

**EXHIBIT 9**

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 files.

3 Q. Please tell me all computer files  
4 that you used and relied on in order to  
5 provide the information reflected on exhibits  
6 A, B and C to your Interrogatory Responses?

7 MR. CHATTORAJ: Objection.

8 A. Well, we start out with the --  
9 we're going backwards. I'm not sure whether  
10 to go backwards or to go forwards.

11 When we acquired the assets, we  
12 contacted, as you indicated earlier,  
13 different distributors, and we asked them to  
14 transfer the -- our -- substitute our  
15 information for the older entities. They  
16 sent us sales information, each distributor  
17 and there were maybe 15 different  
18 distributors that sent sales information in a  
19 computer filed format, usually either a comma  
20 separated value format, an Excel spreadsheet  
21 format or a tab separated file. And there  
22 are probably hundreds of them.

23 Q. So dealing with the era where Byron  
24 Preiss and -- well, dealing with the sales of  
25 products bearing the mark iBooks, those have

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2 been made prior to your purchase of the asset  
3 of the company iBooks, Inc., correct?

4 MR. CHATTORAJ: Objection.

5 A. No.

6 Q. What company made the sales?

7 A. Initially Simon & Schuster, then  
8 PGW.

9 Q. Those were the distributors though.

10 A. They're the ones who made the  
11 sales.

12 Q. Did your -- did Byron Preiss sell  
13 the books to Simon & Schuster and the  
14 distributors?

15 A. No.

16 Q. What documents exist that show what  
17 the sales were that were made by Simon &  
18 Schuster?

19 A. A spreadsheet called i-wks05.xls.

20 Q. And what period of time does that  
21 cover?

22 A. 1999 through 2005.

23 Q. And was this spreadsheet provided  
24 directly by Simon & Schuster?

25 A. Directly to whom?

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2 MR. CHATTORAJ: Objection.

3 Q. To your companies?

4 A. No.

5 Q. What information did Simon &

6 Schuster provide?

7 MR. CHATTORAJ: Objection.

8 A. Zero.

9 Q. So it didn't provide you with any  
10 documents?

11 A. Not Simon & Schuster.

12 Q. Okay. You have a spreadsheet that  
13 you're using to respond to plaintiffs'  
14 interrogatories. You're the 30(b)(6)  
15 witness. You testified under oath that you  
16 know the contents of the spreadsheets and you  
17 furnished the factual information set forth  
18 therein. Right?

19 A. That's true.

20 Q. Okay. Where did you get the  
21 information with regard to sales of books  
22 during the time before your acquisition of  
23 the assets?

24 MR. CHATTORAJ: Objection.

25 A. From which distributor?

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2 Q. From anyone.

3 A. It varies, the bankruptcy trustee  
4 provided me with the information.

5 Q. Okay. Could you tell me the Bates  
6 numbers of all the information that you  
7 relied on to create the spreadsheets in  
8 exhibits A, B and C?

9 MR. CHATTORAJ: Objection.

10 A. I can't do that, no.

11 Q. Can you tell me the names of the  
12 documents of -- that you relied on to create  
13 the spreadsheets A, B and C?

14 A. Most of them, yes.

15 Q. Please do.

16 A. There was the ones I previously  
17 mentioned. The underlying documents for  
18 those were from a file called raw eBook  
19 trans, and the other file was I think raw PGW  
20 trans, but it's got the name PGW in it.  
21 You've got all the stuff on the hard drive.  
22 And the third document I previously mentioned  
23 through Simon & Schuster, the i-wks05.xls  
24 document and that too was provided on the  
25 hard drive, as well as the flash drive.

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2 Q. Where -- if I wanted to find these  
3 three files on the hard drive, where would I  
4 look?

5 MR. CHATTORAJ: Objection.

6 Q. Where is --

7 MS. CENDALI: Objection.

8 A. The easiest way to do a search is  
9 "wks" and it pops up.

10 Q. Are they in a folder?

11 A. If they're provided on a flash  
12 drive, no. I didn't provide the flash drive  
13 to you. My attorneys provided it. I don't  
14 believe I put it in a folder on the flash  
15 drive. The wks file on the hard drive should  
16 be in a folder, probably Simon & Schuster  
17 sales data.

18 Q. Okay. What I'm trying to find out  
19 is you mentioned these computer files. Are  
20 these computer files documents that were  
21 obtained from the distributors of the books?

22 A. Yes.

23 Q. And does that include files  
24 obtained from Simon & Schuster reflecting  
25 sales made by them?

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2 A. Yes.

3 Q. And what document reflects the  
4 Simon & Schuster sales?

5 A. I-wks05.xls.

6 Q. So -- and you claim that these  
7 documents were obtained after you acquired  
8 the assets, you wrote to the distributors and  
9 you asked them to give you summaries of the  
10 sales figures; is that right?

11 MR. CHATTORAJ: Objection.

12 A. Not completely, no.

13 Q. What's wrong about it?

14 A. Some of the information came from  
15 the trustee and some of the information came  
16 from the distributors.

17 Q. Okay. Did any of the information  
18 used to create exhibits A, B and C come from  
19 the preexisting business records of iBooks,  
20 Inc.?

21 A. No.

22 Q. What information did you obtain  
23 from the trustee?

24 MR. CHATTORAJ: Objection.

25 A. 350 boxes of information.