

**EXHIBIT 95**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3

4 J.T. COLBY & COMPANY, INC.,  
5 d/b/a BRICK TOWER PRESS,  
6 J. BOYLSTON & COMPANY,  
7 PUBLISHERS, LLC and  
8 IPICTUREBOOKS, LLC,  
9

Plaintiff,

vs.

Case No. 11-CIV4060 (DLC)

APPLE, INC.,

Defendant.  
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12 HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER  
13 Attorneys' Eyes Only Confidential Pages 300 - 302  
14 VIDEOTAPED DEPOSITION OF THOMAS LA PERLE  
15 30(b)(6) Capacity  
16 Redwood Shores, California  
17 Wednesday, September 19, 2012  
18  
19  
20  
21

22 Reported by:

23 LORRIE L. MARCHANT, CSR No. 10523  
24 RPR, CRR, CCRR, CLR  
25

JOB NO. 53418

1 Q. Why did Apple decide not the use the name  
2 " " ?

3 A. I don't know.

4 Q. Were there any legal reasons?

5 A. There may have been. I just don't recall  
6 at this time. I don't believe we provided the  
7 business with our trademark clearance report. It  
8 was in process.

9 Q. So if I understand your testimony  
10 correctly, the name " " was rejected or  
11 abandoned as an idea before you provided the  
12 business side with your trademark clearance report?

13 MS. CENDALI: Objection.

14 THE WITNESS: I don't recall -- I didn't --  
15 we did not finalize our report. There may have been  
16 some correspondence with the business on the  
17 availability of the mark. I just don't recall.

18 BY MR. CHATTORAJ:

19 Q. When you use the phrase "availability of  
20 the mark," what do you mean?

21 A. I mean availability without high risk of  
22 trademark conflict.

23 Q. What do you mean by "trademark conflict"?

24 A. Conflict with prior right -- right holders.

25 Q. Did the Dechert firm ultimately render an

1 opinion with respect to the clearance process for  
2 the "iBooks" mark?

3 A. Yes.

4 Q. Did you convey that opinion to others  
5 within Apple?

6 A. Yes.

7 Q. What was their opinion?

8 MS. CENDALI: Again, I instruct you not to  
9 answer. We're not relying on an advice of counsel  
10 defense in this action, and that's privileged.

11 BY MR. CHATTORAJ:

12 Q. Was any trademark clearance work done other  
13 than the work done by the Dechert firm in connection  
14 with the "iBooks" mark?

15 A. I don't recall. I sus- -- well, I assume  
16 that there were foreign searches done. I just don't  
17 recall at this time.

18 Q. So the foreign searches would have been  
19 carried out by firms other than Dechert?

20 A. By foreign counsel.

21 Q. Did foreign counsel eventually prepare  
22 opinions with respect to the "iBooks" mark and their  
23 respective foreign jurisdictions?

24 A. Typically, that's what happens. I just  
25 don't recall if that was the case with this -- this