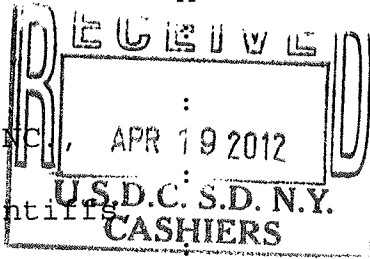


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

12 CIV 3086

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



Plaintiffs

-against-

12 Civ.

JOHN DOE D/B/A DYLAN UNGER D/B/A
DU CONSULTING D/B/A THE TEST BANK
ZONE D/B/A TESTBANK GURU D/B/A TBZ
AND JOHN DOE NOS. 1-5,

Defendants.

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COMPLAINT AND JURY DEMAND

Plaintiffs Pearson Education, Inc. ("Pearson"), 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 Dylan Unger d/b/a DU Consulting d/b/a The Test Bank Zone d/b/a Testbank Guru d/b/a TBZ and John Doe Nos. 1-5, aver:

Nature of the Action

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

7. Upon information and belief, defendant John Doe d/b/a Dylan Unger d/b/a DU Consulting d/b/a The Test Bank Zone d/b/a Testbank Guru d/b/a TBZ is a natural person currently residing in the United States whose identity and location is currently unknown to plaintiffs.

8. Upon information and belief, defendants John Doe Nos. 1-5 are natural persons currently residing in the United States whose identities are presently unknown to plaintiffs.

The Businesses of Plaintiffs

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

10. 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.

11. 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, copyright enforcement and promotion.

12. 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.

13. 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.

14. 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

15. Plaintiffs routinely register their copyrights. Pearson has generally registered its copyrights in its works, including the works on Schedule A (the "Pearson Copyrights").

16. Wiley has generally registered its copyrights in its works, including the works on Schedule B (the "Wiley Copyrights").

17. McGraw-Hill has generally registered its copyrights in its works, including the works on Schedule C (the "McGraw-Hill Copyrights").

The Infringing Acts of Defendants

18. Defendants have, without permission, reproduced and sold copies of plaintiffs' works. Specifically, the defendants have reproduced and sold copies of plaintiffs' instructors' solutions manuals, including sales into the Southern District of New York, through online sales at websites and forums, including but not limited to, testbankzone.com, topix.com, testbank.net and ebookee.com, using the usernames including, but not limited to, "Dylan Unger," "DU Consulting," "Testbank Guru," "The Test Bank Zone" and "TBZ," and e-mail addresses including, but not limited to, testbankguru@gmail.com, testbankguru@ymail.com, tbzrequ.ests@gmail.com, tbz.requests@gmail.com, admin@testbankzone.com and dututoring@gmail.com.

CLAIM FOR RELIEF

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

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

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

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

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

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

24. Defendants have infringed the Pearson, Wiley 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 and McGraw-Hill Copyrights.

26. Defendants have willfully infringed the Pearson, Wiley 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 at plaintiffs' election, (3) statutory damages.

WHEREFORE, plaintiffs demand judgment:

A. Preliminarily and permanently enjoining the defendants, their agents, servants, employees, and attorneys and

all those acting in concert with them from infringing the Pearson, 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 Pearson, 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

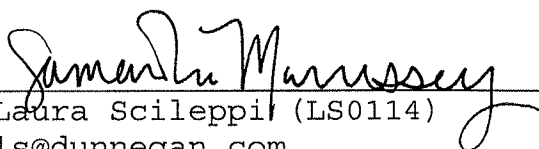
D. Granting such other and further relief as to this Court seems just and proper.

Jury Trial Demand

PLEASE TAKE NOTICE that pursuant to Rule 38 of the Federal Rules of Civil Procedure, the plaintiffs hereby demand a trial by jury of all issues that are so triable.

