

EXHIBIT G

IN THE UNITED STATES DISTRICT COURT
FOR THE 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,

CASE NO.
11-CIV-4060 (DLC)

v.
APPLE, INC.,
Defendant.

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VIDEOTAPED DEPOSITION OF

RICHARD FREESE

September 25, 2012

Prince Frederick, Maryland

2:04 p.m.

REPORTED BY:

Lori J. Goodin

REF: 8254

1 personally, or was it in connection with your  
2 employment?

3 A. Employment.

4 Q. Okay. Where were you employed at  
5 the time?

6 A. At Motorbooks International. It is  
7 called MBI Publishing in St. Paul, Minnesota.

8 Q. Okay. And how long ago was that  
9 deposition?

10 A. I'm going to guess 2002.

11 Q. Have you ever testified in court  
12 before?

13 A. For 30 seconds.

14 Q. Okay. And what was that in  
15 connection with?

16 A. That is in a court case.

17 Q. Let's just go over a few ground  
18 rules then. You understand that my questions and  
19 your answers will be recorded today both by the  
20 stenographer and the videographer?

21 A. Yes.

22 Q. Do you understand that while there

1 question, I will assume that you understood it,  
2 is that fair?

3 A. Yes, I mean, assumptions are always  
4 interesting things, and we will do our best on  
5 language.

6 Q. Fair enough. Is there any reason  
7 you think you would be unable to provide truthful  
8 testimony today?

9 A. None at all.

10 Q. Are you under any medications that  
11 might affect your ability to testify today,  
12 anything like that?

13 A. Uh-uh.

14 Q. That is an example --

15 A. No.

16 Q. Okay. Thank you. Okay. Are you  
17 currently employed?

18 A. I am.

19 Q. And where are you employed?

20 A. At Recorded Books.

21 Q. And that is the offices we are at  
22 today?

1 A. Yes.

2 Q. What is your title?

3 A. President and CEO.

4 Q. How long have you been the President  
5 and CEO of Recorded Books?

6 A. About 16 months. What would May of  
7 last year be? I think it is about --

8 MR. RASKOPF: About right.

9 BY MS. JARRETT:

10 Q. Were you ever employed by National  
11 Book Network?

12 A. Yes.

13 Q. When were you employed by National  
14 Book Network?

15 A. Twice. I was employed in the '90's,  
16 early '90's, or mid '90's. I left in 2001. And  
17 then I joined them again in 2010, I believe.

18 Q. When you joined National Book  
19 Network in the 1990's, what was your role?

20 A. I was a VP of sales and marketing.

21 Q. Did you continue in that role until  
22 2001?

1 A. Yes, I did. As I recall.

2 Q. Okay.

3 A. I can't recall if I had a title  
4 change, but the job stayed the same.

5 Q. Fair enough.

6 And then when you rejoined National  
7 Book Network in 2010, what was your role?

8 A. I was President of National Book  
9 Network.

10 Q. Okay. What is National Book  
11 Network?

12 A. National Book Network is a  
13 distributor of independent publishers.

14 Q. What do you mean when you say  
15 independent publishers?

16 A. Independent publishers in my  
17 definition would be not one of the big houses  
18 like a Random House or Prentice Hall, but usually  
19 it is a small or mid-size publisher, that is  
20 owned generally by individuals.

21 Q. Sorry, can you say that last part  
22 again?

1           A.     Normally they are owned by  
2 individuals. They are not like big corporations,  
3 public.

4           Q.     Were you ever employed by Publishers  
5 Group West?

6           A.     I was.

7           Q.     When was that?

8           A.     2000 -- again from memory, 2003, I  
9 believe I started there. And I was there through  
10 the end of, I believe, 2007.

11          Q.     And what was your role at Publishers  
12 Group West?

13          A.     I was President of Publishers Group  
14 West.

15          Q.     Okay. And what business was  
16 Publishers Group West in?

17          A.     A distribution of independent  
18 publishers.

19          Q.     Okay. Why did your employment with  
20 National Book Network end?

21          A.     The first time?

22          Q.     Yes. Fair enough.

1           A.     Because I was offered the position  
2 of President of Motor Books International in  
3 St. Paul.

4           Q.     What is Motor Books International?

5           A.     It is a specialty publisher of books  
6 for automobile, motorcycle, plane, anything with  
7 an engine, enthusiasts.

8           Q.     Is it a, is it an independent  
9 publisher then?

10          A.     It was an independent publisher when  
11 I was there. It was owned by private equity and  
12 private investors.

13          Q.     Okay. And then why did your  
14 employment with National Book Network end in  
15 2000 -- well, the second time?

16          A.     Because the ownership made a  
17 decision to downsize the company instead of  
18 continue to grow the company. And I like to  
19 build things. So, we agreed to disagree, and I  
20 took this job.

21          Q.     So, would that, did you leave  
22 National Book Network the second time then in

1 about May 2011?

2 A. I think -- May of last year, yes.

3 Q. Okay. And with respect to

4 Publishers Group West, why did your employment

5 with that company end?

6 A. Because the parent company, Advanced

7 Marketing Services, declared bankruptcy at the

8 end of, I believe it was '06. And as part of the

9 liquidation we sold Publishers Group West to the

10 Perseus Book Company.

11 Q. Okay. Do you know John Colby?

12 A. I do, indeed.

13 Q. Who is Mr. Colby?

14 A. John is the publisher of iBooks, and

15 Milk and Cookies and a number of other imprints.

16 Q. Okay. How do you know Mr. Colby?

17 A. I, you know, that is, I have known

18 John through both a family connection and through

19 our, both working at Doubleday for many years.

