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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

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IN RE: ELECTRONIC BOOKS ANTITRUST : 11 MD. 2293 (DLC)
LITIGATION :
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: Related to all
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THE STATE OF TEXAS, et al., : ORDER
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: Plaintiffs, :
: -v- :
: 12 Civ. 3394 (DLC)
PENQUIN GROUP (USA) INC., et al., :
:
: Defendants. :
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DENISE COTE, District Judge:

By letter of December 23, 2013, Apple requested leave to re-depose the Plaintiffs' expert, Professor Roger Noll ("Noll"), for four hours in light of Noll's December 18 rebuttal expert report. By that same letter, Apple also requested leave to file responsive reports by Apple's experts, as well as a sur-reply brief on the question of class certification.

By telephonic conference of October 24, the Court had set a time limit for depositions of Noll of six hours. The Plaintiffs contend, and Apple does not dispute, that Apple has used all of this time. Apple was on notice, by Memo Endorsement of October 3, that a rebuttal expert report was forthcoming at the time it took Noll's deposition. Accordingly it is hereby

ORDERED that Apple's request to re-depose Noll is denied.

By Memo Endorsement of October 3, the Court ordered that “[t]o the extent the plaintiffs’ rebuttal report includes new opinions that could not have been anticipated by Apple’s expert(s), Apple may file a sur-reply report before the close of expert discovery.” Accordingly,

IT IS FURTHER ORDERED that Apple may file a sur-reply report and a sur-reply brief limited to addressing new opinions that could not have been anticipated by Apple’s experts.

SO ORDERED:

Dated: New York, New York
December 27, 2013



HON. DENISE COTE by HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE, PART I