

**EXHIBIT G**

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3

4 J.T. COLBY & COMPANY, INC.,  
5 d/b/a BRICK TOWER PRESS,  
6 J. BOYLSTON & COMPANY,  
7 PUBLISHERS, LLC and  
8 IPICTUREBOOKS, LLC,  
9

Plaintiff,

vs.

Case No. 11-CIV4060 (DLC)

APPLE, INC.,

Defendant.  
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10  
11  
12 HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER  
13 Attorneys' Eyes Only Confidential Pages 300 - 302  
14 VIDEOTAPED DEPOSITION OF THOMAS LA PERLE  
15 30(b)(6) Capacity  
16 Redwood Shores, California  
17 Wednesday, September 19, 2012  
18  
19  
20  
21

22 Reported by:

23 LORRIE L. MARCHANT, CSR No. 10523  
24 RPR, CRR, CCRR, CLR

25 JOB NO. 53418

1 opinion with respect to the clearance process for  
2 the "iBooks" mark?

3 A. Yes.

4 Q. Did you convey that opinion to others  
5 within Apple?

6 A. Yes.

7 Q. What was their opinion?

8 MS. CENDALI: Again, I instruct you not to  
9 answer. We're not relying on an advice of counsel  
10 defense in this action, and that's privileged.

11 BY MR. CHATTORAJ:

12 Q. Was any trademark clearance work done other  
13 than the work done by the Dechert firm in connection  
14 with the "iBooks" mark?

15 A. I don't recall. I sus- -- well, I assume  
16 that there were foreign searches done. I just don't  
17 recall at this time.

18 Q. So the foreign searches would have been  
19 carried out by firms other than Dechert?

20 A. By foreign counsel.

21 Q. Did foreign counsel eventually prepare  
22 opinions with respect to the "iBooks" mark and their  
23 respective foreign jurisdictions?

24 A. Typically, that's what happens. I just  
25 don't recall if that was the case with this -- this

1 through all the depositions. And we'll see if  
2 that's even a viable argument for either side.

3 MS. CENDALI: Okay.

4 MR. CHATTORAJ: Okay.

5 BY MR. CHATTORAJ:

6 Q. Do you remember the question?

7 A. I don't.

8 MR. CHATTORAJ: Can you read it back,  
9 please.

10 (Record read as follows:

11 "Q So in reading this Response to Office  
12 Action dated September 4, 2002, after  
13 Mr. Colby had contacted Apple, is it fair  
14 to say that you saw nothing there that gave  
15 you cause for concern about Mr. Colby's  
16 having any rights?")

17 THE WITNESS: Well, I just want to back up  
18 a little bit. This had nothing to do with --  
19 after -- this is after Colby contacted us I read  
20 this document.

21 BY MR. CHATTORAJ:

22 Q. Yes.

23 A. As I testified to, I was aware of these  
24 applications during the clearance process. These  
25 abandoned applications. And what I was aware of at

1 that point was that Preiss, the -- Colby's  
2 predecessor in interest -- I didn't know anything  
3 about Colby -- Colby's predecessor in interest  
4 abandoned these applications. His business went  
5 into Section 7 bankruptcy, and he died. That's all  
6 I knew. So that's the extent of my knowledge about  
7 these -- these trademark rights.

8 Only after Colby approached us did we  
9 realize that Colby had acquired the rights and  
10 allegedly had used the mark. But I had no knowledge  
11 whatsoever of Colby, his use, or of Preiss's use.

12 Q. Of Preiss's use?

13 A. Yeah.

14 Q. Of Preiss's use at any time?

15 A. At any time.

16 Q. Okay. I understand your testimony to be  
17 that this document that was marked as La Perle  
18 Exhibit 6 was something that you had not reviewed --

19 A. I'm sorry. At any time post the Section 7  
20 bankruptcy. I'm sorry.

21 Q. Oh, okay. So you were -- you had some  
22 knowledge about Preiss's use of the mark before  
23 Mr. Preiss died and the companies then went into  
24 bankruptcy?

