

**EXHIBIT 97**

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

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J.T. COLBY & COMPANY, : Case Number  
INC. d/b/a BRICK TOWER : 11-CV-40260  
PRESS; J. BOYLSTON & : (DLC)  
COMPANY, PUBLISHERS LLC :  
and IPICTUREBOOKS :  
LLC, :  
Plaintiffs, :  
vs. :  
APPLE, INC., :  
Defendant. :

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October 2, 2012

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Videotaped deposition of APPLE,  
INC., through HAL E. BORDEN, ESQUIRE, taken  
at the offices of Veritext National Court  
Reporting Company, 1801 Market Street, Suite  
1800, Philadelphia, Pennsylvania 19103,  
beginning at 10:15 a.m., 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 HAL E. BORDEN, ESQUIRE

2 then it says: "0.15 seconds." Did I read  
3 that correctly?

4 A. I believe so.

5 Q. What do the numbers 1 to 100  
6 refer to in that text?

7 A. I believe they refer to the  
8 fact that what follows is a series of 100  
9 links to Web sites that are captured by the  
10 search strategy above.

11 Q. What does 313 million refer to  
12 in that text?

13 A. I believe that refers to the  
14 fact that there are potentially that number  
15 of Web pages total that fit the search query  
16 in question.

17 Q. Is it correct to say that this  
18 document, Borden Exhibit 7, represents the  
19 100 results that were reviewed in connection  
20 with this particular i-Book minus Apple  
21 search?

22 A. I think it's correct to say  
23 that these 100 results were reviewed. I  
24 don't know with certainty whether additional  
25 results in response to this query were

1 HAL E. BORDEN, ESQUIRE

2 reviewed or not.

3 Q. Why are only 100 printed out?

4 MS. RAY: I'm going to object  
5 and instruct the witness not to answer  
6 to the extent that gets into search  
7 strategy or the lawyer's thought  
8 process and analysis that went into  
9 developing the search strategy. You  
10 can answer if there's a factual answer  
11 you can give.

12 THE WITNESS: I don't think  
13 there is.

14 BY MR. CHATTORAJ:

15 Q. Well, you're saying that you  
16 don't know whether additional results were  
17 reviewed beyond the first 100. Correct?

18 A. I don't recall.

19 Q. You don't recall whether  
20 additional results were reviewed. Right?

21 A. Correct.

22 Q. So what I'm asking you is, in  
23 general, are search results reviewed that are  
24 not included in printouts that accompany the  
25 results of trademark clearance searches?

1 HAL E. BORDEN, ESQUIRE

2 MS. RAY: Same objection. Same  
3 instruction. Can you answer it?

4 THE WITNESS: I think it's  
5 accurate to say as a general matter,  
6 not related to the specific search or  
7 any other specific search, when search  
8 results include a list of the first X  
9 number of results of a Google search,  
10 printed out, those results would be  
11 reviewed whether or not anything else  
12 is reviewed in terms of the Google  
13 results responsive to that strategy,  
14 is a matter of the context of a  
15 particular search.

16 BY MR. CHATTORAJ:

17 Q. Now, as you're -- as the  
18 corporate representative of Apple, you note  
19 the date on the bottom of this document,  
20 right, which is January 12, 2010?

21 A. Yes.

22 Q. And my question is, did Apple  
23 have knowledge or awareness of search results  
24 beyond the first 100 in response to the  
25 search strategy reflected in Borden

1 HAL E. BORDEN, ESQUIRE

2 Exhibit 7?

3 MS. RAY: Objection. Same  
4 instruction. As a factual matter, you  
5 can answer if you know.

6 THE WITNESS: Could you reread  
7 the question, please?

8 - - -

9 (The court reporter read the  
10 pertinent part of the record.)

11 - - -

12 THE WITNESS: Not to my  
13 knowledge.

14 BY MR. CHATTORAJ:

15 Q. I'll represent to you that  
16 there is a series of printouts of Google  
17 results reflecting strategies that are set  
18 forth in Borden Exhibit 3. And all of those  
19 documents are printouts of the first 100  
20 results. So I'm asking the same question  
21 with respect to all those.

22 Did Apple have knowledge or  
23 awareness of the search results from those  
24 search strategies beyond the first 100 that  
25 were printed out?