

JUDGE HOLWELL

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOHN WILEY & SONS, INC. AND  
THE MCGRAW-HILL COMPANIES, INC.,

08 CIV 6472

Plaintiffs,

-against-

08 Civ.

CHOKCHAI USAWINCHAI AND  
DUANGNAPA USAWINCHAI BOTH D/B/A  
SPEEDYTEXT D/B/A NAT-U  
AND JOHN DOES NOS. 1-5,

Defendants.

FILED  
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COMPLAINT

Plaintiffs John Wiley & Sons, Inc. ("Wiley") and The McGraw-Hill Companies, Inc. ("McGraw-Hill"), by their undersigned attorneys, for their complaint against defendants Chokchai Usawinchai and Duangnapa Usawinchai both d/b/a Speedytext d/b/a Nat-U and John Does Nos. 1-5, aver:

Nature of the Action

1. Plaintiffs are bringing this action to enforce their copyrights against defendants' unlawful sale in the United States of non-United States versions of plaintiffs' educational books.

Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the claim in this action pursuant to 28 U.S.C. §§ 1331 and 1338

because it arises under the Copyright Act, 17 U.S.C. § 101 et seq.

3. Upon information and belief, venue is proper in this District pursuant to 28 U.S.C. § 1391.

Parties

4. Wiley is a corporation organized and existing under the laws of the State of New York with its principal place of business at 111 River Street, Hoboken, New Jersey 07030.

5. McGraw-Hill is a corporation organized and existing under the laws of the State of New York with its principal place of business at 1221 Avenue of the Americas, New Ycrk, New York 10020.

6. Upon information and belief, defendant Chokchai Usawinchai is a natural person residing at 15123 Brookhurst Street, Apartment 127, Westminster, California 92683.

7. Upon information and belief, defendant Duangnapa Usawinchai is a natural person residing at 15123 Brookhurst Street, Apartment 127, Westminster, California 92683.

8. Upon information and belief, defendants John Doe Nos. 1-5 are associates of the named defendants whose identities are currently unknown to plaintiffs.

The Businesses of Plaintiffs

9. Each plaintiff publishes a variety of works, including educational books.

10. As a standard practice, each plaintiff requires its authors to assign the copyright to them or grant them the exclusive rights of reproduction and distribution in the United States. This practice enables each plaintiff to maximize dissemination of each work.

11. Plaintiffs invest significant monies to publish their copyrighted works. Plaintiffs, for example, make substantial investments in royalties, content creation, licensing, copyediting, proofreading, typesetting, layout, printing, binding, distribution, and promotion.

12. Plaintiffs earn a substantial portion of their revenue from the publication of their copyrighted works and would suffer serious financial injury if their copyrights were not enforced. A substantial decline in their income could cause plaintiffs to cease publishing one or more deserving books or journals. This would adversely impact the creation of new works, scholarly endeavor, and scientific progress.

13. Plaintiffs' educational books authorized for sale in the United States are of the highest quality (the "United States Editions"). These books are generally printed with strong, hard-cover bindings with glossy protective coatings and, in some cases, contain extra features such as sewn ribbon bookmarks. Plaintiffs frequently offer academic supplements, such as CD-ROMs, computer passwords that provide purchasers with

access to academic websites corresponding to the textbooks, and study guides with the United States Editions.

14. Plaintiffs generally create different versions of their educational books that are intended for sale in specific geographic markets outside of the United States (the "Foreign Editions"). The Foreign Editions materially differ from the United States Editions. The Foreign Editions have thinner paper and different bindings, different cover and jacket designs, fewer internal ink colors, if any, lower quality photographs and graphics, and generally lower prices than the United States Editions. Also, the Foreign Editions often lack academic supplements, such as CD-ROMs, website passwords, or study guides. The Foreign Editions are generally marked to indicate their lower cost by a legend indicating, in substance, that the title is a "Low Price Edition" and/or authorized for sale only in a particular country or geographic region. The Foreign Editions are uniformly manufactured outside of the United States.

#### Plaintiffs' Copyrights

15. Plaintiffs routinely register their copyrights. Wiley has generally registered its copyrights in its works, including the work Applied Statistics and Probability for Engineers, (Registered on November 12, 2002) (Registration number TX0005612548) (the "Wiley Copyright"). McGraw-Hill has

generally registered its copyrights in its works, including the work Economics, (Registered on December 6, 2001) (Registration number TX0005490793) (the "McGraw-Hill Copyright").

The Infringing Acts of Defendants

16. Defendants have without permission purchased Foreign Editions of plaintiffs' books manufactured outside of the United States and resold them to purchasers in the United States through the Internet at the websites including, but not limited to, Valorebooks.com using the username "Speedytext" and the name "Nat-U".

A CLAIM FOR RELIEF

(Copyright Infringement - 17 U.S.C. § 501)

17. Plaintiffs repeat the averments contained in paragraphs 1 through 16 as if set forth in full.

18. Wiley has received a United States Certificate of Copyright Registration for the Wiley Copyright.

19. McGraw-Hill has received a United States Certificate of Copyright Registration for the McGraw-Hill Copyright.

20. The Wiley Copyright and the McGraw-Hill Copyright are valid and enforceable.

21. Defendants have infringed the Wiley Copyright and the McGraw-Hill Copyright in violation of 17 U.S.C. § 501.

22. Defendants' acts have irreparably damaged and, unless enjoined, will continue to irreparably damage plaintiffs. Plaintiffs have no adequate remedy at law for these wrongs and injuries. Plaintiffs are, therefore, entitled to a preliminary and permanent injunction restraining and enjoining defendants and their agents, servants, employees, and attorneys and all persons acting in concert with them, from infringing the Wiley Copyright and the McGraw-Hill Copyright.

23. Defendants have willfully infringed the Wiley Copyright and the McGraw-Hill Copyright.

24. Plaintiffs are entitled to recover all damages sustained as a result of defendants' unlawful conduct including (1) defendants' profits, or (2) plaintiffs' damages, or alternatively (3) statutory damages.

WHEREFORE, plaintiffs demand judgment:

A. Preliminarily and permanently enjoining defendants, their agents, servants, employees, and attorneys and all those acting in concert with them from infringing the Wiley Copyright and the McGraw-Hill Copyright in violation of 17 U.S.C. § 501;

B. Awarding plaintiffs their damages or defendants' profits, or alternatively, at plaintiffs' election, statutory damages, as a result of defendants' willful infringement of the Wiley Copyright and the McGraw-Hill Copyright;

C. Directing that defendants engage in such additional activities, including, but not limited to, recalls of products and corrective advertising, as may be necessary and appropriate to mitigate the damage defendants have caused;

D. Awarding plaintiffs their costs in this action, including their reasonable attorneys' fees pursuant 17 U.S.C. § 505;

E. Granting such other and further relief as to this Court seems just and proper.

Dated: New York, New York  
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