

EXHIBIT D

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-cv-4060 (DLC)

**PLAINTIFFS' RESPONSES AND
OBJECTIONS TO DEFENDANT APPLE
INC.'S SECOND SET OF
INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (the "Federal Rules"), and in accordance with the Local Civil Rules of the United States District Court for the Southern District of New York (the "Local Rules"), Plaintiffs J.T. Colby & Company, Inc. d/b/a Brick Tower Press, J. Boylston & Company, Publishers, and ipicturebooks, LLC ("Plaintiffs"), hereby set forth their responses to the Second Set of Interrogatories of Defendant Apple, Inc., and their attorneys, Allegaert Berger & Vogel LLP, hereby set forth Plaintiffs' objections thereto.

GENERAL OBJECTIONS

These objections are made to each of the Interrogatories and are incorporated by reference into each of the responses below.

1. Plaintiffs object to each of the Interrogatories on the grounds and to the extent that it calls for information that is protected from disclosure by the attorney-client privilege, common interest privilege, joint interest privilege, work-product doctrine and/or any other applicable privilege or protection from discovery. Plaintiffs will not undertake to disclose such privileged or protected information, and nothing herein is intended as, or shall be deemed, a

waiver of the attorney-client privilege, work-product doctrine and/or any other applicable privilege. The disclosure of any such information is inadvertent and shall not constitute a waiver of any privilege or protection.

2. Plaintiffs object to each of the Interrogatories on the grounds and to the extent that it seeks information that is not relevant and/or not likely to lead to the discovery of admissible evidence.

3. Plaintiffs object to each of the Interrogatories on the grounds and to the extent that it seeks discovery in a manner that is vague, ambiguous, unintelligible, uncertain, overly broad, duplicative, unreasonably burdensome, harassing and/or not properly limited as to time period or scope.

4. Plaintiffs object to each of the Interrogatories on the grounds and to the extent it does not specify the information sought with reasonable particularity.

5. Plaintiffs object to each of the Interrogatories insofar as it seeks disclosure of information already known or available to Defendant.

6. Fact discovery in this matter is ongoing, and Plaintiffs expressly reserve their rights to amend and/or supplement their objections and responses to the Requests as further information and documents become known or available to them.

7. Plaintiffs object to Definition No. 4 on the grounds and to the extent that it is vague and ambiguous. Plaintiffs further object to Defendant's proposed definition of "PURPORTED MARKS" to the extent that it is argumentative and incorporates an improper legal argument or conclusion.

RESPONSES

INTERROGATORY NO. 9:

For each of the PURPORTED MARKS, state the monthly and annual sales by title, in units and dollars, of any products bearing each such PURPORTED MARK from September 1999 to the present.

RESPONSE TO INTERROGATORY NO. 9:

Subject to and without waiving the foregoing general objections, Plaintiffs state that the answers to INTERROGATORY NO. 9 are set forth in the Microsoft Excel spreadsheets provided herewith as Exhibit A and Exhibit B.

INTERROGATORY NO. 10:

For each of the PURPORTED MARKS, state the annual sales revenues, expenses and profits from the sale of products bearing such PURPORTED MARK from September 1999 to the present.

RESPONSE TO INTERROGATORY NO. 10:

Subject to and without waiving the foregoing general objections, Plaintiffs state that the answers to INTERROGATORY NO. 10 are set forth in the Microsoft Excel spreadsheets provided herewith as Exhibit C.

INTERROGATORY NO. 11:

Identify, by PURPORTED MARK, all ADVERTISEMENTS depicting the PURPORTED MARKS since 1999 to the present, including the dates on which such ADVERTISEMENTS appeared, in what outlet ADVERTISEMENTS appeared, the circulation of each Advertisement, and the cost of placing each such ADVERTISEMENT.

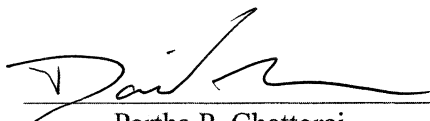
RESPONSE TO INTERROGATORY NO. 11:

In addition to their general objections, Plaintiffs object to this Interrogatory on the grounds that it is vague and ambiguous insofar as it defines neither “ADVERTISEMENT” nor “outlet.” Plaintiffs further object to this Interrogatory on the grounds that it is duplicative of Defendant’s requests for the production of documents concerning Plaintiffs’ advertising materials, which documents have been produced by Plaintiffs to Defendant. Plaintiffs therefore further object to this Interrogatory on the grounds that it is unduly burdensome to require Plaintiffs to identify each advertisement, to the extent that the Interrogatory calls for information readily available to Defendant.

Subject to and without waiving the foregoing general and specific objections, Plaintiffs state that the answers to INTERROGATORY NO. 11, to the extent this Interrogatory pertains to costs incurred by Plaintiffs, are contained in the Excel spreadsheets provided herewith as Exhibits A, B, and C. Plaintiffs further state that copies of all advertisements in Plaintiffs’ possession for products bearing Plaintiffs’ iBooks and iPicturebooks Marks have already been produced to Defendant.

Dated: New York, New York
July 16, 2012

AS TO OBJECTIONS:



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Attorneys for Plaintiffs

VERIFICATION

John T. Colby, Jr., pursuant to 28 U.S.C. § 1746, hereby declares that he has the authority and capacity to execute this verification on behalf of Plaintiffs J .T. Colby & Company, Inc. d/b/a Brick Tower Press, J. Boylston & Company, Publishers LLC, and ipicturebooks LLC; that he is an officer or agent of each of the Plaintiffs; that he has read the foregoing Plaintiffs' Responses to the Second Set of Interrogatories of Defendant Apple, Inc.; that he knows the contents thereof and of the Microsoft Excel spreadsheets provided therewith as Exhibits A, B and C; that he furnished the factual information set forth therein; and that, under penalty of perjury, the factual information provided in the foregoing Responses and exhibits thereto is true and correct to the best of his knowledge, information and belief.

Dated: July 16, 2012
Shelter Island, New York



John T. Colby, Jr.
Publisher
Brick Tower Press
J. Boylston & Company, Publishers
iPicturebooks

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
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Plaintiffs,

-against-

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

DECLARATION OF SERVICE

DAVID A. SHAIMAN, hereby declares, under penalty of perjury, pursuant to 28 U.S.C. § 1746, as follows:

1. I am a member in good standing of the Bar of this Court and New York State and am associated with the law firm Allegaert Berger & Vogel LLP, co-counsel for Plaintiffs in the above referenced matter. I am over eighteen years of age, and not a party to this matter.
2. On Monday, July 16, 2012, I caused to be served on Defendant's counsel Plaintiffs' Responses and Objections to Defendant Apple, Inc.'s Second Set of Interrogatories, dated July 16, 2012, by placing a true and correct copy of said document in an envelope, along with a DVD containing Exhibits A, B, and C thereto, sealing that envelope, and arranging for it to be hand delivered to Dale Cendali, Kirkland & Ellis, LLP, 601 Lexington Avenue, New York, New York, 10022. In addition, on July 16, 2012, I sent by email, a PDF copy of Plaintiffs' Responses and Objections to Defendant Apple, Inc.'s Second Set of Interrogatories, as well as electronic copies of Exhibits A, B, and C thereto to all Defendant's counsel of record.

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

Dated: New York, New York
July 16, 2012



David A. Shaiman