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APPLE INC.

**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-CIV-4060 (DLC)

ECF Case

**DECLARATION OF MARY MAZZELLO IN OPPOSITION TO  
PLAINTIFFS' MOTION TO EXCLUDE THE TESTIMONY,  
INCLUDING AFFIDAVITS, DECLARATIONS, AND REPORTS, OF  
(1) DEFENDANT'S EXPERT WITNESS E. DEBORAH JAY AND  
(2) DEFENDANT'S REBUTTAL EXPERT STEPHEN M. NOWLIS**

I, Mary Mazzello, declare as follows:

1. I am an associate at the law firm of Kirkland & Ellis LLP. I am duly licensed in the State of New York. I submit this declaration in opposition to Plaintiffs' Motion To Exclude The Testimony, Including Affidavits, Declarations, and Reports, of (1) Defendant's Expert Witness E. Deborah Jay and (2) Defendant's Rebuttal Expert Stephen M. Nowlis.

**Expert Reports**

2. Annexed hereto as Exhibit 1 is a true and correct copy of excerpts from the Corrected Rebuttal Report of Expert, Jacob Jacoby, Ph.D. dated November 12, 2012.

**Documents**

3. Annexed hereto as Exhibit 2 is a true and correct copy of the Amazon.com point-of-purchase page for the electronic version of Plaintiffs' book *Return Fire*.

4. Annexed hereto as Exhibit 3 is a true and correct copy of the Amazon.com point-of-purchase page for the print version of Plaintiffs' book *Return Fire*.

5. Annexed hereto as Exhibit 4 is a true and correct copy of Defendant Apple Inc.'s Second Amended Notice of Deposition of Plaintiff J. Boylston & Company, Publishers LLC Pursuant to Fed. R. Civ. P. 30(b)(6).

**Deposition Transcripts**

6. Annexed hereto behind the tab "Colby Dep." is a true and correct copy of excerpts from the 30(b)(6) Deposition of John T. Colby dated July 18, 2012.

7. Annexed hereto behind the tab "Jacoby Dep." is a true and correct copy of excerpts from the Deposition of Dr. Jacob Jacoby dated December 6, 2012.

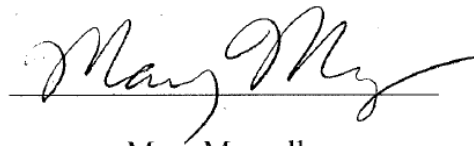
8. Annexed hereto behind the tab "Jay Dep." is a true and correct copy of excerpts from the Deposition of Dr. E. Deborah Jay dated November 30, 2012.

9. Annexed hereto behind the tab “McDonald Dep.” is a true and correct copy of excerpts from the Deposition of Dr. Susan Schwartz McDonald dated December 12, 2012.

10. Annexed hereto behind the tab “Nowlis Dep.” is a true and correct copy of excerpts from the deposition of Dr. Stephen M. Nowlis dated December 14, 2012.

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

Executed on January 25, 2013  
New York, NY

  
Mary Mazello