

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

MARENEM, INC.

PLAINTIFF

vs.

Case No. _____

SPRINGDALE PUBLIC SCHOOLS
and JOHN DOES 1-10

DEFENDANTS

COMPLAINT

Plaintiff, Marenem, Inc. (“Marenem”), files this complaint (the “Complaint”) in commencement of a copyright infringement action against defendants, Springdale Public Schools (a/k/a Springdale School District and/or Springdale School District No. 50) (“Springdale”) and John Does 1-10 (collectively, “Defendants”), and alleges as follows:

INTRODUCTION

1. This case presents an example of truly egregious copyright infringement that, upon information and belief, has continued for years before and after discovery. As described in further detail herein, Defendants have repeatedly violated Marenem’s rights not only by creating infringing copies of Marenem’s protected works without Marenem’s permission, but by also making these infringing copies ***publicly available*** on the Internet through at least 11 YouTube videos on Springdale’s YouTube Channel as well as in physical copies provided to teachers within Springdale and others.

2. As alleged in further detail herein, Marenem is the creator (and current owner of all applicable and federally registered copyrights and trademarks) of a neuroscience-based approach to teaching phonics. Marenem’s approach relies on two core materials that work hand-in-hand with one another: the SECRET STORIES book, which contains short mnemonic stories that explain the sounds letters make when they get together, and SECRET STORIES posters, which

consists of embedded mnemonic sound graphics to help kids to visually reference phonics sounds and spellings for independent reading and spelling. The embedded sound graphics, which also appear throughout the SECRET STORIES book as well as in other independent formats for students to visually reference (i.e., flashcards and trifolds). The embedded sound graphics consist of 37 mnemonic images that personify/anthropomorphize the phonics patterns and their sounds. To illustrate, a teacher or parent will teach a phonics pattern and sound using a SECRET STORIES phonics story (which is compiled in a book) to a student/child, who can then reference the corresponding sound graphic to help them recall the sound/s (for reading) and/or the spelling pattern/s (for writing).

3. Marenem's SECRET STORIES book and sound graphics are protected by several valid, federally registered copyrights as well as its federally registered SECRET STORIES trademark (among others). Indeed, Marenem's SECRET STORIES book was first published in 2001 in *Secret Stories Cracking the Reading Code!* and, that same year, registered with the United States Copyright Office (the "Copyright Office"). The SECRET STORIES trademark was first used in connection with "books, posters, and desk references in the field of reading instruction" in 2002 and was thereafter registered with the United States Patent and Trademark Office (the "USPTO") in 2007.

4. Nonetheless, it appears that since at least 2020, Springdale – a public school district that had been a customer of Marenem's since 2013 – was participating in, encouraging, and permitting an ongoing pattern and practice of infringing Marenem's intellectual property rights by copying the materials from one of Marenem's kits (likely a Space Saver Classroom Phonics Kit that sells for \$92.50 plus shipping and handling). This pattern and practice of infringement manifested itself in a series of YouTube videos that involve three teachers from one of Springdale's

elementary schools displaying and using infringing copies of Marenem's SECRET STORIES book and graphic posters, and which videos were uploaded on Springdale's publicly accessible YouTube account.

5. As discussed below, in the summer of 2021, Marenem became aware, by happenstance, of these videos – *which were made publicly accessible*. Upon information and belief, this improper copying, use, and public dissemination cannot, and did not, serve any purpose other than to provide easy and unauthorized public access to Marenem's protected works. Worse yet, the unlawful copying improperly diminished the market for Marenem's works. Such alteration, reproduction, and dissemination has, among other things, negated the need for Springdale employees, parents of students, and others to purchase additional materials from Marenem and usurped Marenem's exclusive right to exploit its own products. Although Marenem has, on multiple occasions, attempted to informally and amicably resolve this matter without the need for litigation, Marenem's efforts and offers were largely ignored and/or rebuffed. Marenem was left with no option other than to commence this lawsuit.

6. Unfortunately, what Marenem has thus far discovered is likely only (risking a colloquialism) the "tip of the iceberg." Indeed, since this time there have continued to be many suspicious orders from schools in Springdale. Consequently, through this action, Marenem seeks a permanent injunction against all Defendants and damages, including, without limitation, reasonable attorneys' fees and costs, incurred as a result of Defendants' actions, and judgment that, among other things, Defendants engaged in direct and indirect copyright infringement in violation of the Copyright Act, 17 U.S.C. § 501, *et seq.* and violations of the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. § 1201, *et seq.*

THE PARTIES

7. Marenem is a North Carolina corporation that maintains a place of business at 928 Woodvine Road, Asheville, North Carolina.

