

EXHIBIT 46

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

MIKE SHATZKIN

New York, New York

December 4, 2012, 9:35 a.m.

Reported By:

Nicole Sesta

Ref: 8575

1 M. Shatzkin

2 houses by how well-known they are, it would have
3 been a much longer list 20 or 30 years ago than
4 it would be today because of consolidation. But
5 there would be dozens of them who within the
6 world of publishing knowledge, which I mean
7 these are people who are not incidentally
8 connected to publishing. They are booking
9 authors all the time. And so they're seeing
10 material from houses all the time, and the top
11 15 or 20 or 30 of those houses would be pretty
12 well-known to most of them.

13 Q Who would be in those?

14 A Well, today those houses are
15 mostly owned by what are called the big six
16 which were named almost accurately in Professor
17 Carpenter's report. His information was a
18 little dated, so he referred to them in some
19 cases by names they're not called anymore. But
20 there are six companies which are the largest
21 general trade publishers who have absorbed
22 probably dozens of smaller companies that were
23 independent 30 years ago. And those would be
24 where most of the examples would come from.
25 There are still some general independent

1 M. Shatzkin

2 publishers, but not too many.

3 Q You referred to the big six. Who
4 are the big six?

5 A The big six are Random House,
6 Penguin, Harper Collins, Simon & Schuster,
7 Hachette Book Group USA and Macmillan.

8 Q Looking at the page three of your
9 report, in the next to last paragraph, in the
10 third to last line, "the general houses." Do
11 you see that?

12 A Uh-huh.

13 Q Are the general houses --

14 A The ones that I just named are the
15 very ones that you would think of first in that
16 context.

17 Q Is general house essentially
18 synonymous with a trade publisher or a general
19 trade publisher?

20 A Yeah, general trade publisher and
21 general house mean the same thing, but trade
22 publisher does not have to be general.

23 Q Trade, as you said earlier, simply
24 meaning somebody who sells into the book trade?

25 A They work through the trade, yes.