

JUDGE JONES

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

12 CV 2190

----- x  
JOHN WILEY & SONS, INC., :

Plaintiff, :

-against- : 12 Civ.

JOHN DOE NOS. 1-35, :

Defendants. :

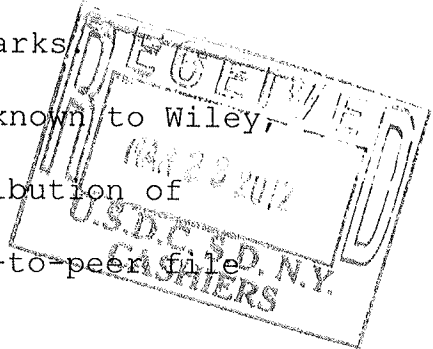
----- x

COMPLAINT

Plaintiff John Wiley & Sons, Inc. ("Wiley"), for its complaint against defendants, avers:

Nature of the Action

1. Wiley is bringing this action to obtain legal and equitable relief to remedy defendants' willful infringement of Wiley's copyrights and trademarks. Defendants, whose identities are presently unknown to Wiley, have engaged in the illegal copying and distribution of Wiley's "FOR DUMMIES®" books through the peer-to-peer file sharing software known as BitTorrent.



Jurisdiction and Venue

2. This Court has subject matter jurisdiction over the first three claims in this action pursuant to 28 U.S.C. §§ 1331 and 1338 because they arise under the Copyright Act, 17 U.S.C. § 101 et seq., or the Lanham Act, 15

U.S.C. § 1051 et seq. This Court has subject matter jurisdiction over the fourth claim in this action pursuant to 28 U.S.C. § 1367 because it is so related to the claims within the original jurisdiction of this Court that they form part of the same case or controversy within the meaning of Article III of the United States Constitution.

3. Upon information and belief, defendants are subject to the personal jurisdiction of this Court pursuant to either New York C.P.L.R. § 301, because defendants reside in this State, or New York C.P.L.R. § 302(a)(2), because defendants have committed a tortious act within this state.

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

#### Parties

5. Wiley is a corporation organized and existing under the laws of the State of New York with its principal place of business in Hoboken, New Jersey.

6. Defendants are natural persons whose identities are currently unknown to Wiley. Defendants have used the Internet protocol addresses ("IP addresses") set forth on Schedule A at the times and dates indicated. Upon information and belief, defendants accessed, copied and distributed Wiley's works through the networks of the Internet Service Providers listed on Schedule A.

The Business of Wiley

7. Founded in 1807, Wiley is one of the world's largest publishers of books and journals. Each year, Wiley publishes hundreds of new scholarly books and thousands of scholarly journal articles in fields including science, computers and medicine.

8. The works that Wiley publishes are written and edited by experts in their respective fields. As its standard practice, Wiley generally requires that its authors assign their copyright in a work to Wiley.

9. Wiley invests significant monies to publish its copyrighted works. Wiley, for example, incurs substantial costs in royalties, content creation, licensing, copyediting, proofreading, typesetting, layout, printing, binding, distribution, and promotion.

10. Wiley earns a substantial portion of its revenue from the publication of its copyrighted works and would suffer serious financial injury if its copyrights were not enforced. A substantial decline in its income could cause Wiley to cease publishing one or more deserving books or journals.

11. Wiley's authors invest significant time and resources into writing their books. In return for assigning the copyrights in their works to Wiley, authors earn

substantial revenue from royalties paid from the sales of works, including "FOR DUMMIES®" works. A substantial decline in sales would result in financial injury to Wiley's authors, and could cause some authors to stop writing books altogether.

12. Wiley also owns numerous trademarks that it uses to differentiate its products from those of its competitors. Among its most well-known trademarks is "FOR DUMMIES®."

13. The "FOR DUMMIES®" brand is one of the most recognizable publishing brands in the world, used on more than 1,800 in-print titles in over 30 languages. "FOR DUMMIES®" books are published in multiple subject areas, including technology, health, self-help, history and finance. More than 200,000,000 copies of "FOR DUMMIES®" books have been printed since DOS For Dummies®, the first "FOR DUMMIES®" book, published in 1991.