8. Upon information and belief, Springdale is a public school district located in Springdale, Arkansas that includes, upon further information and belief, about 18 elementary schools, and maintains a place of business at 804 West Johnson Avenue, Springdale, Arkansas 72765. Upon further information and belief, these 18 elementary schools are: (1) Bayyari Elementary School; (2) Bernice Young Elementary School; (3) Elmdale Elementary School; (4) George Elementary School; (5) Harp Elementary School; (6) Hunt Elementary School; (7) John Tyson Elementary School; (8) Jones Elementary School; (9) The Jim D. Rollins Elementary School of Innovation; (10) Linda Childers Knapp Elementary School; (11) Monitor Elementary School; (12) Parson Hills Elementary School; (13) Willis D. Shaw Elementary School; (14) Sonora Elementary School; (15) Thurman G. Smith Elementary School; (16) Walter Turnbow Elementary School; (17) Walker Elementary School; and (18) Westwood Elementary School.

9. Upon further information and belief, the Superintendent of the Springdale is Dr. Jared Cleveland and the Springdale District School Board Members for 2022-2023 are Randy Hutchinson, Nick Emerson, Debbie Creek, Michelle Cook, Clinton Bell, Kevin Ownbey, and Eddie Ramos.

10. Upon information and belief, John Does 1-10 are, together with their respective heirs, devisees, personal representatives, and successors in right, title and interest, fictitious designations for any and all individuals who engaged in any of the actions complained of herein, and whose names and addresses are currently unknown to Marenem.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over the claims set forth in this Complaint pursuant to 28 U.S.C. § 1331 (federal subject matter jurisdiction) and 28 U.S.C. § 1338 (copyright actions). There is also a diversity of citizenship among all the parties.

12. This Court can exercise personal jurisdiction over Springdale as it maintains a place of business and conducts activities within the State of Arkansas.

13. Venue in this action lies within this Court pursuant to 28 U.S.C. § 1391 and 28 U.S.C. § 1400(a) because (upon information and belief) each Defendant likely resides and/or maintains a principal place of business within this judicial district. Venue is also proper under 28 U.S.C. § 1391(b)(2) because all or a substantial part of the events, acts or omissions giving rise to the claims, including acts of infringement, occurred in this judicial district in which Defendant is subject to personal jurisdiction.

FACTUAL BACKGROUND COMMON TO ALL COUNTS

Marenem Pioneers Products To Assist With Phonetics And Reading

14. Marenem was founded by Katherine Garner (hereinafter, “Mrs. Garner”), a former elementary school teacher, and her husband, Richard Garner (hereinafter, “Mr. Garner”). Mr. Garner is currently, and was at all relevant times, Marenem’s President. Mrs. Garner is the author and creator of Marenem’s SECRET STORIES book and program materials.

15. Mrs. Garner is an education author and international keynote speaker at educational conferences, and also provides professional development services for schools, districts, and states through in-person and virtual lectures, presentations, and/or participation on various panels and online via her blog, YouTube channel, and Facebook group with almost 100,000 followers.

16. Of relevance to this lawsuit, Marenem created a phonics program that utilizes a unique neuroscience based approach to reading and phonics and that can be used in connection with, and integrated into, any reading or phonics program at any grade level.

17. Marenem's program relies on two core, interrelated materials that must be used in concert with one another for the program to be a success: Marenem's SECRET STORIES book (which contains short mnemonic stories that explain the sounds letters make when they get together compiled along with information on how to use them into a book) and sound graphics that relate to each SECRET STORIES mnemonic short story (images which are set forth, individually, on posters of various sizes and/or all together on easy-reference portable trifold).

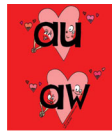
18. As previously stated, the stories set forth in SECRET STORIES book help to explain the sounds letters make in various phonics patterns and, with the use of sound graphics, help children remember the sounds/spellings for independent reading and writing.

19. Unlike other story-based phonics programs, the stories set forth in the SECRET STORIES book are rooted in social schemas that align with what children already know, which makes the stories easy to learn and remember for beginning and struggling learners alike.

20. The related embedded mnemonic sound graphics are intended to assist students with recalling specific phonics patterns and their sounds. As such, the intended use of the sound graphics is in connection with a specific short story from the SECRET STORIES book (*i.e.*, a student can refer to a sound graphic to trigger recall of the SECRET STORIES phonics pattern or its sound/sounds).

21. As an example, one of Marenem's stories from the SECRET STORIES book, the "AU/AW" SECRET STORIES short story is aimed at explaining the phonics sound made by the grouping of "au" and "aw." As generally described in the SECRET STORIES short story, the

letters are “in love” and have a “crush” on one another. As such, “whenever they have to stand right next to each other in a word, they get so embarrassed that they look downward and say very shyly, “*aahhhhhhh!*” The story-specific and related letter sound graphic (below) endeavors to further solidify this connection and sound.



