

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

09 CIV 7487

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

JUDGE BERMAN

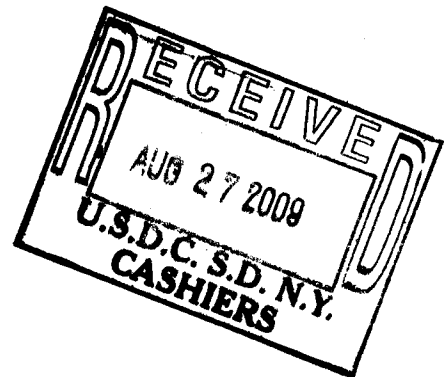
Plaintiffs,

-against-

09 Civ.

JOHN DOE D/B/A FRED BLANC D/B/A
JACKMOORE84 D/B/A ANWAR JARRAD
D/B/A ROB JOHNSON D/B/A RICK
WHITENS D/B/A HOMER D/B/A
TBANDSM AND JOHN DOE NOS. 1-5,

Defendants.



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 John Doe d/b/a Fred Blanc d/b/a Jackmoore84 d/b/a Anwar Jarrad d/b/a Rob Johnson d/b/a Rick Whitens d/b/a Homer d/b/a TBandSM 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 and 1400(a).

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 John Doe d/b/a Fred Blanc d/b/a Jackmoore84 d/b/a Anwar Jarrad d/b/a Rob Johnson d/b/a Rick Whitens d/b/a Homer d/b/a TBandSM is a natural person whose identity is presently unknown to plaintiffs.

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

The Businesses 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 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.

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 websites and forums, including but not limited to, Craigslist.com, TBandSM.com, Blogspot.com, and Facebook.com, using usernames including, but not limited to, "Fred Blanc," "Jackmoore84," "Anwar Jarrad," "Rob Johnson," "Rick Whitens," "Homer," and "TBandSM," and e-mail addresses including, but not limited to, f.blanc@live.com, ajarrad@live.com, jackmoore84@hotmail.com, bobsmithtbl@gmail.com, nartjugame@live.com, rickwhitens@yahoo.com, halvarez2008@gmail.com, and GetAnEasyA@hotmail.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
August 25, 2009

DUNNEGAN LLC

By  _____
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Cengage Learning Inc. and
The McGraw-Hill Companies, Inc.
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Schedule A
 "Pearson Copyrights"

Title (Date of Registration) (Registration #)

1. Cost Accounting: A Managerial Emphasis, 12th Edition (January 13, 2006) (TX0006311827)
2. Accounting, 7th Edition (February 2, 2007) (TX0006522916)
3. Advanced Accounting, 9th Edition (October 22, 2008) (TX0006899994)
4. Auditing and Assurance Services: An Integrated Approach, 12th Edition (April 13, 2007) (TX0006548957)
5. Accounting Information Systems, 9th Edition (January 9, 2004) (TX0005887164)
6. Auditing Cases: An Interactive Learning Approach, 3rd Edition (April 10, 2006) (TX0006339732)
7. Financial Accounting: A Business Process Approach, 2nd Edition (September 16, 2008) (TX0006900628)
8. Governmental and Nonprofit Accounting: Theory and Practice, 7th Edition (June 3, 2002) (TX0005539709)
9. Financial Management: Principles and Applications, 10th Edition (January 13, 2006) (TX0006302835)
10. Fundamentals of Investing, 10th Edition (January 29, 2007) (TX0006506102)
11. Global Marketing, 5th Edition (January 30, 2008) (TX0006848362)
12. Modern Management, 10th Edition (October 22, 2007) (TX0006828811)
13. Human Resource Management, 10th Edition (July 27, 2007) (TX0006812176)
14. International Business: A Managerial Perspective, 5th Edition (January 19, 2007) (TX0006505828)
15. Organizational Behavior, 12th Edition (June 7, 2007) (TX0006597569)

15. Organizational Behavior, 12th Edition (June 7, 2007)
(TX0006597569)

Schedule B
"Wiley Copyrights"

- | <u>Title</u> | <u>(Date of Registration)</u> | <u>(Registration #)</u> |
|--|-------------------------------|-------------------------|
| 1. Financial Accounting: Tools for Business Decision Making, 4 th Edition | (April 20, 2006) | (TX0006355329) |
| 2. Financial Accounting, 4 th Edition | (September 30, 2003) | (TX0005800944) |
| 3. Managerial Accounting, 3 rd Edition | (May 25, 2007) | (TX0006577772) |
| 4. Solutions Manual Volume I, Chapters 1-14 to accompany Intermediate Accounting, 11 th Edition | (January 21, 2005) | (TX0006092671) |
| 5. Solutions Manual Volume II, Chapters 15-24 to accompany Intermediate Accounting, 11 th Edition | (January 21, 2005) | (TX0006099837) |
| 6. Test Bank to accompany Principles of Anatomy and Physiology, 5 th Edition | (March 13, 1987) | (TX2031874) |

