

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.

Civil Case No.: 11-civ-4060 (DLC)

ATTORNEY DECLARATION

Partha P. Chatteraj, hereby declares pursuant to 28 U.S.C. § 1746 that:

1. I am a member in good standing of the Bar of this Court and New York State and am a member of the law firm Allegaert Berger & Vogel LLP, co-counsel for Plaintiffs in the above referenced matter.

2. I submit this declaration in opposition to Defendants Motion to Exclude Any Testimony, Argument or Evidence Regarding the Expert Reports and Opinions of Robert T. Scherer.

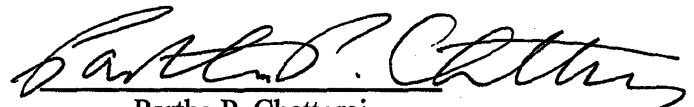
3. Attached hereto are full documents and, pursuant to Rule 5.2 of the ECF Rules & Instructions for the United States District Court for the Southern District of New York, April 4, 2011 Edition, relevant excerpts of more voluminous documents. The full versions of all excerpted documents have either been produced in full in this litigation, made available to opposing counsel for inspection, or are publically available. Full versions of any excerpted documents will be made available to the Court upon request.

4. Attached hereto as Exhibit A is a true and correct copy of excerpts of various sections of Siegrun D. Kane's, Kane on Trademarks: A Practitioners' Guide (PLI 2011).
5. Attached hereto as Exhibit B is a true and correct copy of excerpts from the transcript of the deposition of Robert Scherer in this matter, taken November 16, 2012.
6. Attached hereto as Exhibit C is a true and correct copy of Plaintiffs' proposed redacted versions of the Expert Report and Rebuttal Report of Robert T. Scherer, dated September 17, 2012 and October 26, 2012, respectively.
7. Attached hereto as Exhibit D is a true and correct copy of excerpts from the transcript of the deposition of Hal Borden in this matter, taken on October 2, 2012.
8. Attached hereto as Exhibit E is a true and correct copy of excerpts from the transcript of the deposition of Glenn A. Gundersen in this matter, taken on October 3, 2012.
9. Attached hereto as Exhibit F is a true and correct copy of the Trademark and Domain Name Assignment Agreement made between Apple and FS and dated as of January 26, 2010 along with an internal invoice from Apple. Exhibit F was produced by Defendant in this litigation and bears Bates numbers APPLE-IBOOKS0033421-32.
10. Attached hereto as Exhibit G is a true and correct copy of excerpts from the deposition of Thomas La Perle in this matter, taken on September 19, 2012.
11. Attached hereto as Exhibit H is a true and correct copy of a letter sent by Byron Preiss to Bob Minzesheimer of USA Today, dated August 18, 1999, announcing the launch of ibooks.
12. Attached hereto as Exhibit I is a true and correct copy of excerpts from the 30(b)(6) deposition of John T. Colby, Jr. in this matter, taken on July 18, 2012.
13. Attached hereto as Exhibit J is a true and correct copy of excerpts from the deposition of John T. Colby, Jr. in this matter, taken on July 20, 2012.

14. Attached hereto as Exhibit K is a true and correct copy of an Order of the Court,
(Cote, J.), dated August 7, 2012.

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

Dated: New York, New York
January 25, 2013


Partha P. Chattoraj