22. These materials are offered for sale by Marenem in various formats. For instance, all of Marenem’s short mnemonic stories and related sound graphics are set forth in the book *Secret Stories Cracking the Reading Code with the Brain in Mind!*. To discourage copying and protect its intellectual property, the SECRET STORIES book (and the embedded sound graphics in each Story¹) are on red paper.

23. A consumer may also purchase a set of flashcards that contain a “partial” or abridged version of a single mnemonic short story on one side and the related sound graphic on the other.

24. Marenem’s sound graphics are also offered for sale in various size formats for student reference. To name a few, a set of the sound graphics can be purchased in poster format (12 x 18 or 12 x 12), on smaller sized placards (8.5 x 11), the above-referenced flashcards (6 x 6), and the tri-fold, which is the only format in which all of the phonics sound graphics are contained on one visual trifold placard.

25. Marenem’s SECRET STORIES book and sound graphics can also be purchased through various kits, one of which is the Space-Saver Square Kit with Brain Based Phonics Posters.

¹ In addition to each mnemonic short story having an embedded sound graphic, all of the sound graphics are also included in the back of the compilation book in a cut-away format.

This kit includes the SECRET STORIES book as well as songs and 10 x 10 phonics posters, which are square and have a thin, straight-edge yellow border around a red background. An image of the current iteration of these posters (which are now square instead of the rectangular shape used in 2015) are below:



26. Until the summer of 2021, this kit included rectangular posters.

27. Marenem's sound graphics and SECRET STORIES book are protected by common law and federal statute by virtue of Marenem's federal registrations.

Marenem's Copyrights and Trademarks

28. On April 27, 2001, *Secret Stories – Going Beyond the Alphabet*, the first book in which all of the mnemonic short stories were compiled, was registered with the Copyright Office. The work was described as methods or techniques for phonics instructions involving dramatic stories, including text and illustrations. A copy of this registration (No. TXu 1-017-290) is appended hereto as **Exhibit “A.”**

29. On March 1, 2002, the SECRET STORIES book was republished under a new title, *Secret Stories – Cracking the Record Code!*, including, among other things, new and revised text and original illustrations.

30. *Secret Stories – Cracking the Record Code!* was registered with the Copyright Office on April 8, 2002. A copy of this registration (No. PA 1-126-222) is appended hereto as **Exhibit “B.”**

31. Thereafter, title to the works and associated copyrights were transferred to Marenem pursuant to a written agreement.

32. On January 17, 2006, Marenem filed with the USPTO an application for registration of its SECRET STORIES trademark in connection with “books, posters, and desk references in the field of reading instruction.” The SECRET STORIES trademark registered with the USPTO on January 16, 2007.

33. On January 22, 2008, a revised version of Marenem’s book, *Secret Stories – Cracking the Record Code!*, was published that included new artwork and text. The compilation of the text, illustrations, editing, and artwork was registered with the Copyright Office on October 2, 2012. A copy of this registration (No. TX-7-639-485) is appended hereto as **Exhibit “C.”**

34. Also, on October 2, 2012, Marenem received a copyright registration from the Copyright Office specifically for the revised sound graphics (and compilation thereof) contained in posters offered along with its *Secret Stories – Cracking the Record Code!* phonics book (which were also first published on January 22, 2008). A copy of this registration (No. TX-7-615-546) is appended hereto as **Exhibit “D.”**

35. On August 1, 2013, Marenem published a revised version of its book, now titled *Secret Stories – Cracking the Record Code with the Brain in Mind!*, that included, among other things, additional sound graphics.

36. On December 1, 2015 and December 1, 2016, Marenem published additional revisions (text and compilation) to certain mnemonic short stories in its *Secret Stories Cracking the Reading Code with the Brain in Mind!* phonics book, including: (1) *SECRET STORIES MOMMY E Phonics Secret!* (2) *SECRET STORIES BABYSITTER VOWELS Phonics Secret!*, (3)

SECRET STORIES SNEAKY Y Phonics Secret!, and (4) *SECRET STORIES SUPERHERO VOWELS Phonics Secret*.

37. These works were registered with the Copyright Office on December 13, 2016. Copies of those copyright registrations (Nos. TX 8-522-366, TX 8-522-360, TX 8-522-356, and TX 8-522-297) are appended hereto as **Exhibits “E,” “F,” “G,” and “H,”** respectively.

38. Marenem also registered its trademarks “MOMMY E,” “SUPERHERO VOWELS,” “SNEAKY Y,” and “BABYSITTER VOWELS” with the USPTO for use in connection with printed education material in the field of phonics.

39. On December 13, 2016, Marenem registered its copyright for additional sound graphics, text, and the overall revised compilation, both in connection with the book and posters. A copy of those registrations (Nos. TX 8-522-293 & TX 8-522-318) are appended hereto as **Exhibits “I” and “J.”**

40. For ease of reference, Marenem’s aforementioned works, all of which are protected by both common law and federal statute by virtue of Marenem’s federal registrations, shall be referred to collectively herein as the “Copyrighted Works.”

