

Exhibit 3



Writer's email: dshaiman@abv.com

December 21, 2012

BY EMAIL

Bonnie L. Jarrett, Esq.
Kirkland & Ellis LLP
601 Lexington Avenue
New York, New York 10022

ATTORNEYS

111 Broadway, 20th Floor
New York, New York 10006
212.571.0550
212.571.0555 Fax

1199 Route 22 East
Mountainside, New Jersey 07092
908.228.8500
908.228.8515 Fax

www.ABV.com

J.T. Colby & Co. et al. v. Apple Inc.,
No. 11-cv-4060 (DLC) (S.D.N.Y.)

Dear Bonnie:

I write in response to your December 18, 2012 letter.

Calls for Production Made During Dr. McDonald's Deposition

In your letter, you called for the production of (1) "all books that were provided to Dr. McDonald, both electronic and physical," and (2) "books bearing the ibooks or ipicturebooks imprint that are on Dr. McDonald's Kindle." Letter from Bonnie L. Jarrett to David A. Shaiman, dated December 18, 2012. In response to request (1), Plaintiffs hereby identify the following physical titles with which Dr. McDonald was provided by Plaintiffs' counsel and which Dr. McDonald was able to identify (McDonald Dep. 42:10-11): I, Robot: The Illustrated Screenplay by Harlan Ellison, Samurai! By Saburo Sakai with Martin Caidin and Fred Saito, The Voodoo Moon Trilogy by Cheri Scotch, Teddy Bear Dreams by Donna Lynne Sava, and Visit My Alien Worlds by Donato Giancola with Marc Gave. Request (2) does not fall within the scope of Fed. R. Civ. P. 26(a)(2), because Dr. McDonald testified that she downloaded the requested Kindle books after she prepared her expert disclosure in this action, and that she did not rely on such books "as part of her study" (McDonald Dep. 185:24-186:8). Nevertheless, as a courtesy, and without waiving their objections to this request, Plaintiffs hereby identify the following Kindle books to which Dr. McDonald referred in her testimony (McDonald Dep. 183: 8-16): Roger Zelazny's The Dawn of Amber by John Betancourt, The Sentinel by Arthur C. Clark, and The Stars My Destination by Alfred Bester.

Documents and Information Related to Research Now

As an initial matter, the requests related to Research Now are not based upon any calls for production made during Dr. McDonald's deposition, as can be noted from your lack of citation to the record in purporting to "renew" this request. These requests for production do not fall within the scope of Fed. R. Civ. P. 26(a)(2), and are therefore untimely.

* * *



Bonnie L. Jarrett, Esq.
December 21, 2012
Page 2

The foregoing is not intended to be a full and complete recitation of Plaintiffs' position with respect to any issues, and Plaintiffs hereby expressly reserve, and do not waive, all of their rights and remedies in connection with these issues.

Very truly yours,

A handwritten signature in black ink, appearing to read 'David A. Shaiman', with a long horizontal flourish extending to the right.

David A. Shaiman

cc: All counsel of record (by email)