#### The Infringing Acts of Defendants

14. Defendants, without Wiley's consent, have made copies of Wiley's copyrighted works containing the "FOR DUMMIES®" trademark through peer-to-peer file sharing software known as BitTorrent.

15. When using BitTorrent software, users simultaneously receive and send portions of a particular

file. By exchanging these pieces of data with numerous other users, or "peers," BitTorrent users receive and distribute copies of the entire work. After completing a download, a BitTorrent user continuously distributes copies of the file to other peers until he or she manually disconnects from the software.

16. By using BitTorrent software to download and distribute Wiley's copyrighted works, defendants have knowingly and purposefully infringed, and induced others to infringe, Wiley's copyrighted works.

17. Defendants are contributing to a problem that threatens the profitability of Wiley. Although Wiley cannot determine at this time the precise amount of revenue that it has lost as a result of the peer-to-peer file sharing of its copyrighted works through BitTorrent software, the amount of that lost revenue is enormous. For example, BitTorrent users on a single site, demonoid.me, have downloaded one of the works that is the subject of this suit, "Photoshop CS5 All-In-One-FOR DUMMIES," more than 74,000 times since June 6, 2010.

FIRST CLAIM FOR RELIEF  
(Copyright Infringement - 17 U.S.C. § 501)

18. Wiley repeats the averments contained in paragraphs 1 through 17 as if set forth in full.

19. Wiley has received a United States Certificate of Copyright Registration for the works listed on Schedule A (the "Wiley Copyrights").

20. The Wiley Copyrights are valid and enforceable.

21. Defendants have infringed the Wiley Copyrights by making unauthorized copies of them, and distributing those copies over the Internet using BitTorrent software.

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

23. Upon information and belief, defendants have committed their infringing acts with actual or constructive knowledge that Wiley's works are protected by copyright and that their actions infringe the Wiley Copyrights. Wiley is therefore entitled to recover all damages sustained as a result of defendants' unlawful conduct including (1) defendants' profits, or (2) Wiley's damages, or alternatively, (3) statutory damages.

SECOND CLAIM FOR RELIEF  
(Trademark Infringement - 15 U.S.C. § 1114(a))

24. Wiley repeats the averments contained in paragraphs 1 through 23 above as if set forth in full.

25. Wiley owns the "FOR DUMMIES®" trademarks.

26. Wiley has obtained numerous United States Trademark Registrations for its "FOR DUMMIES®" trademarks, which are set forth on Schedule B.

27. The "FOR DUMMIES®" trademarks are valid and enforceable.

28. Defendants have infringed the "FOR DUMMIES®" trademarks in violation of 15 U.S.C. § 1114(a) by using the "FOR DUMMIES®" trademarks on the works that they have copied and induced others to copy.

29. Defendants' acts complained of herein have irreparably damaged Wiley and may continue to do so. The damage to Wiley includes harm to its goodwill and reputation in the marketplace for which money cannot compensate. Wiley is particularly concerned that its trademarks are used in connection with unauthorized electronic products, which could contain malicious viruses. Wiley is also concerned that these unauthorized electronic editions of its works may be of inferior quality to the original versions. Wiley has no adequate remedy at law for these wrongs. Wiley is,

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 using the "FOR DUMMIES®" trademarks or any colorable imitation of them.

30. Defendants have willfully infringed the "FOR DUMMIES®" Trademarks. Wiley is therefore entitled to recover (1) defendants' profits from the infringing works, or (2) Wiley's damages.

THIRD CLAIM FOR RELIEF  
(Trademark Counterfeiting - 15 U.S.C. § 1117)

31. Wiley repeats the averments contained in paragraphs 1 through 30 above as if set forth in full.

32. In connection with the distribution of its unlawfully reproduced works, defendants have used a counterfeit of the "FOR DUMMIES®" trademarks.