41. Marenem undertakes significant efforts to protect its intellectual property rights, including, without limitation, utilizing a hard to copy red background and borders, embedded copyright management information (hereinafter, “CMI”),² and repeatedly searching the Internet using certain key words to see if its materials are being made publicly available and/or replicated without its consent and, when necessary, commencing lawsuits to protect its rights.

² 17 U.S.C. § 1202(c)(1) defines CMI as, among other things, the “information set forth in a notice of copyright.”

Springdale Begins and/or Otherwise Encourages a Campaign of Copying

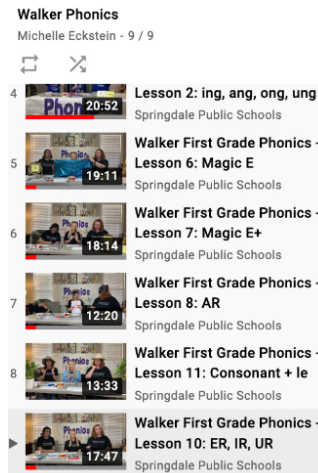
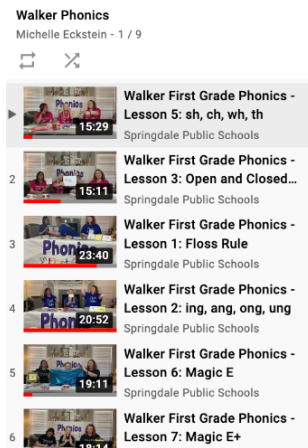
42. Springdale was formerly a customer of Marenem.

43. Before 2020/2021, Marenem would receive discrete orders from certain teachers and/or schools in Springdale. However, beginning in 2020/2021, upon information and belief, Arkansas adopted the science of reading/phonics approach to teaching reading and phonics, which initiative brought awareness to Marenem's products and Copyrighted Works and brought them to the forefront of the district's curriculum.

44. Toward the end of the summer of 2021, during one of her standard Internet searches, Mrs. Garner uncovered something shocking—first grade teachers³ from Walker Elementary School were making and using illegal copies of Marenem's sound graphics posters and SECRET STORIES book.

45. These illegal copies were being (and may still be) used and disseminated to students and parents at Springdale, as well as to the general public, through YouTube videos hosted on Springdale's account. Screenshots of some of these videos, all of which prominently feature infringing copies of Marenem's sound graphics posters and mnemonic short stories from the SECRET STORIES book, are below.

³ Discovery is needed to ascertain the identities of the teachers and staff using and/or making infringing copies of Marenem's Copyrighted Works.



46. For illustrative purposes, infringing copies are apparent in a YouTube video uploaded on April 28, 2020 titled “Walker First Grade Phonics – Lesson 5: sh, ch, wh, th” that had 250 views as of July 13, 2021.

47. Specifically, the video features three (upon information and belief) Walker Elementary School teachers, each of whom appear to have infringing copies of both Marenem’s SECRET book pages and sound graphic posters from its Space Saver kit on display or in front of them.

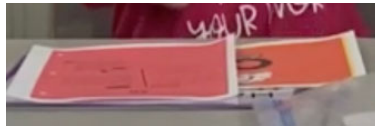
48. Upon information and belief, at that time neither those individuals nor Walker Elementary School had purchased any of Marenem’s products within the last year. The most recent purchase was two Space Saver Kits and eight flashcard sets in 2018.

49. Moreover, and setting aside that the videos themselves constitute acts of infringement, the copies caught on video that the teachers are using appear to be unauthorized copies of Marenem’s Copyrighted Works.

50. Using the sound graphics as an example, while Marenem’s sounds graphic and SECRET STORIES books all are produced on red paper and contain a yellow border, the copies in the video are clearly reproduced images of Marenem’s works on white photocopy paper. This

is evidenced by the fact that the red background and yellow border that typically outlines the sound graphic do not span the complete length and width of the copy, as they would in a lawful copy, but stop short causing a white border spanning the edge of the image to the edge of the paper.

51. The same is true of copies of the pages of the SECRET STORIES book, which are predominately featured in the videos as well, as demonstrated by the below screenshot from the videos.



52. A screenshot of a moment in one of these videos in which multiple copies of Marenem's sound graphics are visible is reproduced below.



