

Exhibit 13

(Part 3 of 4)

1 R. Scherer

2 A No.

3 Q You also mention the iCloud
4 trademark dispute in your report, do you recall
5 that?

6 A Yes.

7 Q Do you believe that you're
8 qualified to opine on any issues regarding the
9 iCloud trademark dispute?

10 A Again, I don't believe I'm opining
11 on it but I think I'm qualified to report what
12 the news reports were, which I should give as an
13 answer for the other as well.

14 Q Have you reviewed any documents in
15 connection with the iCloud trademark dispute
16 other than news reports?

17 A No.

18 Q Have you reviewed any pleadings in
19 that case?

20 A No.

21 Q So for all of the trademark
22 disputes that Apple's had, other than this case,
23 iBooks case, is it fair to say your only
24 knowledge of those trademark disputes is what
25 you've read in news reports?

1 R. Scherer

2 A That's correct.

3 MR. RASKOPF: Could have
4 done that in one question.

5 A I would comment, if I may, that
6 the sheer number of reported incidents of
7 trademark infringement claims in my mind is
8 unusual.

9 Q But you're not offering an expert
10 report on the number of claims?

11 A I'm basing that on my experience,
12 on 33 years. I was at Time Warner for 22 years.
13 In 22 years I believe we had maybe three or four
14 lawsuits filed against us, none of which we
15 lost. I'm just amazed by the sheer number of
16 trademark infringement claims that Apple has
17 received in a relatively short period of time.
18 Based on my experience it's very unusual.

19 Q You have no idea whether any of
20 those claims had any merit, correct?

21 MR. RASKOPF: Objection to
22 the form.

23 A I'm not saying they had any merit.
24 I'm saying that those lawsuits and claims were
25 made. So someone thought they had merit.

1 R. Scherer

2 looking at, and all of a sudden you get a letter
3 which explains that someone else is claiming
4 earlier rights to that same mark, I'd be very
5 alarmed by that.

6 Q What would you as someone with
7 reams of experience insofar as it relates to
8 being the head of a trademark department in a
9 major Fortune 500 company, probably way under
10 Fortune 500, I'll say Fortune 100, I really
11 can't say, maybe Fortune 5 at some point in time
12 especially when you were there, what would you
13 say about the manner in which Apple addressed
14 this cease and desist letter insofar as it
15 relates to good corporate behavior?

16 MR. VISCOUNTY: Objection.

17 A From what I've seen in reviewing
18 transcripts and the like it didn't appear to
19 create even a wave of concern because they went
20 ahead and adopted the iBooks mark even after
21 launching the product after receiving this
22 notification.

23 Q Would you consider Apple's
24 behavior in this case at a minimum from the date
25 of receipt of the cease and desist letter to be

1 R. Scherer

2 bad faith?

3 MR. VISCOUNTY: Objection.

4 A Yes, I would. I think it's a
5 disregard of the trademark rights of others
6 including in this case John Colby.

7 Q Do you intend to offer that
8 opinion?

9 MR. VISCOUNTY: Objection.

10 A Yes.

11 Q I have nothing further.

12 EXAMINATION BY

13 MR. VISCOUNTY:

14 Q What is the basis for your opinion
15 that Apple acted in bad faith?

16 MR. RASKOPF: Already asked
17 and answered ad nauseam.

18 A It depends where we're starting in
19 terms of my answering that question, but I will
20 start with where we are right now in the record.
21 They received -- they knew about our abandoned
22 applications way back in January, January 12th,
23 I believe, 2010. They allegedly did all sorts
24 of searching through Dechert, which wasn't
25 necessarily targeted or appropriate.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

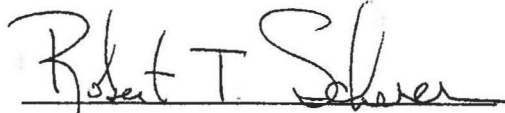
J U R A T

SOUTH CAROLINA
STATE OF ~~NEW YORK~~)

: ss

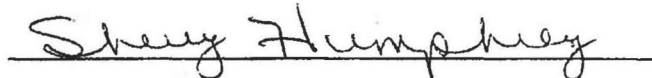
COUNTY OF Pickens)

I, ROBERT SCHERER, hereby certify that I
have read the transcript of my testimony taken
under oath in my deposition of November 16,
2012; that the transcript is a true and complete
record of my testimony, and that the answers on
the record as given by me are true and correct.



ROBERT SCHERER

Signed and subscribed to before me this
21st day of December, 2012.



Notary Public, State of ~~New York~~ SOUTH CAROLINA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Nicole Sesta, a Registered Professional Reporter, and a Notary Public in and for the State of New York, do hereby certify:

THAT the witness(es) whose testimony is hereinbefore set forth, was duly sworn by me; and

THAT the within transcript is a true record of the testimony given by said witness(es).

I further certify that I am not related, either by blood or marriage, to any of the parties in this action; and

THAT I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of November, 2012.

Nicole Sesta, RPR