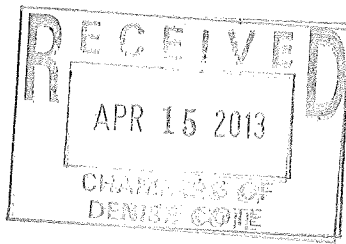


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April 13, 2013

VIA ELECTRONIC MAIL

The Honorable Denise L. Cote
United States District Court for the Southern District of New York
500 Pearl Street
New York, NY 10007-1312

Re: United States v. Apple Inc., No. 12-CV-2826 (DLC)

Dear Judge Cote:

We represent Apple. We respectfully submit this letter to clarify a sentence in our letter to the Court dated April 12, 2013.

In our letter, we wrote that Plaintiffs' position is that "the direct testimony affidavits that the parties will submit on April 26 pursuant to Your Honor's bench trial procedure constitute inadmissible hearsay." The DOJ wrote me this morning and stated that its position has always been that only until the affidavits are admitted at trial do they constitute out of court statements. We are happy to provide this clarification. However, it does nothing to change the fact that deposition testimony of non-party witnesses who are available to testify live at trial cannot be used as substantive evidence at that trial under Rule 32 of the Federal Rules of Civil Procedure for the reasons set forth in our letter.

We thank the Court for its kind attention to this matter.

Respectfully submitted,

Orin Snyder

cc: All Counsel of Record