Dated: New York, New York
April 19, 2012

DUNNEGAN & SCILEPPI LLC

By 

Laura Scileppi (LS0114)
ls@dunnegan.com
Samantha Morrissey (SM1210)
sm@dunnegan.com
Attorneys for Plaintiffs
Pearson Education, Inc.,
John Wiley & Sons, Inc. and
The McGraw-Hill Companies, Inc.
350 Fifth Avenue
New York, New York 10118
(212) 332-8300

Schedule A
"Pearson Copyrights"

<u>Title, Author (Edition) (Registration Date) (Registration Number)</u>
1. Accounting Information Systems, Romney (11 th Edition) (March 24, 2008) (TX0006996489)
2. Advanced Accounting, Beams (10 th Edition) (October 22, 2008) (TX0006899994)
3. Auditing and Assurance Services: An Integrated Approach, Arens (12 th Edition) (April 13, 2007) (TX0006548957)
4. Cost Accounting : A Managerial Emphasis, Horngren (12 th Edition) (January 13, 2006) (TX0006311827)
5. Cost Accounting : A Managerial Emphasis, Horngren (13 th Edition) (May 1, 2008) (TX0007005297)
6. Fundamentals of Differential Equations and Boundary Value Problems, Nagle (5 th Edition) (April 15, 2010) (TX0007165366)
7. Mathematics with Applications, Lial (9 th Edition) (July 18, 2006) (TX0006408398)
8. Mechanics of Materials, Hibbeler (6 th Edition) (January 17, 2006) (TX0006288609)
9. Physics: Principles with Applications, Giancoli (6 th Edition) (July 29, 2010) (TX0007222667)
10. Probability & Statistics for Engineers & Scientists, Walpole (8 th Edition) (March 5, 2008) (TX0006845863)
11. Structural Analysis, Hibbeler (7 th Edition) (August 4, 2008) (TX0006862634)

Schedule B
"Wiley Copyrights"

Title, Author (Edition) (Registration Date) (Registration Number)

1. Accounting Principles, Jerry Weygandt (8th Edition) (December 20, 2007) (TX0006954905)
2. Advanced Engineering Mathematics, Erwin Kreyszig (9th Edition) (December 19, 2005) (TX0006287796)
3. Calculus: Early Transcendentals: Single Variable, Howard Anton (8th Edition) (March 23, 2005) (TX0006139880)
4. Calculus: Multivariable, William McCallum (4th Edition) (February 7, 2005) (TX0006128114)
5. Elementary Linear Algebra, Howard Anton (9th Edition) (February 24, 2005) (TX0006173767)
6. Engineering Fluid Mechanics, Clayton Crowe (7th Edition) (January 2, 2001) (TX0005327699)
7. Fundamentals of Engineering Thermodynamics, Michael Moran (5th Edition) (August 1, 2003) (TX0005809993)
8. Fundamentals of Physics: Instructor's Solutions Manual Volume 1, David Halliday (7th Edition) (January 21, 2005) (TX0006101287)
9. Fundamentals of Physics: Instructor's Solutions Manual Volume 2, David Halliday (7th Edition) (January 21, 2005) (TX0006101286)
10. Fundamentals of Thermodynamics, Claus Borgnakke (6th Edition) (November 12, 2002) (TX0005612550)
11. Intermediate Accounting, Donald Kieso (12th Edition) (August 3, 2006) (TX0006408031)
12. Introduction to Electric Circuits, Richard Dorf (7th Edition) (April 20, 2006) (TX0006348154)

Schedule C
"McGraw-Hill Copyrights"

Title, Author (Edition) (Registration Date) (Registration Number)

1. Fluid Mechanics, Cengel (1st Edition) (February 8, 2005)
(TX0006164685)
2. Managerial Accounting, Garrison (12th Edition) (July 9, 2010)
(TX0007221129)
3. Organic Chemistry, Carey (4th Edition) (February 2, 2000)
(TX0005151331)
4. Thermodynamics An Engineering Approach, Cengel (6th Edition)
(September 13, 2010) (TX0007255710)
5. Advanced Accounting, Hoyle/Schaefer/Doupnik (9th Edition)
(May 27, 2009) (TX0006976421)