25 A. Right.

1 Mr. Colby to you?

2 A. Yes.

3 Q. Is this that e-mail?

4 A. I believe it is.

5 Q. Did you read it at that time?

6 A. I did.

7 Q. Have you reviewed it since then?

8 A. I don't believe so, no.

9 Q. It appears to be an e-mail from John Colby,  
10 the principal of plaintiffs in this action, to  
11 Steve Dowling; is that right?

12 A. That's correct.

13 Q. And it's dated January 29, 2010, at  
14 2:17 p.m.; right?

15 A. Correct.

16 Q. Was January 29, 2010, before or after the  
17 announcement of the iPad and the availability of  
18 iBooks on iPad?

19 A. After.

20 Q. How long after?

21 A. I think the date was -- January 24th was  
22 the launch, and so five days after.

23 Q. Did you subsequently forward this document  
24 to others?

25 A. Yes.

1 Q. To whom did you forward it?

2 A. I forwarded it to Glenn Gundersen.

3 Q. Anyone else?

4 A. No.

5 Q. Did you subsequently have an exchange with  
6 Mr. Gundersen concerning legal advice concerning  
7 this matter?

8 A. Yes.

9 Q. Are you aware of whether there was any  
10 future or subsequent communication with Mr. Colby  
11 after this e-mail?

12 A. Yes.

13 Q. To the best of your knowledge, what was  
14 that communication?

15 A. I believe Glenn Gundersen contacted  
16 John Colby and inquired about his -- this e-mail.

17 Q. Did Mr. Gundersen contact Mr. Colby with  
18 your knowledge?

19 A. Yes.

20 Q. Did he do so at your instruction?

21 A. Yes.

22 Q. Mr. Colby's e-mail reads, among other  
23 things -- I'm just going to read an excerpt.

24 I'm trying to find the right person to talk  
25 with at Apple. We are book publishers and have used

STATE OF NEW YORK            )  
                                   ss:  
 COUNTY OF NEW YORK         )

I wish to make the following changes, for the following reasons:

<u>PAGE</u>	<u>LINE</u>	
<u>27</u>	<u>17</u>	CHANGE FROM: <u>it's</u> CHANGE TO: <u>as</u> REASON: <u>Transcription error.</u>
<u>62</u>	<u>11</u>	CHANGE FROM: <u>sample</u> CHANGE TO: <u>system</u> REASON: <u>Transcription error.</u>
<u>90</u>	<u>4</u>	CHANGE FROM: <u>Jarrett</u> CHANGE TO: <u>Cendali</u> REASON: <u>Transcription error.</u>
<u>156</u>	<u>10</u>	CHANGE FROM: <u>and</u> CHANGE TO: <u>an</u> REASON: <u>Transcription error.</u>
<u>184</u>	<u>18</u>	CHANGE FROM: <u>--</u> CHANGE TO: <u>USPTO website and</u> REASON: <u>Clarification.</u>
<u>186</u>	<u>3</u>	CHANGE FROM: <u>Applicant's</u> CHANGE TO: <u>"Applicant's</u> REASON: <u>Clarification.</u>
<u>186</u>	<u>12</u>	CHANGE FROM: <u>them.</u> CHANGE TO: <u>them."</u> REASON: <u>Transcription error.</u>
<u>186</u>	<u>19</u>	CHANGE FROM: <u>style</u> CHANGE TO: <u>cited</u>



REASON: Transcription error.

188      5      CHANGE FROM: trademark trial appeal board  
CHANGE TO: Trademark Trial and Appeal Board  
REASON: Transcription error.

191      19      CHANGE FROM: Section  
CHANGE TO: Chapter  
REASON: Misspoke.

196      6      CHANGE FROM: IT  
CHANGE TO: ITU  
REASON: Transcription error.

197      17      CHANGE FROM: supplemental  
CHANGE TO: principal  
REASON: Misspoke.

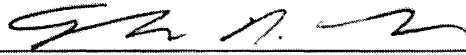
200      1      CHANGE FROM: IT  
CHANGE TO: ITU  
REASON: Transcription error.

264      12      CHANGE FROM: Jarrett  
CHANGE TO: Cendali  
REASON: Transcription error.

287      24      CHANGE FROM: Sewell  
CHANGE TO: Saul  
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Subscribed and sworn to before me  
this 7 day of November, 2012.

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