

EXHIBIT 94

1 HIGHLY CONFIDENTIAL
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 J.T. COLBY & COMPANY, : Case Number
5 INC. d/b/a BRICK TOWER : 11-CV-40260
6 PRESS; J. BOYLSTON & : (DLC)
7 COMPANY, PUBLISHERS LLC :
8 and IPICTUREBOOKS :
9 LLC, :
10 Plaintiffs, :
11 :
12 vs. :
13 :
14 APPLE, INC., :
15 Defendant. :

16 - - -
17 October 3, 2012
18 HIGHLY CONFIDENTIAL
19 - - -

20 Videotaped deposition of GLENN
21 GUNDERSEN, ESQUIRE, taken at the offices of
22 Veritext National Court Reporting Company,
23 1801 Market Street, Suite 1800, Philadelphia,
24 Pennsylvania 19103, beginning at 9:24 a.m.,
25 before LINDA ROSSI RIOS, RPR, CCR and Notary
 Public.

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 VERITEXT NATIONAL COURT REPORTING COMPANY
 MID-ATLANTIC REGION
 1801 Market Street - Suite 1800
 Philadelphia, Pennsylvania 19103

1 GLENN GUNDERSEN, ESQUIRE - HIGHLY CONFIDENTIAL

2 A. I can't tell you specifically
3 which ones we would have searched.

4 Q. Were any other databases
5 searched?

6 A. Yes.

7 Q. But you don't know which ones?

8 A. There would be ample
9 information of what was searched and found in
10 the advice to the client.

11 Q. What searches were reflected in
12 your communication with the client?

13 A. That information is in the
14 opinions to the client.

15 MS. CENDALI: Okay. Instruct
16 you not to answer about privilege
17 communications with the client.

18 MR. CHATTORAJ: Because Apple is
19 not relying on advice of counsel
20 defense. Right?

21 MS. CENDALI: Correct.

22 BY MR. CHATTORAJ:

23 Q. Let's just make a record.
24 Please describe to me the search query
25 results that were contained in your

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2 communications with Apple?

3 MS. CENDALI: I instruct you not
4 to -- you can talk about the fact of
5 what searches you did and what you
6 found in those searches, and you may
7 tell Mr. Chatteraj what you did and
8 what you found. You just can't talk
9 about what you said to Apple about
10 them, how you analyzed them, how you
11 characterized them. So if you
12 remember what you did and what they --
13 what you found, that you can talk
14 about.

15 THE WITNESS: Well, first of
16 all, I can't remember what they all
17 were, they were extensive. And to a
18 large extent going through what they
19 were, if I were to catalog them, would
20 suggest what our thinking process was
21 in the course of doing the search.
22 And, therefore, driving the advice
23 they were giving to the client.

24 BY MR. CHATTORAJ:

25 Q. Leaving aside the privilege

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2 concern you just expressed, do you recall any
3 of the specific searches, yes or no?

4 A. I don't because I haven't gone
5 back to look at all of the advice in detail
6 and catalog that.

7 Q. You recall that there were
8 many. Right?

9 A. Yes.

10 Q. But you don't remember a single
11 one?

12 A. I don't. From January 2010.

13 Q. Please take a look at the first
14 page of Gundersen Exhibit 9.

15 A. The first page being the cover?

16 Q. Yes.

17 A. Okay.

18 Q. The cover says: "Trademark
19 Searching: A Practical and Strategic Guide
20 to the Clearance of New Marks in the United
21 States, Second Edition, BY GLENN A. GUNDERSEN
22 A Publication of International Trademark
23 Association."

24 Did I read that text correctly?

25 A. You did.