

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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

Plaintiffs, :

-against- :

AARTI WADHAWAN, SINDY LUCER, :  
CHRISTOPHER ELIAS, JAMES KELLY :  
AND SARAH GIBBS ALL D/B/A AARTI :  
WADHAWAN D/B/A SINDY LUCER D/B/A :  
CHRISTOPHER ELIAS D/B/A SARAH :  
GIBBS D/B/A TESTSUCCESS411 D/B/A :  
TESTBANKS AND JOHN DOE NOS. 1-5, :

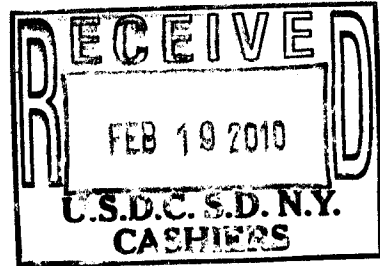
Defendants. :

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JUDGE SWAIN

**10 CV 1350**

10 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 Aarti Wadhawan, Sindy Lucer, Christopher Elias, James Kelly and Sarah Gibbs all d/b/a Aarti Wadhawan d/b/a Sindy Lucer d/b/a Christopher Elias d/b/a James Kelly d/b/a Sarah Gibbs d/b/a Testsuccess411 d/b/a Testbanks 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, 4<sup>th</sup> 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 Aarti Wadhawan is a natural person presently residing at 3427 Castlewood Drive 4, Wixom, Michigan 48393.

9. Upon information and belief, defendant Sindy Lucer is a natural person whose identity is presently unknown to plaintiffs.

10. Upon information and belief, defendant Christopher Elias is a natural person presently residing at 21-23 Freeman Street, Apartment 1A, Newark, New Jersey 07105.

11. Upon information and belief, defendant James Kelly is a natural person presently residing at 694 Springfield Avenue, Summit, NJ 07901.

12. Upon information and belief, defendant Sarah Gibbs is a natural person whose identity is presently unknown to plaintiffs.

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

The Businesses of Plaintiffs

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

15. 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.

16. 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.

17. 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.

18. 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.

19. 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

20. 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

21. 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, Topix.com, Backpage.com, Amazon.com,

Wikianswers.com, Blogspot.com, and OLX.com, using usernames including, but not limited to, "Aarti Wadhawan," "Sindy Lucer," "Christopher Elias," "Sarah Gibbs," "Testsuccess411" and "Testbanks" and e-mail addresses including, but not limited to, testbanks09@gmail.com, testsuccess411@gmail.com, quickcollect411@gmail.com, Bankonitt@gmail.com, Poor.freddy@gmail.com, abcd.w7@gmail.com and no.1jamron@gmail.com.

CLAIM FOR RELIEF

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

22. Plaintiffs repeat the averments contained in paragraphs 1 through 21 as if set forth in full.

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

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

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

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

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

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

29. 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.

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

31. 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  
February 17, 2010

DUNNEGAN LLC

By 

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Attorneys for Plaintiffs

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John Wiley & Sons, Inc.,

Cengage Learning, Inc. and

The McGraw-Hill Companies, Inc.

350 Fifth Avenue

New York, New York 10118

(212) 332-8300



Schedule A  
"Pearson Copyrights"

Title (Author) (Edition) (Date of Registration) (Registration #)