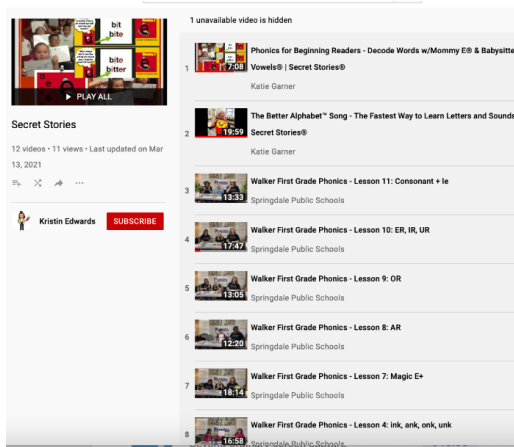
53. Similarly, the “Walker First Grade Phonics – Lesson 2: ing, ang, ong, ung” video, which was viewed 1,148 times as of July 13, 2021, likewise features infringing copies of both Marenem's book pages and sound graphics posters. A screenshot of a particular moment in the video is below.



54. By way of a further example, in the “Walker First Grade Phonics - Lesson 10: ER, IR, UR,” which was viewed 286 times as of July 13, 2021, teachers display infringing copies of Marenem’s SECRET STORIES book pages. A screenshot of this is below:



55. At least one YouTube video playlists, such as one updated on March 13, 2021, even include lawful videos from Ms. Garner’s account along with at least 11 lesson videos uploaded under the Springdale account, as is apparent from the below.



56. Upon information and belief, infringing copies of Marenem’s protected works (e.g., SECRET STORIES book and sound graphics posters) were also located in classrooms within Springdale and, in particular, Walker Elementary School, and is suspected to be in other elementary schools and/or accessible throughout the school district by at least a cloud storage service or file sharing program.

57. Indeed, since 2019, there have been a number of singular one-off purchases made on behalf of schools within Springdale that are highly suspicious, such as purchases of one kit for use in a school with numerous classrooms.

58. Upon further information and belief, infringing copies of the sound graphics posters and the SECRET STORIES book made into binders resembling workbooks were also observed in Walker Elementary School.

59. As a result of the foregoing, teachers within Springdale as well as parents of students, can avoid, and likely did avoid, purchasing Marenem's products or otherwise paying for their use of Marenem's intellectual property for the foreseeable future.

60. Upon information and belief, the copying was intentional, reckless, grossly negligent, and/or negligent and had the effect of decreasing Marenem's potential market, brand awareness, goodwill, control over its intellectual property, and sales.

61. Upon information and belief, this copying, use, and dissemination, was done with the knowledge, support, encouragement, and/or assistance of superintendents and other supervisors within Springdale.

62. Since these discoveries (and, as described below, even after a cease and desist letter was sent), additional improper copies of the Marenem's sound graphics and likely exist in other Springdale elementary schools.

63. Indeed, upon information and belief, additional infringing copies of Marenem's protected works exist and/or existed on Springdale's district-wide cloud storage service or another file sharing program and may have been even shared outside of Springdale.

64. None of the YouTube videos appear to display or refer to Marenem's CMI.

Springdale Refuses To Stop The Infringement

65. Upon uncovering this pervasive and significant infringement of Marenem's Copyrighted Works, both Ms. Garner and Mr. Garner, on behalf of Marenem, attempted to contact Springdale to address the issue and resolve the matter without the need of a lawsuit.

66. These efforts included, without limitation, a call to Walker Elementary School's Principal (Ms. Lynn Ryan) on August 3, 2021 to obtain information about the unauthorized copying.

67. Specifically, during this August 3, 2021 call, Mr. Garner alerted Ms. Ryan to the issue and requested information about the copying, including, without limitation, an inventory of the digital and hard copy files, among other information. The information was requested so that Marenem could protect its intellectual property rights.

68. This was memorialized in an August 3, 2021 follow-up email from Mr. Garner to Ms. Ryan. Ms. Ryan did not respond.

69. Thereafter, follow-up calls were made to other professionals in Springdale, which were ultimately returned by its General Counsel, Ms. Kendra Clay.

70. Ms. Garner spoke with Ms. Clay three additional times on the phone and exchanged email communications with her.

71. Springdale took an adversarial approach and remained unwilling to otherwise resolve this dispute without resorting to a lawsuit.

72. Springdale even initially took the untenable position that copies of the sound graphics posters were only made so that teachers could see them better notwithstanding the fact that the copies appear smaller than the originals.

73. Springdale has also, upon information and belief, advised all teachers that they could not purchase Marenem products, which instruction resulted in at least one teacher from Sonora Elementary School canceling her order with Marenem for 15 SECRET STORIES classroom packs on August 14, 2021.

74. As Ms. Clay did not contact Marenem further, on December 9, 2021, Ms. Clay was served via email with a legal hold notice. Ms. Clay again did not respond. Accordingly, hearing nothing further from Springdale despite having now provided its counsel's contact information and given the existence of further suspicious orders from schools within Springdale, Marenem was left with no choice but to commence this lawsuit.

