

JUDGE COTE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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PEARSON EDUCATION, INC., :
JOHN WILEY & SONS, INC., :
CENGAGE LEARNING INC. AND :
THE MCGRAW-HILL COMPANIES, INC., :

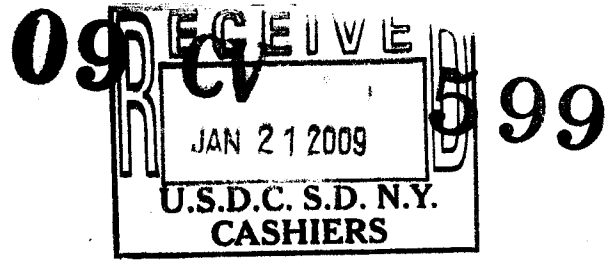
Plaintiffs, :

-against- :

TYLER YEATHERMON D/B/A POOR_DEVIL1 :
D/B/A TURBOSTUDYGUIDES D/B/A :
MAHMOOD OM D/B/A DF3AM D/B/A :
ARFALO D/B/A TB&SM AND JOHN DOE :
NOS. 1-5, :

Defendants. :

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09 Civ.

COMPLAINT

Plaintiffs Pearson Education, Inc. ("Pearson"), John Wiley & Sons, Inc. ("Wiley"), Cengage Learning Inc. ("Cengage") and The McGraw-Hill Companies, Inc. ("McGraw-Hill"), by their undersigned attorneys, for their complaint against defendants Tyler Yeathermon d/b/a Poor_Devill d/b/a TurboStudyGuides d/b/a Mahmood Om d/b/a df3am d/b/a Arfalo d/b/a tb&sm 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.

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. Pearson is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at One Lake Street, Upper Saddle River, New Jersey 07458.

5. 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.

6. Cengage is a corporation organized and existing under the laws of the State of Delaware with its principal place of business at 200 First Stamford Place, 4th Floor, Stamford, Connecticut 06902.

7. 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.

8. Upon information and belief, defendant Tyler Yeathermon is a natural person presently residing at 1822 Bever Boulevard, Arlington, Texas 76013.

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

The Business of Plaintiffs

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

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

12. 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.

13. 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.

14. 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.

15. 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

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

The Infringing Acts of Defendants

17. Defendants have without permission reproduced and sold copies of plaintiffs' works. Specifically, defendants have reproduced and sold copies of plaintiffs' instructors' solutions manuals through online sales at sites such as studentdump.com, forums.naseej.com, studentsforum.co.uk, and skfupm.com using the usernames tb&sm, Arfalo, and df3am, the name Mahmood Om and the e-mail addresses Poor_Devill1@yahoo.com and TurboStudyGuides@gmail.com.

CLAIM FOR RELIEF

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

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

19. Pearson has received United States Certificates of Copyright Registration for the Pearson Copyrights.

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

21. Cengage has received United States Certificates of Copyright Registration for the Cengage Copyrights.

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

23. The Pearson, Wiley, Cengage and McGraw-Hill Copyrights are valid and enforceable.

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

25. 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 Pearson, Wiley, Cengage and McGraw-Hill Copyrights.

26. Defendants have willfully infringed the Pearson, Wiley, Cengage and McGraw-Hill Copyrights.

27. 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 Pearson, Wiley, Cengage 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 Pearson, Wiley, Cengage 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
January 21, 2009

DUNNEGAN LLC

By 

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Schedule A
"Pearson Copyrights"

