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August 8, 2013

The Honorable Denise L. Cote
U.S. District Court for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007-1312

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Re: Proposed Amicus Brief in *United States of America v. Apple, Inc. et al*, 12-cv-2826

MEMO ENDORSED

Dear Judge Cote:

We apologize for our oversight in not flagging this in our letter to the court yesterday. We wish to inform the court of the existence of dual representation in this matter. Both affected parties, Penguin Random House LLC and Kobo Inc., have consented to the dual representation by Kaye Scholer. Penguin Random House LLC (the successor to Penguin Group (USA), Inc.) is represented by a separate set of attorneys at Kaye Scholer LLP as a result of Kaye Scholer's prior representation of Random House. This set of attorneys is separate and distinct from the set of attorneys that represent Kobo Inc.

We believe that Kobo satisfies the relevant standards for independence of an *amicus curiae*. Random House and Kobo have different business interests, are taking different but not inconsistent positions with respect to the proposed relief, and are commenting on different sections of the proposed relief. We respectfully request that you reaffirm your ruling from earlier today permitting us to file an amicus brief on behalf of Kobo.

*With the understanding that both clients consent and that their positions are not inconsistent, this application is granted.
Denise Cote
8/8/13*

Sincerely,
Robert B. Bell
Robert B. Bell

cc: Counsel for all parties

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