1. Accounting (Horngren) (7E) (February 2, 2007) (TX0006522916)
2. Calculus with Applications (Margaret Lial) (9e) (December 12, 2007) (TX0006926966)
3. Cost Accounting: A Managerial Emphasis (Horngren) (12E) (January 13, 2006) (TX0006311827)
4. Cost Accounting: A Managerial Emphasis (Horngren) (13E) (May 11, 2008) (TX0007005297)
5. Accounting Information Systems (Romney) (10E) (July 12, 2005) (TX0006201168)
6. Accounting Information Systems (Romney) (11E) (March 24, 2008) (TX0006996489)
7. Advanced Accounting (Beams) (10E) (October 22, 2008) (TX0006899994)
8. Advanced Corporate Finance: Policies and Strategies (Ogden) (1E) (October 31, 2002) (TX0005643064)
9. Applied Linear Algebra (Olver) (1E) (March 9, 2005) (TX0006120903)
10. Auditing and Assurance Services: An Integrated Approach (Arens) (12E) (April 13, 2007) (TX0006548957)
11. Bond Markets, Analysis and Strategies (Fabozzi) (6E) (August 22, 2006) (TX0006436905)
12. Business Communication Essentials (Bovee) (4E) (February 13, 2009) (TX0006939526)
13. Business Statistics: A Decision Making Approach (Groebner) (7E) (August 3, 2007) (TX0006837283)
14. Business Statistics: A First Course (Levine) (4E) (September 1, 2005) (TX0006211601)

15. Fundamentals of Multinational Finance (Moffett) (3E)  
(October 9, 2008) (TX0006894073)
16. Introduction to the Design and Analysis of Algorithms  
(Levitin) (2E) (March 6, 2006) (TX0006324900)
17. Introduction to Econometrics (Stock) (2E) (August 30, 2006)  
(TX0006441541)
18. Introduction to Governmental and Not-For-Profit Accounting  
(Ives) (6E) (April 11, 2008) (TX0006975056)
19. Introduction to Management Accounting (Horngren) (14E) (June  
7, 2007) (TX0006593822)
20. Introduction to Management Accounting (Horngren) (13E)  
(January 17, 2006) (TX0006305778)
21. Management Accounting (Atkinson) (5E) (January 29, 2007)  
(TX0006541412)
22. Multinational Business Finance (Eiteman) (11E) (March 31,  
2006) (TX0006332395)

Schedule B  
"Wiley Copyrights"

Title (Author) (Edition) (Date of Registration) (Registration #)

1. Accounting Principles: Annotated Instructor's Edition,  
(Weygandt/Kieso/Kell) (3E) (March 10, 1994) (TX0003750342)
2. Accounting Principles, (Weygandt/Kieso/Kimmell) (7E) (March  
23, 2004) (TX0005941167)
3. Applied Statistics and Probability for Engineers,  
(Montgomery/Runger) (4E) (August 25, 2006) (TX0006428380)
4. Chemical Reaction Engineering, (Levenspiel) (3E) (September  
11, 1998) (TX0004852934)
5. Core Concepts of Accounting Information Systems,  
(Bagranoff/Simkin/Norman) (10E) (March 11, 2008)  
(TX0006844066)
6. Financial Accounting with Annual Report,  
(Weygandt/Kieso/Kimmell) (5E) (February 24,  
2005) (TX0006191978)
7. Financial Accounting: Tools for Business Decision Making,  
(Weygandt/Kieso/Kimmell) (4E) (April 20, 2006)  
(TX0006355329)
8. Fundamentals of Human Resource Management, (DeSenzo/Robbins)  
(9E) (February 2, 2007) (TX0006525645)
9. Fundamentals of Physics: Part 1, (Halliday/Resnick/Walker)  
(7E) (February 4, 2004) (TX0005914662)
10. Fundamentals of Physics: Part 2, (Halliday/Resnick/Walker)  
(7E) (February 18, 2004) (TX0005914834)
11. Fundamentals of Physics: Part 3, ((Halliday/Resnick/Walker)  
7E) (May 7, 2004) (TX0005960569)
12. Fundamentals of Physics: Part 4, (Halliday/Resnick/Walker)  
(7E) (July 2, 2004) (TX0005991938)
13. Fundamentals of Physics: Part 5, (Halliday/Resnick/Walker)  
(7E) (July 16, 2004) (TX0006002242)