33. Based upon defendants' use of the counterfeit mark in connection with the distribution of the unlawfully reproduced works, Wiley is entitled to treble damages, and/or statutory damages pursuant to 15 U.S.C. § 1117(b) and (c).

FOURTH CLAIM FOR RELIEF  
(Common Law Unfair Competition)

34. Wiley repeats the averments contained in paragraphs 1 through 33 above as if set forth in full.



35. Defendants' acts complained of herein have irreparably damaged Wiley and may continue to do so. The damage to Wiley includes harm to its goodwill and reputation in the marketplace for which money cannot compensate. Wiley has no adequate remedy at law for these wrongs and injuries. Wiley is, 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 using Wiley's trademarks or any colorable imitation of them, to restitution of defendants' ill-gotten gains, and to punitive damages in an amount to be determined by the trier of fact in this action.

WHEREFORE, Wiley demands judgment:

A. Preliminarily and permanently enjoining defendants and their agents, servants, employees, and attorneys and all those acting in concert with them from infringing the Wiley Copyrights in violation of 17 U.S.C. § 106;

B. Awarding Wiley its damages or defendants' profits, or alternatively, statutory damages, as a result of defendants' infringement of the Wiley Copyrights;

C. Preliminarily and permanently enjoining defendants and their agents, servants, employees, and attorneys and all those acting in concert with them, from

infringing and counterfeiting the Wiley's "FOR DUMMIES®" trademarks in violation of 15 U.S.C. § 1114(a);

D. Awarding Wiley treble damages and/or treble defendants' profits from their willful infringement, counterfeiting, and/or false designation of origin of Wiley's trademarks pursuant to 15 U.S.C. § 1117(a) and (b); or alternatively, statutory damages pursuant to 15 U.S.C. § 1117(c);

E. Awarding Wiley its costs in this action, including its reasonable attorney's fees pursuant 17 U.S.C. § 505 and 15 U.S.C. § 1117;

F. Awarding Wiley punitive damages in an amount to be determined by the trier of fact in this action; and

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

Dated: New York, New York  
March 23, 2011

DUNNEGAN & SCILEPPI LLC

By William Dunnegan  
William Dunnegan (WD9316)

wd@dunnegan.com

Samantha Morrissey (SM1210)

sm@dunnegan.com

Attorneys for Plaintiff

John Wiley & Sons, Inc.

350 Fifth Avenue

New York, New York 10118

(212) 332-8300

Schedule A

John Doe No. 1

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/23/2012 - 10:39 AM E.D.T.
IP address	32.165.144.65
ISP	AT&T Global Network Services LLC
Location	New York, New York

John Doe No. 2

Work Infringed	Stretching For Dummies
Registration No.	TX-6-904-892
Date/time	3/22/2012 - 5:55 PM E.D.T.
IP address	74.209.28.178
ISP	Fairpoint Communications, Inc.
Location	Batavia, New York

John Doe No. 3

Work Infringed	English Grammar Workbook For Dummies
Registration No.	TX-6-439-729
Date/time	3/23/2012 - 11:27 AM E.D.T.
IP address	50.53.58.185
ISP	Frontier Communications of America, Inc.
Location	Rochester, New York

John Doe No. 4

Work Infringed	AutoCAD 2011 For Dummies
Registration No.	TX-7-183-781
Date/time	3/22/2012 - 2:18 PM E.D.T.
IP address	67.83.79.37
ISP	Optimum Online
Location	Nyack, New York

John Doe No. 5

Work Infringed	English Grammar Workbook For Dummies
Registration No.	TX-6-439-729
Date/time	3/23/2012 - 11:27 AM E.D.T.
IP address	68.198.74.127
ISP	Optimum Online
Location	Larchmont, New York

John Doe No. 6

Work Infringed	Microsoft Excel VBA Programming For Dummies
Registration No.	TX-6-131-717
Date/time	3/23/2012 - 10:24 AM E.D.T.
IP address	68.199.111.148
ISP	Optimum Online
Location	Bronx, New York

