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APPLE INC.

**UNITED STATES DISTRICT COURT
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,

- against -

APPLE INC.,

Defendant.

Case No. 11-CIV-4060 (DLC)

ECF Case

REDACTED

**DECLARATION OF DALE M. CENDALI IN OPPOSITION
TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Dale M. Cendali, declare as follows:

1. I am a partner at the law firm of Kirkland & Ellis LLP, counsel of record for the Defendant Apple Inc. (“Apple”). I am licensed in the State of New York and admitted to practice before this Court. I submit this declaration in opposition to Plaintiffs’ Motion for Partial Summary Judgment.

2. Attached hereto as Exhibit 1 is a true and correct copy of the “Frequently Asked Questions” page from the Family Systems website (<<http://familysystems.com/fs-faqs.htm>>), dated as of February 27, 2006, which webpage was included among the documents that comprised Exhibit 5 to the deposition of Richard S. Goldhor, Ph.D.

3. Attached hereto as Exhibit 2 is a true and correct copy of the “R&D Overview” page from the Family Systems website (<<http://familysystems.com/rd.htm>>), dated as of May 30, 2006, which webpage was included among the documents that comprised Exhibit 5 to the deposition of Richard S. Goldhor, Ph.D.

4. Attached hereto as Exhibit 3 is a true and correct copy of the “Memo To All Users” that was posted on Family Systems’ website available at <<http://www.ibook.com>>, and available as of May 16, 2006, which was included among the documents that comprised Exhibit 5 to the deposition of Richard S. Goldhor, Ph.D.

5. Attached hereto as Exhibit 4 is a true and correct copy of Plaintiffs’ Responses and Objections to Defendant Apple Inc.’s Notice of Deposition of Plaintiff J. Boylston & Company, Publishers LLC Pursuant to Fed. R. Civ. P. 30(b)(6), dated Apr. 6, 2012.

6. Attached hereto as Exhibit 5 is a true and correct copy of a January 27, 2010 e-mail exchange between Anthony Lupo, Glenn Gundersen, Thomas La Perle, Brewster Taylor, and Brian Reynolds.

7. Attached hereto as Exhibit 6 is a true and correct copy of the web page available at <http://www.apple.com/apps/ibooks/>, printed on January 22, 2013.

8. Attached hereto as Exhibit 7 is a true and correct copy of Apple's Form 10-K for the Fiscal Year Ending September 29, 2012, filed on October 31, 2012, available at <http://www.sec.gov/Archives/edgar/data/320193/000119312512444068/d411355d10k.htm>.

9. Attached hereto as Exhibit 8 is a true and correct copy of the "Patent Assignment Abstract of Title" for US Patent No. 7,447,748, printed on January 24, 2013.

10. Attached hereto behind the tab "Borden Dep." are true and correct copies of excerpts from the transcript of the October 2, 2012 Deposition of Hal Borden, Esq.

11. Attached hereto behind the tab "Colby Dep." are true and correct copies of excerpts from the transcript of the July 18, 2012 Deposition of July 18, 2012 Deposition of John T. Colby, pursuant to Rule 30(b)(6).

12. Attached hereto behind the tab "Gedikian Dep." are true and correct copies of excerpts from the transcript of the September 27, 2012 Deposition of Steve Gedikian.

13. Attached hereto behind the tab "Goldhor Dep." are true and correct copies of excerpts from the transcript of the January 31, 2012 Deposition of Richard S. Goldhor, Ph.D.

14. Attached hereto behind the tab "Gundersen Dep." are true and correct copies of excerpts from the transcript of the October 3, 2012 Deposition of Glenn Gundersen, Esq.


15. Attached hereto behind the tab "Kvamme Dep." are true and correct copies of excerpts from the transcript of the September 25, 2012 Deposition of Grace Kvamme.

16. Attached hereto behind the tab "La Perle Dep." are true and correct copies of excerpts from the transcript of the September 18, 2012 Deposition of Thomas La Perle.

17. Attached hereto behind the tab "Widup Dep." are true and correct copies of excerpts from the transcript of the September 21, 2012 Deposition of Thomas La Perle.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 25, 2013
New York, NY


Dale M. Cendali, Esq.