20 Q. What is the family connection?

21 A. My father was Chief Financial

22 Officer of Doubleday, Inc. in the '70's and

1 studies. We just knew what our, why our  
2 customers were buying books. And by customers, I  
3 mean retailers and wholesalers.

4 BY MS. JARRETT:

5 Q. And what did you know about why your  
6 customers bought books?

7 A. Basically they respond to brands  
8 that they know. And, when you are successful  
9 selling a publisher into a -- remember buyers buy  
10 by category. At the major accounts they buy by  
11 category. And so when you are successful in a  
12 category -- and they have limited opens to buy  
13 every month.

14 So, when you are getting a piece of  
15 that budget for a publisher, it is, that means  
16 you are a success in the category. And then  
17 staying on the shelf, you know, every month, they  
18 are putting new books on, so they have to take  
19 new books off. And that is determined by sales.  
20 And so, when you have books that can stay on, it  
21 is considered to be a success.

22 Q. How do you know that the retail

1 customers were responding to brands that they  
2 know?

3 MR. RASKOPF: Note my objection to  
4 the form. You may answer.

5 THE WITNESS: Because they come to  
6 know, they come -- they come to know authors  
7 first. You know, people respond to, you say  
8 Stephen King, everybody knows who Steven King is.

9 But after a while, when you start  
10 taking a look at publishers in category and they  
11 continually publish -- I think back to my  
12 Doubleday days, and Isaac Asimov, about how  
13 strong a brand he was.

14 And Doubleday became associated with  
15 Asimov as a brand and Taylor Caldwell. And  
16 suddenly Doubleday Publishing was something  
17 where, if we were publishing in category, the  
18 buyer sat up and took notice. And they said if  
19 it is published by Doubleday, it means something.

20 Q. Okay. Do you know whether end  
21 consumers had the same understanding of Doubleday  
22 being the source of books by Isaac Asimov?

1 Q. Uh-huh.

2 A. And where you are successful is  
3 usually you have key authors that are sort of  
4 anchoring your list and making you eligible for  
5 those opportunities.

6 Q. Do you see that in the case of the  
7 ibooks, given the author base?

8 A. Yes. When you've got Roger Zelazny  
9 and Isaac Asimov and George R.R. Martin and the  
10 American Heritage brand, they were all, that is  
11 what attracted me to ibooks.

12 And that is what in the end made me  
13 believe that it was a brand that I could  
14 leverage.

15 Q. In your experience, your long  
16 experience in the book sales industry, what do  
17 you see as the value of the brand, ibooks, as a  
18 point of differentiation to readers of science  
19 fiction, for example.

20 MS. JARRETT: Objection. Go ahead.

21 THE WITNESS: Okay. I call it  
22 outside validation of product. I mean that is

1 the way I describe it.

2 Basically what happens is, when a  
3 brand becomes a trusted brand and you are looking  
4 for something else, you know, if you have read  
5 books by that publisher, that brand, before, you  
6 will look at it and say well, maybe I can, you  
7 know, I know that publisher, I like their books.  
8 Let me, you know, I will give it a look. I will  
9 think about it.

10 I think, you know, if I asked you,  
11 and actually you all are involved in this case,  
12 so you probably know it already, but before you  
13 started in this case, did you know who Random  
14 House was or did you know who Simon & Schuster  
15 was?

16 You have seen their logos for  
17 decades in the New York Times and in the New  
18 Yorker, and they mean something.

19 And, to me at least when I was  
20 signing ibooks and I was signing Byron Preiss,  
21 Byron was a brand within the industry, because of  
22 the quality that he had brought in his publishing

1 and the author list that he had.

2 So, to me, you know, buyers get,  
3 they see as many buyers as they will see every  
4 month. And they have a stack of buy cards that  
5 are in folders. And the most important  
6 publisher, the most important trusted sources is  
7 the top folder. And the discretionary, if I have  
8 any money left over, is the bottom folder, you  
9 know, and there may be 30 of them.

10 And my goal was always to get  
11 publishers that were top of the pile instead of  
12 bottom of the pile.

13 And I have, you know, with the  
14 author list that ibooks had and the brand  
15 recognition that those authors have. I mean they  
16 made the Foundation movie for Asimov what, three  
17 or four years ago. That book is 25, 30-year old.

18 BY MR. RASKOPF:

19 Q. Right.

20 A. You know, it is -- so, my answer is,  
21 I think that the, if you lock up authors and you  
22 have the right authors, the authors define the

1 brand and then the brand begins to define the new  
2 authors.

3 MR. RASKOPF: I have nothing  
4 further.

5 EXAMINATION

6 BY MS. JARRETT:

7 Q. I have just a couple of follow-up  
8 questions.

9 A. Okay.

10 Q. You mentioned logos and their  
11 meanings.

12 A. Uh-huh.

13 Q. Here at Recorded Books, do you, do  
14 you only distribute books digitally or is it also  
15 on tape or CD?

16 A. We still do Cds. We still do  
17 cassettes, if you can believe it.

18 Q. Do any of those products feature the  
19 hard copy, for lack of a better term, publisher's  
20 logo, i.e. Random House?

21 A. Any of the distributed, every one of  
22 the distributed does. And ours do, and in fact