14. Government and Not-for-Profit Accounting: Concepts and Practices, (Granof) (4E) (March 11, 2008) (TX0006845409)
15. Intermediate Accounting Solutions Manual Volume I: Chapters 1-14 (Kieso) (January 21, 2005) (TX0006092671)
16. Intermediate Accounting Solutions Manual Volume II: Chapters 15-24 (Kieso) (January 21, 2005) (TX0006099837)
17. Intermediate Accounting, (Kieso) (12E) (August 3, 2006) (TX0006408031)
18. Introduction to International Economics (Salvatore) (January 21, 2005) (TX0006101228)
19. Physics Instructor's Manual, Volumes I and II (Cutnell) (5E) (January 21, 2005) (TX0006101288)
20. Physics, (Cutnell) (7E) (July 20, 2006) (TX0006416266)
21. Principles of Anatomy and Physiology, (Tortora) (11E) (June 10, 2005) (TX0006181083)
22. Project Management: A Managerial Approach, (Meredith) (6E) (January 24, 2006) (TX0006273440)

Schedule C  
"Cengage Copyrights"

- Title (Author) (Edition) (Date of Registration) (Registration #)
1. Accounting Information Systems (Gelinas/Dull) (7E) (March 19, 2007) (TX0006547786)
  2. Solutions Manual, Accounting Information Systems (Hall) (5E) (November 17, 2006) (TX0006463011)
  3. Advanced Accounting (Fischer/Cheng/Taylor) (10E) (May 29, 2008) (TX0006911127)
  4. Answers to Questions and Case Problems and Alternate Problem Sets with Answers to Accompany Business Law: Text and Cases-  
-Legal, Ethical, Global, and E-Commerce Environments (Clarkson/Jentz/Cross/Miller) (11E) (June 4, 2008) (TX0006862219)
  5. Instructor's Manual for Miller/Jentz's Business Law Today: Comprehensive (Miller/Jentz) (7E) (June 12, 2006) (TX0006393319)
  6. Instructor's Solutions Manual Serway/Faughn's College Physics (Serway/Faughn/Vuille/Bennett) (7E) (March 4, 2005) (TX0006120946)
  7. Test Bank for Serway and Faughn's College Physics (Serway/Faughn/Vuille/Bennett) (7E) (March 4, 2005) (TX0006120945)
  8. Solutions Manual, Financial Management: Theory and Practice (Brigham/Ehrhardt) (12E) (April 27, 2007) (TX0006579389)
  9. Intermediate Financial Management (Brigham/Daves) (9E) (September 29, 2006) (TX0006438595)
  10. Management (Daft) (8E) (May 9, 2007) (TX0006577475)
  11. Organic Chemistry (Mcmurry) (6E) (May 01, 2003) (TX0005747307)
  12. Instructor's Solution Manual for Serway/Jewett's Physics for Scientists and Engineers (Serway/McGrew/Currie) (6E) (August 4, 2004) (TX0006005962)

13. **Managerial Economics: Applications, Strategies, and Tactics**  
(McGuigan/Moyer/Harris) (11E) (May 22, 2007) (TX0006583784)

Schedule D  
"McGraw-Hill Copyrights"

- Title (Author) (Edition) (Date of Registration) (Registration #)
1. Test Bank to Accompany Introduction to Managerial Accounting, (Brewer) (2E) (June 24, 2004) (TX0005995319)
  2. Solution Manual to accompany Advanced Accounting (Hoyle) (4E) (April 7, 1994) (TX0003788754) (
  3. Solution Manual to accompany Intermediate Accounting, Vol. 1 (Spiceland) (4E) (March 17, 2006) (TX0006325936)
  4. Solutions Manual to accompany Managerial Accounting (Garrison) (8E) (February 24, 1997) (TX0004478717)
  5. Solutions Manual to accompany Advanced Financial Accounting, (Baker) (1E) (November 21, 1988) (TX0002449358)
  6. Solutions Manual to accompany Financial Accounting, (Libby) (5E) (March 17, 2006) (TX0006317925)
  7. Instructor's Manual to accompany Fundamentals of Corporate Finance (Ross) (7E) (May 3, 2005) (TX0006211702)