

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs, :

-against- :

JOHN DOE D/B/A ZENDA DIGITAL :
D/B/A INFOBUYS AND JOHN DOE :
NOS. 1-5, :

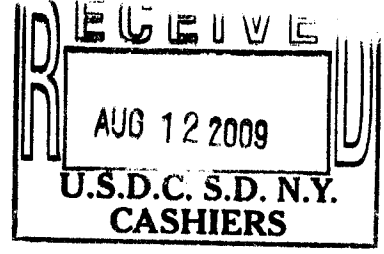
Defendants. :

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JUDGE McKENNA

09 CV 7111

09 Civ.



COMPLAINT

Plaintiffs John Wiley & Sons, Inc. ("Wiley") and The McGraw-Hill Companies, Inc. ("McGraw-Hill"), by their undersigned attorneys, for their complaint against defendants John Doe d/b/a Zenda Digital d/b/a Infobuys and John Doe Nos. 1-5, aver:

Nature of the Action

1. Plaintiffs are bringing this action to obtain legal and equitable relief to remedy defendants' infringement of plaintiffs' copyrights through their sales of copies of instructors' solutions manuals and ebooks.

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 and 1400(a).

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 York, New York 10020.

6. Upon information and belief, defendant John Doe d/b/a Zenda Digital d/b/a Infobuys is a natural person whose identity is presently unknown to plaintiffs.

7. Upon information and belief, defendants John Doe Nos. 1-5 are natural persons whose identities are presently unknown to plaintiffs.

The Businesses of Plaintiffs

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

9. As a standard practice, each plaintiff requires its authors to assign the copyrights to it or grant it the exclusive rights of reproduction and distribution in the United

States. This practice enables each plaintiff to maximize the dissemination of each work.

10. 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.

11. 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.

12. An important part of plaintiffs' business is derived from publishing college textbooks. College professors select textbooks from competing publishers based on the pedagogical value and the quality of supplementary materials.

13. Instructors' solutions manuals are important supplementary materials. Professors use instructors' solutions manuals to aid in grading homework. Students, however, use instructors' solutions manuals to cheat. Professors are less likely to select a textbook if the instructors' solutions manuals are freely and/or widely available. Accordingly, plaintiffs do

not sell their instructors' solutions manuals, and tightly control their distribution to known faculty.

Plaintiffs' Copyrights

14. Plaintiffs routinely register their copyrights. Wiley has generally registered its copyrights in its works, including the works on Schedule A (the "Wiley Copyrights"). McGraw-Hill has generally registered its copyrights in its works, including the works on Schedule B (the "McGraw-Hill Copyrights").

The Infringing Acts of Defendants

15. Defendants have without permission reproduced and sold copies of plaintiffs' works. Specifically, defendants have reproduced and sold copies of plaintiffs' instructors' solutions manuals and ebooks through online sales at websites and forums, including but not limited to, YouTube.com and Zendadigital.com, using usernames including, but not limited to, Zenda Digital and Infobuys, and e-mail addresses including, but not limited to, myriadcp@gmail.com and zendadigital@gmail.com.

CLAIM FOR RELIEF

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

16. Plaintiffs repeat the averments contained in paragraphs 1 through 15 as if set forth in full.

17. Wiley has received United States Certificates of Copyright Registration for the Wiley Copyrights.

18. McGraw-Hill has received United States Certificates of Copyright Registration for the McGraw-Hill Copyrights.

19. The Wiley and McGraw-Hill Copyrights are valid and enforceable.

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

21. 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 and McGraw-Hill Copyrights.

22. Defendants have willfully infringed the Wiley and McGraw-Hill Copyrights.

23. 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 and McGraw-Hill Copyrights 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 and McGraw-Hill Copyrights;

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

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

Dated: New York, New York
August 12, 2009

DUNNEGAN LLC

By 

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Schedule A
"Wiley Copyrights"

<u>Title</u>	<u>(Date of Registration)</u>	<u>(Registration #)</u>
1. Engineering Fluid Mechanics Instructor's Resource CD-ROM, Seventh Edition	(January 21, 2005)	(TX-6-093-617).
2. Engineering Mechanics: Dynamics, Solutions Manual CD-ROM, Fifth Edition	(January 21, 2005)	(TX-6-091-399).
3. Fundamentals of Engineering Thermodynamics: Instructor's Resource CD-ROM	(February 25, 2005)	(TX-6-147-524).
4. Fundamentals of Physics: Instructor's Solutions Manual Volume 1, Seventh Edition	(January 21, 2005)	(TX-6-101-287).
5. Fundamentals of Physics: Instructor's Solutions Manual Volume 2, Seventh Edition	(January 21, 2005)	(TX-6-101-286).
6. Intermediate Accounting, Twelfth Edition	(August 3, 2006)	(TX-6-408-031).
7. Introduction to Electric Circuits, Sixth Edition	(August 15, 2003)	(TX-5-807-740).
8. Physics Instructor's Manual, Fifth Edition, Volumes I and II	(January 21, 2005)	(TX-6-101-288).
9. Physics, Seventh Edition: Student Solutions Manual	(November 20, 2006)	(TX-6-463-010).
10. Principles of Communications: Systems, Modulation and Noise, Second Edition and Solutions Manual	(May 15, 1985)	(TX-1-573-791).
11. Principles of Communications: Systems, Modulation and Noise, Fifth Edition,	(October 25, 2001)	(TX-5-444-005).
12. Auto Repair For Dummies	(November 29, 1999)	(TX-5-021-353).

Schedule B
"McGraw-Hill Copyrights"

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| 1. | Solutions Manual to accompany Managerial Accounting: Concepts For Planning, Control, Decision Making, 8 th Edition, | (February 24, 1997). | (TX0004478717) |
| 2. | Solutions Manual With Chapter Outlines to accompany Advanced Accounting, 4 th Edition, | (April 7, 1994). | (TX0003788754) |
| 3. | Instructor's And Solutions Manual, vol. 1 to accompany Mechanics Of Materials, 3 rd Edition, | (December 27, 2001). | (TX0005492855) |
| 4. | Instructor's and Solutions Manual, vol. 2 to accompany Mechanics of Materials, 3 rd Edition, | (December 27, 2001). | (TX0005490751) |
| 5. | Solutions Manual to accompany Advanced Financial Accounting, | (November 21, 1988). | (TX0002449358) |
| 6. | Instructor's Solutions Manual to accompany Mechanical Engineering Design, | (May 16, 2001). | (TX0005311489) |