FIRST COUNT
Copyright Infringement under the Copyright Act § 101 *et seq.* (17 U.S.C. § 501 *et seq.*)
Against All Defendants

75. Marenem alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

76. Marenem is the sole owner of all right, title and interest to the Copyrighted Works (i.e., the SECRET STORIES book and the embedded sound graphics) and of all corresponding copyrights and certificates of registration.

77. As a copyright holder pertaining to the Copyrighted Works, Marenem has the exclusive right, subject to certain limitations, to reproduce the work, prepare derivative works, and distribute copies of the work. 17 U.S.C. § 106(1)-(6). "Anyone who violates any of the exclusive rights of the copyright owner...is an infringer of the copyright." 17 U.S.C. § 501(a).

78. The Copyrighted Works consist of material original to Marenem and each is copyrightable subject matter.

79. Upon information and belief, Springdale (through its teacher agents) and John Does 1-10 have access to and reproduced, distributed, adapted, and/or publicly displayed one or more

copies of Marenem's Copyrighted Works without Marenem's approval or authorization, in violation of Marenem's copyrights.

80. It is likely that this behavior extends beyond Walker Elementary School and after 2020 given the purchase orders of schools and teachers within Springdale.

81. Specifically, it appears that teachers at Springdale copied Marenem's SECRET STORIES book and sound graphics posters and further reproduced and used them in publicly accessible YouTube videos.

82. In addition, and upon information and belief, infringing copies of Marenem's SECRET STORIES book and sound graphics posters were observed in elementary classrooms within Springdale.

83. The infringing copies are, upon information and belief, identical to Marenem's SECRET STORIES book and sound graphics posters, with the only appreciable differences being that the red-colored book pages with the stories and the red-colored sound graphics posters were copied on white copy paper, which resulted in a thin white boarder around each copy.

84. These infringing copies were made publicly accessible to the general public via YouTube videos and, upon information and belief, were distributed to other teachers, parents, and students.

85. Upon further information and belief, Springdale gained access to the SECRET STORIES book and sound graphics through properly made purchases, which individuals within Springdale, including, without limitation, the teachers in the videos, made unauthorized copies of and disseminated same.

86. In sum, and upon information and belief, Springdale (through agents) and John Does 1-10 incorporated identical copies of Marenem's Copyrighted Works into other works, such

as educational materials for their classrooms, without Marenem's approval or authorization, in violation of Marenem's copyrights.

87. Thus, Springdale (through agents) and John Does 1-10 copied, distributed, reproduced, adapted, made derivative works of, publicly displayed, and otherwise exploited one or more of Marenem's Copyrighted Works without the consent or authority of Marenem, thereby directly infringing the Copyrighted Works.

88. Springdale and John Does 1-10's conduct therefore constitutes infringement of the Copyrighted Works and exclusive rights under copyright in violation of 17 U.S.C. § 501, *et seq.*

89. The infringement of each of the Copyrighted Works constitutes separate and distinct acts of infringement.

90. The acts of infringement by Springdale (through agents) and John Does 1-10 have been negligently and/or grossly negligently performed or were willful, intentional, purposeful, and/or in reckless disregard of and with indifference Marenem's right.

91. As a direct and proximate result of the Springdale and John Does 1-10's actions, Marenem has suffered, and continues to suffer, damages.

92. Pursuant to 17 U.S.C. § 504(b), Marenem is entitled to recover its actual damages and all profits that Springdale and John Does 1-10 have made as a result of their wrongful conduct.

93. Alternatively, pursuant to 17 U.S.C. § 504(c), Marenem is entitled to statutory damages between \$750 and \$30,000 per infringed work, and up to \$150,000 per infringed work from Springdale and John Does 1-10 as a result of their actionable conduct.

94. Pursuant to 17 U.S.C. § 505, Marenem requests an award of its full attorneys' fees and costs Springdale and John Does 1-10.

95. Marenem is further entitled to injunctive relief against Springdale and John Does 1-10 and the entry of an Order compelling the impounding of all infringing materials. Marenem has no adequate remedy at law for their wrongful conduct because, among other things: (a) Marenem's copyrights are unique and valuable property that have no readily determinable market value; (b) their infringement harms Marenem such that Marenem could not be made whole by any monetary award; and (c) their wrongful conduct, and the resulting harm to Marenem, is continuing.

SECOND COUNT

Vicarious Copyright Infringement (17 U.S.C. § 501 *et seq.*) Against Defendants

96. Marenem alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

97. Springdale had the right and ability to control the infringing acts of its teachers and administrators (e.g., its agents) who directly infringed Marenem's Copyrighted Works.

98. As alleged above, Springdale's teachers, including, without limitation, teachers currently or former employed at Walker Elementary School who appeared on the YouTube videos, engaged in direct copyright infringement.

99. As these employees made and shared unauthorized copies of Marenem's materials, Springdale was able to use the materials without paying for additional copies and to significantly reduce its purchases from Marenem.

