

**EXHIBIT 49**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

J.T. COLBY & COMPANY, INC.,  
d/b/a BRICK TOWER PRESS,  
J. BOYLSTON & COMPANY,  
PUBLISHERS, LLC, and  
IPICTUREBOOKS, LLC,  
Plaintiffs,

CASE NO.  
11-CIV-4060 (DLC)

v.  
APPLE, INC.,  
Defendant.

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VIDEOTAPED DEPOSITION OF

RICHARD FREESE

September 25, 2012

Prince Frederick, Maryland

2:04 p.m.

REPORTED BY:

Lori J. Goodin

REF: 8254

1           A.     As I recall, and I don't recall  
2 detail, but they were smaller.

3           Q.     Were they still in the millions?

4           A.     I don't believe so, but I don't  
5 recall.

6           Q.     Would you still have considered the  
7 ibooks business a catch?

8           MR. RASKOPF:  Objection to the form.  
9 You may answer.

10           THE WITNESS:  I thought -- yes, the  
11 answer would be yes.

12           BY MS. JARRETT:

13           Q.     Okay.  And why?

14           A.     Because I was -- the brand,  
15 especially in the science fiction and fantasy  
16 area was very strong.  They had authors like  
17 Isaac Asimov and Arthur C. Clark and Edgar Rice  
18 Burroughs.

19                     And they had a very solid author  
20 base that was well recorded in retail.  And we  
21 believed that we still had very significant  
22 opportunities.

1 Q. What were those opportunities?

2 A. Basically the brand. The way buyers  
3 of retail buy is they really look for who are  
4 their preferred providers in different  
5 categories.

6 And they look, if you would think of  
7 a distributor as the equivalent of a literary  
8 agent. When an agent brings an author to a  
9 publishing house, there is an outside validation  
10 of product, and it was fairly similar with a  
11 distributor.

12 When we brought in a publisher, it  
13 was because there was something that Barnes and  
14 Noble or Borders or whoever really needed to take  
15 a look at.

16 And ibooks for us was a, you know,  
17 had a strong reputation in that, in the category,  
18 and had products that we knew that our customers  
19 were going to want.

20 Q. And your customers were the retail  
21 buyers, correct?

22 A. Retail, wholesale, special markets.