<u>Title</u>	<u>(Date of Registration)</u>	<u>(Registration #)</u>
1. Accounting Information Systems, Tenth Edition	(July 12, 2005)	(TX-6-201-168).
3. Accounting, Seventh Edition	(February 2, 2007)	(TX-6-522-916).
4. Advertising: Principles & Practice, Seventh Edition	(September 1, 2005)	(TX-6-229-395).
5. Auditing and Assurance Services, Eleventh Edition	(July 12, 2005)	(TX-6-193-974).
6. Auditing and Assurance Services, Twelfth Edition	(April 13, 2007)	(TX-6-548-957).
7. Business Communication Today, Ninth Edition	(October 4, 1999)	(TX-5-065-527).
8. Cost Accounting: A Managerial Emphasis, Twelfth Edition	(January 13, 2006)	(TX-6-311-827).
9. Elementary Statistics Using Excel, Third Edition	(July 15, 2006)	(TX-6-379-342).
10. Fundamentals of Management: Essential Concepts and Applications, Sixth Edition	(January 30, 2008)	(TX-6-848-349).
11. Global Marketing, Fifth Edition	(January 30, 2008)	(TX-6-848-362).
12. Human Resource Management, Tenth Edition	(July 27, 2007)	(TX-6-812-176).
13. International Management: Managing Across Borders and Cultures, Fifth Edition	(March 9, 2005)	(TX-6-124-995).
14. Introduction to Government and Non-for-Profit Accounting, Fifth Edition	(March 24, 2003)	(TX-5-731-161).
15. Introduction to Management Accounting, Fourteenth Edition,	(June 7, 2007)	(TX-6-593-822).
16. Introduction to Risk Management and Insurance, Ninth Edition	(June 13, 2007)	(TX-6-597-769).
17. Management, Ninth Edition	(February 2, 2007)	(TX-6-522-915).
18. Marketing Management, Twelfth Edition	(April 7, 2005)	(TX-6-150-569).
19. Marketing Management, Third Edition	(August 8, 2006)	(TX-6-415-727).
20. Marketing: An Introduction, Seventh Edition	(May 5, 2004)	(TX-5-960-913).
21. Operations Management: Processes and Value Chains, Eighth Edition	(May 8, 2006)	(TX-6-355-040).

22. Organizational Theory, Design and Change, Fifth Edition (August 29, 2006) (TX-6-412-618).
23. Prentice Hall's Federal Taxation: 2008 Comprehensive, 21st Edition (June 7, 2007) (TX-6-583-945).
24. Principles of Managerial Finance, Eleventh Edition (February 22, 2005) (TX-6-118-146).
25. Principles of Managerial Finance, Fifth Edition (June 28, 1988) (TX-2-346-024).
26. Principles of Marketing, Twelfth Edition (April 23, 2007) (TX-6-585-269).
27. Statistics for Business & Economics, Tenth Edition (September 25, 2007) (TX-6-831-282).
28. Strategic Management Concepts and Cases, Tenth Edition (August 27, 2004) (TX-6-017-663).
29. Strategic Management: A Dynamic Perspective Concepts and Cases, Second Edition (February 29, 2008) (TX-6-843-472).
30. Strategic Marketing for Non-Profit Organizations, Sixth Edition (October 31, 2002) (TX-5-643-074).
31. Using MIS, First Edition (April 10, 2006) (TX-6-344-147).

Schedule B
"Wiley Copyrights"

<u>Title</u>	<u>(Date of Registration)</u>	<u>(Registration #)</u>
1. Accounting Principles,	(July 31, 2000)	(TX-5-253-122).
2. Intermediate Accounting, Twelfth Edition	(August 3, 2006)	(TX-6-408-031)

Schedule C
"Cengage Copyrights"

Title (Date of Registration) (Registration #)

1. Instructor's Manual to Accompany Accounting Information Systems, (June 15, 1995) (TX-4-068-742).
2. Fundamentals of Financial Management, (September 29, 2006) (TX-6-434-924)
3. West Federal Taxation, (November 26, 2003) (TX-5-830-524)

Schedule D
"McGraw-Hill Copyrights"

<u>Title</u>	<u>Registration #</u>	<u>Date of Registration</u>
1. Advanced Financial Accounting, (December 27, 2001) (TX-5-490-591).		
2. Managerial Accounting: Creating Value in a Dynamic Business Environment, (August 14, 2007) (TX-6-815-145).		
3. Auditing and Assurance Services: A Systematic Approach, (February 15, 2007) (TX-6-558-926).		
4. Managerial Economics and Business Strategy, (May 12, 2006) (TX-6-346-867).		
5. Financial & Managerial Accounting: The Basis for Business Decisions, (June 23, 2004) (TX-5-986-406)		
6. Fundamentals of Investments: Valuation and Management, (October 27, 2006) (TX-6-444-030).		