100. Moreover, Springdale did not exercise its right to stop the infringing conduct of its employees.

101. When notified about the infringement, Springdale denied any copying, claiming, instead, that all the copies appearing on the April 2020 YouTube videos were from two purchases made in 2018 and Springdale's use of Marenem's Copyrighted Works. In short, Springdale has admitted to copying Marenem's Copyrighted Works.

102. Springdale represented that the YouTube videos were removed from the publicly accessible website but offered no further comment on whether the YouTube videos were destroyed or stored, whether they were accessible in another format or another way, whether Springdale employees and/or students could still access the videos, and whether any instruction had been given regarding the blatant copying, among other things.

103. Springdale's only firm action appears to have been to prevent any employee of Springdale from purchasing any legal copies of Marenem's products.

104. The acts of infringement by Springdale and John Does 1-10 have been willful, intentional, and/or purposeful, as well as in reckless disregard of, and with indifference to, Marenem's rights.

105. As a direct and proximate result of Springdale and John Does 1-10's actions, Marenem has suffered, and continue to suffer damages.

106. Pursuant to 17 U.S.C. § 504(b), Marenem is entitled to recover its actual damages and all profits Springdale and John Does 1-10 (in their individual capacities) have made as a result of its wrongful conduct.

107. Alternatively, pursuant to 17 U.S.C. § 504(c), Marenem is entitled to statutory damages between \$750 and \$30,000 per infringed work, and up to \$150,000 per infringed work as a result of Springdale and John Does 1-10's willful and/or intentional conduct.

108. Pursuant to 17 U.S.C. § 505, Marenem requests an award of its full attorneys' fees and costs.

109. Marenem is further entitled to injunctive relief and the entry of an Order compelling the impounding of all infringing materials.

110. Indeed, Marenem has no adequate remedy at law for Springdale and John Does 1-10's wrongful conduct because, among other things: (a) Marenem's copyrights are unique and valuable property that have no readily determinable market value; (b) Marenem's infringement harms Marenem such that Marenem could not be made whole by any monetary award; and (c) Marenem's wrongful conduct, and the resulting harm to Marenem, is continuing.

THIRD COUNT

Contributory Copyright Infringement (17 U.S.C. § 501 *et seq.*) Against Defendants

111. Marenem alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

112. Numerous individuals and entities have and are directly infringing Marenem's Copyrighted Works, including, without limitation, the viewers of the Springdale's YouTube videos, unnamed teachers and administrators, parents, and countless other educational institutions.

113. Based on the aforesaid conduct, Springdale and John Does 1-10 induced, caused, and materially contributed to the infringing acts of others by encouraging, inducing, allowing, and/or assisting others (both within the district and within countless other school districts and educational institutions) to unlawfully reproduce and/or distribute Marenem's Copyrighted Works.

114. For example, all three teachers made copies of Marenem's Copyrighted Works available to faculty members, teachers, and others at Springdale, including, without limitation, Walker Elementary School, for copying through the YouTube videos.

115. Upon further information and belief, in making the material available, Springdale and/or John Does 1-10 intended to induce and/or materially contribute to the creation of infringing copies within Springdale and provided access to parents of students and other faculty members (as well as the world at large through the Internet) to use the infringing copy and/or create additional infringing copies of the protected works.

116. The acts and conduct of all of the foregoing Defendants, as alleged above, constitute contributory copyright infringement.

117. These acts of infringement have been grossly negligent and/or negligent or otherwise willful, intentional, purposeful, in reckless disregard of and with indifference to Marenem's rights.

118. As a direct and proximate result of these actions, Marenem has suffered, and continues to suffer, damages.

119. Pursuant to 17 U.S.C. § 504(b), Marenem is entitled to recover its actual damages and all profits, if any, made as a result of the foregoing wrongful conduct.

120. Alternatively, pursuant to 17 U.S.C. § 504(c), Marenem is entitled to statutory damages between \$750 and \$30,000 per infringed work, and up to \$150,000 per infringed work as a result of the foregoing willful, reckless, and/or intentional conduct.

121. Pursuant to 17 U.S.C. § 505, Marenem requests an award of its full attorneys' fees and costs.

122. Marenem is further entitled to injunctive relief and the entry of an Order compelling the impounding of all infringing materials.

123. Indeed, Marenem has no adequate remedy at law for the complained-of wrongful conduct because, among other things: (a) Marenem's copyrights are unique and valuable property that have no readily determinable market value; (b) the infringement harms Marenem such that Marenem could not be made whole by any monetary award; and (c) the wrongful conduct, and the resulting harm to Marenem, is continuing.

FOURTH COUNT

Violation of DMCA § 1202(b) (17 U.S.C. § 1201 *et seq.*) Against All Defendants

124. Marenem alleges and hereby incorporates by reference each and every allegation made in the foregoing paragraphs of this Complaint as if each were separately set forth herein.

