No.

13 Q. Are you aware of any radio shows  
14 using the mark ipicturebooks during the  
15 Preiss era?

16 A. No.

17 Q. Are you aware of any television ads  
18 using the mark ipicturebooks during the  
19 Preiss era?

20 A. I'm not aware of any, no.

21 Q. Other than the -- and what are you  
22 aware of with regard to promoting this cite,  
23 ipicturebooks.com?

24 MR. CHATTORAJ: Objection.

25 A. Other than the things I already

1 Confidential-Colby  
2 a distributor from 1999 until roughly 2005;  
3 is that right?

4 A. That's right.

5 Q. But during what period of time  
6 under Simon & Schuster's distributorship were  
7 these promotions featured?

8 A. When they produced the first mass  
9 market book and that would have been probably  
10 been in '02, '03. When you see the sales  
11 peak a little bit in there, that means  
12 they're promoting the heck out of some of  
13 those books, putting them in the mass  
14 markets, but they all come back later as you  
15 also see in the spreadsheets.

16 Q. Gotcha.

17 Do you have -- other than -- so now  
18 let's turn for a minute to ipicturebooks.  
19 We've already talked about print ads with  
20 regard to ipicturebooks. Are you aware of  
21 any other -- any marketing activities during  
22 the Preiss era with regard to ipicturebooks?

23 MR. CHATTORAJ: Objection.

24 A. I know that there was some  
25 promotion via Time Warner, but I just have