

EXHIBIT H

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JT COLBY AND COMPANY, INC., D/B/A
BRICK TOWER PRESS, J. BOYLESTON AND
COMPANY PUBLISHERS, LLC, AND
IPICTUREBOOKS, LLC,

Plaintiffs,

-against-

Index No.
11-CV-4060 (DLC)

APPLE, INC.,

Defendant.

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VIDEOTAPED DEPOSITION OF
MIKE SHATZKIN
New York, New York
December 4, 2012, 9:35 a.m.

Reported By:

Nicole Sesta

Ref: 8575

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J U R A T

STATE OF NEW YORK)

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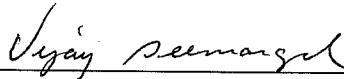
COUNTY OF *New York*)

I, MIKE SHATZKIN, hereby certify that I have read the transcript of my testimony taken under oath in my deposition of December 4, 2012; that the transcript is a true and complete record of my testimony, and that the answers on the record as given by me are true and correct.

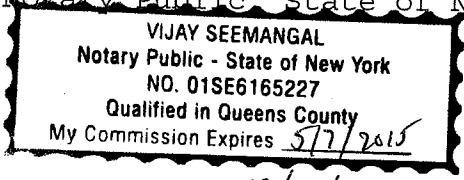


MIKE SHATZKIN

Signed and subscribed to before me this 17th day of December, 2012.



Notary Public, State of New York



12/17/12

ERRATA SHEET

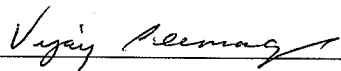
J.T. Colby & Co., Inc., et al. v. Apple, Inc.
Deposition of Mike Shatzkin, December 4, 2012

PAGE	LINE(S)	CHANGE	REASON FOR CHANGE
46	20	"royals" should read "roils"	Mistranscription by court reporter.
53	5	"text" should read "tech"	Mistranscription by court reporter.
54	20	"jobs" should read "chops"	Mistranscription by court reporter.
55	7	"described" should read "describe"	Mistranscription by court reporter.
132	20	"search optimization" should read "search engine optimization"	Mistranscription by court reporter.
144	3	"Toucan is" should read "Two Continents"	Mistranscription by court reporter.
205	9	"etchings" should read "edgings"	Mistranscription by court reporter.



Mike Shatzkin

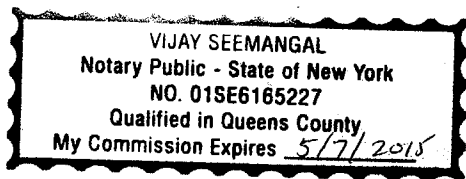
Subscribed before me, this 17th day of December, 2012.



Notary Public

May 7, 2015

Date Commission Expires



12/17/12

1 M. Shatzkin

2 So there were -- when I stopped working at Two
3 Continents, it was already true that lots of
4 small publishers were distributed by large
5 publishers. And I had a number of clients over
6 the years where I would help them get more out
7 of their distributor because I had seen that
8 from both sides.

9 Then, in the last 20 years, it's
10 really been about digital change. A lot of my
11 work has been around digital change. Not
12 exclusively. I'd say that the two biggest
13 pieces are digital change and the supply chain.

14 Q When you say "digital change,"
15 what do you mean by that?

16 A What I mean is that we are in the
17 midst of a transition from everything being read
18 on paper, just about, to everything being read
19 on screens, just about. And that transition,
20 which we are no where near done with, royals the
21 publishing industry because it changes the
22 economics and it changes the value propositions.
23 And therefore, it presents a combination of
24 threats and opportunities to anybody who's in
25 the business. And understanding those dynamics

1 M. Shatzkin

2 A "At digital publishing events
3 globally," yes.

4 Q For the conferences that you have
5 run, are there any particular subject matter
6 that those address?

7 A Yeah, once again, it's really, as
8 somebody once put it, looking at the same house,
9 looking in the same house through different
10 windows. It's all about digital change in
11 publishing. That is the subject about which I'm
12 an expert and about which people are interested
13 in having me organize the presentations.

14 Q And by "digital change," you mean
15 the changes in the publishing industry as a
16 result of the internet?

17 A I mean the commercial challenges
18 presented to publishers by the fact that we are
19 in the transition that I mentioned earlier. So
20 sometimes the topic is not a digital topic. We
21 may be talking about how you change sales force
22 coverage because there aren't as many
23 bookstores. It might have to do with paper
24 books, but it has to do with the change that
25 we're living through because of digital impacts.

1 M. Shatzkin

2 a biography, followed by, you know, there's no
3 particular consistency to what they read. Those
4 people are very unlikely to have much of an
5 informed opinion about publishers or imprints.

6 But then there are other readers
7 who are genre readers. And their
8 characteristics are different and they tend to
9 read many, many, many books in the same genre.
10 And in that case, there's a much higher
11 likelihood that they will be conscious of
12 publisher brands within the genre.

13 Q Have you ever done any research to
14 examine consumer awareness of brands either on
15 the part of general readers or genre readers?

16 MR. RASKOPF: Objection.

17 Asked and answered.

18 A No.

19 Q Are you aware of any research that
20 looks at awareness of brands among general
21 readers or genre readers?

22 A No.

23 Q You mentioned Harlequin as an
24 example of a niche publisher, correct?

25 A Yes.

1 M. Shatzkin

2 has spawned companies that really don't have
3 much presence except on the internet because
4 it's a big enough market to support that.
5 That's well understood by people who are working
6 the digital revolution.

7 Q In your report when you say which
8 have turned out to be of substantial interest on
9 the internet and sold well as ebooks, were you
10 talking about genre fiction generally or the
11 books published by iBooks in particular?

12 A No, I was actually talking about
13 the genres in which they publish, not iBooks
14 itself. I don't think I ever knew or do know
15 how those books have sold on the internet,
16 iBooks books particularly have sold on the
17 internet.

18 Q Looking in the next line you say,
19 "Although the sales of iBooks overall were
20 modest (5,689, 950 units) with sales of science
21 fiction titles alone totally 1,944,314 units,"
22 do you see that?

23 A Uh-huh.

24 Q Looking at that and doing the
25 math, is it fair to say that 34 percent of the

1 M. Shatzkin

2 If anyone built a brand by saying
3 I'm going to make this brand understood by a
4 bunch of people and advertise and promote to
5 them to do that, I didn't see it. Somehow or
6 another I missed it. Even if it happened once I
7 would be amazed but it certainly did not happen
8 repeatedly.

9 Q So is it your testimony that all
10 brands in publishing including the Dummies brand
11 for that series of books exist solely because of
12 the sales of books that happened to happen?

13 MR. RASKOPF: Objection to
14 the form of the question.

15 A It is my testimony that all
16 brands, that is author brands, title brand,
17 author brands -- sorry, imprint brands, series
18 brands and publishing house brands are the sum
19 total of awareness created by the books sold and
20 read under those brands. There is very, very
21 minimal impact of anything else.

22 Q Do publishing houses undertake
23 marketing activities with respect to authors,
24 for example?

25 MR. RASKOPF: Objection to