

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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J.T. COLBY & COMPANY, INC.,  
d/b/a BRICK TOWER PRESS,  
J. BOYLSTON & COMPANY  
PUBLISHERS LLC and  
IPICTUREBOOKS LLC,

Plaintiffs,

vs.

No. 11-cv-4060 (DLC)

APPLE, INC.,

Defendant.

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DEPOSITION OF STEPHEN M. NOWLIS

Friday, December 14, 2012

New York, New York

9:30 a.m.

Reported by:  
Maureen Ratto, RPR, CCR, CLR  
Job No: 27929

1 NOWLIS

2 here and I want to make sure that I  
3 point out the -- the issues that I  
4 raise in my original report so we have  
5 consistency across the two.

6 Q. I'm fine with that.

7 A. Okay. Okay.

8 Q. Though, again, I'm only  
9 interested for the purposes of this  
10 question only in Dr. McDonald's  
11 description of her survey design and  
12 her reporting of its findings. And so,  
13 that's contained within pages 8 through  
14 and including 17?

15 A. I see. I didn't catch that. I  
16 see what you're saying, because in my  
17 report I talk about -- I see that I --  
18 I mentioned page 5, page 7, page 6 and  
19 then page 7 again, so you want me to  
20 not focus on that part, you want me to  
21 go forward to page 8 even though I  
22 never cited anything on page 8 and  
23 forward, in my original report, just to  
24 make sure we're clear?

25 Q. We are clear. That is correct.

1 NOWLIS

2 number of things in here and what  
3 exactly you wanted me to focus on. So  
4 I'm focusing on "dramatic rhetoric,"  
5 which I wrote in my report about the  
6 earlier pages, so now I will see --  
7 look at the later pages.

8 (Whereupon, the Deponent reviews  
9 the document.)

10 A. Okay. I would say I don't see  
11 any examples of, quote/unquote,  
12 dramatic rhetoric, from pages 8 to 17.  
13 I see lots of other problems but I  
14 would not phrase those as "dramatic  
15 rhetoric" for these pages,  
16 specifically.

17 Q. Thank you. And taking a look at  
18 paragraph 19, page 7 of your own  
19 report, that paragraph begins with the  
20 words "Dr. McDonald's report." Correct?

21 A. Yes.

22 Q. And indeed, the heading B under  
23 which paragraph 19 falls, begins  
24 "Dr. McDonald's Report"?

25 A. That is correct.