John Doe No. 7

Work Infringed	Wireless Network Hacks & Mods For Dummies
Registration No.	TX-6-265-752
Date/time	3/21/2012 - 1:22 PM E.D.T.
IP address	69.112.81.98
ISP	Optimum Online
Location	Brooklyn, New York

John Doe No. 8

Work Infringed	English Grammar Workbook For Dummies
Registration No.	TX-6-439-729
Date/time	3/23/2012 - 11:27 AM E.D.T.
IP address	69.121.38.171
ISP	Optimum Online
Location	New York, New York

John Doe No. 9

Work Infringed	AutoCAD 2011 For Dummies
Registration No.	TX-7-183-781
Date/time	3/22/2012 - 2:18 PM E.D.T.
IP address	69.122.22.1
ISP	Optimum Online
Location	Hicksville, New York

John Doe No. 10

Work Infringed	English Grammar Workbook For Dummies
Registration No.	TX-6-439-729
Date/time	3/23/2012 - 11:27 AM E.D.T.
IP address	69.123.44.31
ISP	Optimum Online
Location	Garden City, New York

John Doe No. 11

Work Infringed	English Grammar Workbook For Dummies
Registration No.	TX-6-439-729
Date/time	3/23/2012 - 11:27 AM E.D.T.
IP address	65.128.15.70
ISP	Qwest Communications Company LLC
Location	New York, New York

John Doe No. 12

Work Infringed	Wireless Network Hacks & Mods For Dummies
Registration No.	TX-6-265-752
Date/time	3/21/2012 - 1:22 PM E.D.T.
IP address	184.153.192.12
ISP	Road Runner Holdco LLC
Location	Oneida, New York

John Doe No. 13

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/22/2012 - 1:33 PM E.D.T.
IP address	204.210.152.21
ISP	Road Runner Holdco LLC
Location	Newburgh, New York

John Doe No. 14

Work Infringed	Photoshop CS5 All-in-One For Dummies
Registration No.	TX-7-223-612
Date/time	3/22/2012 - 6:10 PM E.D.T.
IP address	24.193.105.112
ISP	Road Runner Holdco LLC
Location	New York, New York

John Doe No. 15

Work Infringed	English Grammar Workbook For Dummies
Registration No.	TX-6-439-729
Date/time	3/23/2012 - 11:27 AM E.D.T.
IP address	24.193.44.167
ISP	Road Runner Holdco LLC
Location	New York, New York

John Doe No. 16

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/22/2012 - 1:33 PM E.D.T.
IP address	66.108.226.95
ISP	Road Runner Holdco LLC
Location	New York, New York

John Doe No. 17

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/22/2012 - 1:33 PM E.D.T.
IP address	66.66.4.184
ISP	Road Runner Holdco LLC
Location	Rochester, New York

John Doe No. 18

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/22/2012 - 1:33 PM E.D.T.
IP address	67.242.147.86
ISP	Road Runner Holdco LLC
Location	Buffalo, New York

John Doe No. 19

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/22/2012 - 1:33 PM E.D.T.
IP address	67.244.31.103
ISP	Road Runner Holdco LLC
Location	New York, New York

John Doe No. 20

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/23/2012 - 10:39 AM E.D.T.
IP address	72.228.166.184
ISP	Road Runner Holdco LLC
Location	Buffalo, New York

John Doe No. 21

Work Infringed	Wireless Network Hacks & Mods For Dummies
Registration No.	TX-6-265-752
Date/time	3/21/2012 - 1:22 PM E.D.T.
IP address	72.229.135.12
ISP	Road Runner Holdco LLC
Location	New York, New York

John Doe No. 22

Work Infringed	Dreamweaver CS5 All-in-One For Dummies
Registration No.	TX-7-223-235
Date/time	3/22/2012 - 5:30 PM E.D.T.
IP address	72.230.217.70
ISP	Road Runner Holdco LLC
Location	Staten Island, New York

John Doe No. 23

Work Infringed	Photoshop CS5 All-in-One For Dummies
Registration No.	TX-7-223-612
Date/time	3/22/2012 - 1:45 PM E.D.T.
IP address	74.67.10.60
ISP	Road Runner Holdco LLC
Location	Albany , New York

