

# EXHIBIT E

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

CASE NO.

vs.

12-CV-2826(DLC)

APPLE INC., et. al,

Defendants.

-----x

\*\*HIGHLY CONFIDENTIAL\*\*

VIDEOTAPED DEPOSITION OF KEVIN SAUL

FRIDAY, FEBRUARY 22, 2013

9:11 A.M.

REPORTED BY:  
KIMBERLEE SCHROEDER, CSR, RPR, CCRR  
JOB NO. 28893

1 11:52:21 A. No.

2 11:52:22 Q. Do you recall let me ask it differently,

3 11:52:31 because I hate saying "do you recall" for every

4 11:52:33 question.

5 11:52:34 Did any publisher during those meetings tell

6 11:52:38 you they were interested in an agency model to fix

7 11:52:41 Amazon's pricing?

8 11:52:43 A. No.

9 11:52:44 Q. No, meaning no one ever said that to you?

10 11:52:54 A. I don't recall, no.

11 11:52:55 Q. I just want to make sure.

12 11:52:57 A. M hm.

13 11:52:58 Q. Are you saying I don't recall whether they

14 11:53:00 did, or are you saying no, to the best of my

15 11:53:04 recollection, nobody ever said that?

16 11:53:05 A. No, to the best of my recollection.

17 11:53:07 Q. Okay. Just so we're clear, to the best of

18 11:53:10 your recollection, nobody ever said that Apple was

19 11:53:12 interested excuse me.

20 11:53:13 To the best of your recollection, during

21 11:53:15 those meetings, no one ever told Apple that they were

22 11:53:18 interested in an agency model to fix Amazon's pricing?

23 11:53:21 A. Correct.

24 11:53:22 Q. The agency model was proposed during those

25 11:53:26 initial meetings.

1 11:53:29 Do you what was Apple's response to the  
2 11:53:36 proposal of the agency model?  
3 11:53:37 A. When you say "initial meetings," there's my  
4 11:53:46 initial meeting, but there may have also been business  
5 11:53:50 people meeting with them prior to my involvement.  
6 11:53:52 Q. I'm talking about the right now focussing  
7 11:53:56 on December 15th and 16th meetings that are reflected  
8 11:54:01 in their entirety in Exhibit 2. And then at least  
9 11:54:05 three of them are reflected in Exhibit 3. So those  
10 11:54:08 are the meetings that I'm focussing on for the moment.  
11 11:54:12 During those meetings, I believe you  
12 11:54:14 testified that at least one publisher raised the idea  
13 11:54:19 of using an agency model; correct?  
14 11:54:23 A. I don't recall which meetings. But, yes  
15 11:54:26 MR. SNYDER: May I make a suggestion?  
16 11:54:28 Because he didn't read the whole document. Do you  
17 11:54:30 want him to read the whole document quickly to see it  
18 11:54:33 refreshes his recollection?  
19 11:54:34 MR. BUTERMAN: I asked already. I'm okay  
20 11:54:37 going forward just generally.  
21 11:54:37 MR. SNYDER: Okay.  
22 11:54:38 THE WITNESS: I remember at some meeting that  
23 11:54:44 publishers, at least one, I don't remember which one  
24 11:54:48 or ones, proposed exploring an agency model.  
25 10:42:41 MR. BUTERMAN: Q. And do you recall what

1 11:54:54 Apple's response was to that publisher?  
2 11:54:58 A. My recollection is we rejected it out of  
3 11:55:08 hand.  
4 11:55:09 Q. What was the reason you rejected it out of  
5 11:55:11 hand?  
6 11:55:11 A. It was not what Mr. Jobs had wanted.  
7 11:55:16 Q. At some point, Apple did ultimately proceed  
8 11:55:21 with an agency model; correct?  
9 11:55:23 A. Correct.  
10 11:55:23 Q. Is it your understanding there was a  
11 11:55:28 subsequent conversation with Mr. Jobs in which he  
12 11:55:30 indicated that he was okay pursuing an agency model?  
13 11:55:33 A. We would not have done anything inconsistent  
14 11:55:38 with what Mr. Jobs had told us to do.  
15 11:55:41 Q. So that means, to the best of your  
16 11:55:44 understanding, yes, there must have been a subsequent  
17 11:55:47 communication by Mr. Jobs indicating his willingness  
18 11:55:52 to have Apple engage in an agency model?  
19 11:55:55 A. You would have to ask Mr. Cue. But my  
20 11:55:58 understanding is yes.  
21 11:56:05 Q. Do you know why Mr. Jobs wanted to pursue a  
22 11:56:09 wholesale model initially with the publishers?  
23 11:56:13 A. I think he was interested in launching a  
24 11:56:23 bookstore because he thought the then unreleased iPad  
25 11:56:31 was a good reading device.

REPORTER'S CERTIFICATE

1  
2  
3 I, KIMBERLEE SCHROEDER, CSR 11414, duly  
4 authorized to administer oaths pursuant to Section  
5 30(c) of the Federal Rules of Civil Procedure, hereby  
6 certify that the witness in the foregoing deposition  
7 was by me duly sworn to testify the truth, the whole  
8 truth and nothing but the truth in the within-entitled  
9 cause; that said deposition was taken at the time and  
10 place therein stated; that the testimony of the said  
11 witness was reported by me and thereafter transcribed  
12 by me and that the witness was given an opportunity to  
13 read and correct said deposition and to subscribe the  
14 same.

15 I further certify that I am not of counsel or  
16 attorney for either or any of the parties to said  
17 cause of action, nor in any way interested in the  
18 outcome of the cause named in said cause of action.

19 I declare under penalty of perjury under the  
20 laws of the State of California that the foregoing is  
21 true and correct.

22 Dated this 24th day of February, 2013.

23  
24  
25 KIMBERLEE SCHROEDER, CSR, RPR, CCRR