Schedule C
"Cengage Copyrights"

- | <u>Title</u> | <u>(Date of Registration)</u> | <u>(Registration #)</u> |
|--|-------------------------------|-------------------------|
| 1. The Legal Environment Today | (November 13, 2006) | (TX0006503063). |
| 2. Financial Management: Theory and Practice Instructor Manual | (January 31, 1994) | (TX0003721571). |
| 3. An Introduction to Management Science Instructor Manual | (June 12, 2006) | (TX0006375416). |
| 4. Economics: A Contemporary Introduction | (June 14, 2008) | (TX0006867294). |
| 5. Business Communication | (April 20, 2007) | (TX0006567554). |
| 6. Human Resource Management | (April 24, 2003) | (TX0005880745). |
| 7. Management | (May 9, 2007) | (TX0006577475). |
| 8. Managing: A Competency-Based Approach | (May 9, 2007) | (TX0006577774). |
| 9. Essentials of Marketing | (July 7, 2008) | (TX0006859517). |
| 10. Corporate Finance: A Focused Approach | (March 28, 2008) | (TX0006839623). |
| 11. Solutions Manual Financial Management: Theory and Practice | (April 27, 2007) | (TX0006579389). |
| 12. Financial Markets and Institutions | (November 13, 2007) | (TX0006819483). |
| 13. Fundamentals of Financial Management | (September 9, 2006) | (TX0006434924). |
| 14. Intermediate Financial Management: Test Bank | (September 14, 1999) | (TX0005055935). |
| 15. International Financial Management | (November 13, 2007) | (TX0006819487). |

16. Financial and Managerial Accounting 9th edition: Solutions Manual (December 19, 2006) (TX0006490864).
17. Accounting (November 13, 2006) (TX0006480143).
18. Advanced Accounting (May 29, 2008) (TX0006911127).
19. Solutions Manual: Accounting Information (November 17, 2006) (TX0006463011).
20. Accounting Information Systems (February 19, 2007) (TX00006547786).
21. Cost Management: Accounting and Control (January 16, 2008) (TX0006841472).
22. Cost Accounting: Foundations and Evolutions (March 28, 2008) (TX0006843770).
23. Financial Accounting: An Integrated Statements Approach (September 29, 2006) (TX0006438597).
24. Solutions Manual, South-Western Federal Taxation 2009 Edition: Corporations, Partnerships, Estates, and Trusts (June 4, 2008) (TX0006862214).

Schedule D
 "McGraw-Hill Copyrights"

<u>Title</u>	<u>Registration #</u>	<u>Date of Registration</u>
1. Solution Manual to accompany Intermediate Accounting, 4 th Edition, Volume 1, (March 17, 2006) (TX0006325936).		
2. Solution Manual to accompany Intermediate Accounting, 4 th Edition, Volume 2, (March 17, 2006) (TX0006318020).		
3. Test Bank to accompany Intermediate Accounting, 3 rd Edition, Volume 1 (November 14, 2003) (TX0005854154).		
4. Test Bank to accompany Intermediate Accounting, 3 rd Edition, Volume 2, (July 25, 2005) (TX0006219523).		
5. Solutions Manual to accompany Managerial Accounting, 8 th Edition, (February 24, 1997) (TX0004478717)		
6. Test Bank to accompany Managerial Accounting, 11 th Edition, (December 9, 2004) (TX0006080806)		
7. Solutions Manual to accompany Corporate Finance, 7 th Edition (June 4, 2004) (TX0005978276)		
8. Test Bank to accompany Corporate Finance, 6 th Edition, (August 1, 2001) (TX0005422644)		
9. Test Bank to accompany Advanced Accounting, 6 th Edition (January 2, 2001) (TX0005339822)		
10. Solution Manual to accompany Advanced Accounting, 4 th Edition (April 7, 1994) (TX0003788754)		
11. Test bank to accompany Fundamentals of Corporate Finance, 5 th Edition, (April 10, 2000) (TX0005185514)		
12. Instructor's Manual to accompany Fundamentals of Corporate Finance, 6 th Edition, (December 15, 2004) (TX0006085308)		
13. Solutions Manual to accompany Advanced Financial Accounting, 1 st Edition, (November 21, 1988) (TX0002449358)		
14. Solutions Manual to accompany Financial Accounting, 5 th Edition, (March 17, 2006) (TX0006317925)		

15. Test Bank to accompany Financial Accounting, 5th Edition, (March 17, 2006) (TX0006317912)
16. Test Bank to accompany Economics, 16th Edition, (July 25, 2005) (TX0006219524)
17. Test Bank to accompany Marketing: The Core, 2nd Edition, vol. 1, (May 16, 2006) (TX0006356376)
18. Test Bank to accompany Marketing: The Core, 2nd Edition, vol. 2, (May 16, 2006) (TX0006356375)
19. Instructor's Manual and Test File to accompany Hole's Human Anatomy and Physiology, 7th Edition, (August 2, 1999) (TX0005036298)