John Doe No. 24

Work Infringed	AutoCAD 2011 For Dummies
Registration No.	TX-7-183-781
Date/time	3/22/2012 - 2:18 PM E.D.T.
IP address	74.74.98.191
ISP	Road Runner Holdco LLC
Location	Staten Island, New York

John Doe No. 25

Work Infringed	Electronics For Dummies
Registration No.	TX-6-175-452
Date/time	3/22/2012 - 1:33 PM E.D.T.
IP address	108.62.48.172
ISP	Ubiquity Server Solutions New York
Location	New York, New York

John Doe No. 26

Work Infringed	Photoshop CS5 All-in-One For Dummies
Registration No.	TX-7-223-612
Date/time	3/22/2012 - 1:45 PM E.D.T.
IP address	141.149.17.156
ISP	Verizon Internet Services
Location	Albany, New York

John Doe No. 27

Work Infringed	Photoshop CS5 All-in-One For Dummies
Registration No.	TX-7-223-612
Date/time	3/22/2012 - 1:45 PM E.D.T.
IP address	108.6.230.233
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 28

Work Infringed	Photoshop CS5 All-in-One For Dummies
Registration No.	TX-7-223-612
Date/time	3/22/2012 - 6:10 PM E.D.T.
IP address	173.52.96.218
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 29

Work Infringed	Photoshop CS5 All-in-One For Dummies
Registration No.	TX-7-223-612
Date/time	3/22/2012 - 6:10 PM E.D.T.
IP address	71.190.217.207
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 30

Work Infringed	Stretching For Dummies
Registration No.	TX-6-904-892
Date/time	3/22/2012 - 5:55 PM E.D.T.
IP address	71.190.98.117
ISP	Verizon Online LLC
Location	New York, New York



John Doe No. 31

Work Infringed	Stretching For Dummies
Registration No.	TX-6-904-892
Date/time	3/23/2012 - 11:02 AM E.D.T.
IP address	74.101.29.96
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 32

Work Infringed	Hacking For Dummies
Registration No.	TX-7-177-513
Date/time	3/23/2012 - 11:16 AM E.D.T.
IP address	96.250.190.134
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 33

Work Infringed	Dreamweaver CS5 All-in-One For Dummies
Registration No.	TX-7-223-235
Date/time	3/22/2012 - 5:30 PM E.D.T.
IP address	98.113.179.31
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 34

Work Infringed	Microsoft Excel VBA Programming For Dummies
Registration No.	TX-6-131-717
Date/time	3/22/2012 - 2:04 PM E.D.T.
IP address	98.116.71.144
ISP	Verizon Online LLC
Location	New York, New York

John Doe No. 35

Work Infringed	Microsoft Excel VBA Programming For Dummies
Registration No.	TX-6-131-717
Date/time	3/22/2012 - 2:04 PM E.D.T.
IP address	98.118.179.186
ISP	Verizon Online LLC
Location	Buffalo, New York

Schedule B

<u>U.S. Trademark</u>	<u>Registration Number</u>	<u>Class</u>
"JW" Colophon	(1639555)	(009,016)
"Wiley"	(1003988)	(009,016,038)
"Wiley"	(2159987)	(009,042)
... FOR DUMMIES	(1877907)	(016,038)
... FOR DUMMIES	(2124132)	(016,042)
- - - FOR DUMMIES	(1857666)	(016)
- - - FOR DUMMIES	(1963774)	(016)
"DUMMIES" Man	(2111950)	(016)
"DUMMIES" Man	(2245458)	(016)
FOR DUMMIES	(3167658)	(016)
FOR DUMMIES	(2475136)	(016)
FOR DUMMIES -		
"A Reference For The Rest of Us!	(1837859)	(016)
"A Reference For The Rest of Us!	(2128088)	(016)
"A Reference For The Rest of Us!	(2475137)	(016)
THE DUMMIES WAY	(2454686)	(016)