125. 17 U.S.C. § 1202(b) prohibits any person without the authority of the copyright holder from intentionally removing or altering CMI, distributing copies of works knowing that CMI has been removed, altered, or having reasonable grounds to believe that the removal will induce, enable, or conceal copyright infringement.

126. Marenem's CMI is apparent on its Copyrighted Works.

127. An authorized agent of Springdale uploaded at least 11 YouTube videos containing and reproducing Marenem's Copyrighted Works without Marenem's permission and without identifying its CMI. These videos involved and were led by the teachers presumably employed at Walker Elementary School in Springdale.

128. Furthermore, the videos evidence and predominately display the existence of further copies of Marenem's Copyrighted Works and, on none of those copies, is Marenem's CMI apparent. Instead, the videos are titled "Walker Phonics" and uploaded on Springdale's YouTube account.

129. Springdale and John Does 1-10 violated § 1202(b) when they (upon information and belief) incorporated Marenem's Copyrighted Works, without Marenem's permission, into online videos.

130. Springdale and John Does 1-10 also violated § 1202(b) when they made and distributed the YouTube videos knowing, upon information and belief, that in doing so they were altering CMI and/or having reasonable grounds to believe that they would be inducing, enabling, or concealing copyright infringement.

131. Upon information and belief, such intentional, reckless, and/or negligent conduct did in fact result in direct infringement of Marenem's intellectual property rights by (upon information and belief) countless other schools within Springdale, parents, students, faculty members, and others within the State of Arkansas and elsewhere.

132. Springdale and John Does 1-10's conduct has been intentionally, recklessly, and/or negligently done with full knowledge of Marenem's copyright ownership and in conscious disregard of Marenem's rights.

133. As a direct and proximate result of Springdale and John Does 1-10's actions, Marenem has suffered, and continues to suffer damages.

134. Pursuant to the DMCA § 1203(c)(3), Marenem is entitled to its actual damages resulting from Springdale and John Does 1-10's DMCA violations, together with the profits it earned not already taken into account.

135. Alternatively, pursuant to the DMCA § 1203(c)(3)(B), Marenem is entitled to statutory damages in the between \$2,500 and \$25,000 for Springdale and John Does 1-10's willful violations of the DMCA.

136. Pursuant to the DMCA § 1203(b)(5), Marenem requests an award of its full attorneys' fees and costs.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Marenem Inc., prays that defendants, Springdale Public Schools (a/k/a Springdale School District and/or Springdale School District No. 50) and John Does 1-10, be cited to appear and answer and that after a hearing, the Court grant the following relief:

137. The entry of a judgment in its favor on all counts of the Complaint;

138. The entry of an Order the impoundment pursuant to 17 U.S.C. §§ 503 and 509(a) of all infringing copies of all Copyrighted Works;

139. The issuance a permanent injunction enjoining Defendants and all of their officers, agents, servants, employees, users, if any, and attorneys, and all those persons in active concert or participation with Springdale from the acts described in this Complaint pursuant to 17 U.S.C. § 502 and 15 U.S.C. § 1116;

140. The entry of an Order that Defendants provide an accounting of all financial gain related to their infringement of the Copyrighted Works in accordance with 17 U.S.C. § 504(b);

141. The entry of judgment against Defendants and in favor of Marenem for Marenem's actual damages and any profits under the Copyright Act (17 U.S.C. § 504(b)), or alternatively, for statutory damages under § 504(c);

142. The entry of judgment against Defendants for statutory damages under the DMCA (17 U.S.C. § 1203(c)(3));

143. The entry of an Order, in accordance with 17 U.S.C. § 505, and 17 U.S.C. § 1203(b)(5), awarding Marenem its reasonable attorneys' fees, costs, and expenses of this action;

144. The entry of an Order directing the replevy of Marenem's property as described above;

145. The entry of pre-judgment and post-judgment interest as provided by law against Defendants in connection with any damages award; and

146. Such other and further relief at law or in equity as Marenem may be justly entitled.

JURY DEMAND

Pursuant to Federal Rule of Civil Procedure 38, plaintiff, Marenem, Inc. demands a jury trial on all issues so triable.

Respectfully submitted,

QUATTLEBAUM, GROOMS & TULL PLLC
111 Center Street, Suite 1900
Little Rock, Arkansas 72201
(501) 379-1700
(501) 379-1701 fax
mshannon@qgtlaw.com



By: _____
Michael N. Shannon (92168)

Gary R. Sorden, Esq. (*pro hac vice* application forthcoming)

Elizabeth A. Carbone (*pro hac vice* application forthcoming)

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Telephone: 469-557-9390 / Facsimile: 469-533-1587

E-mail: gsorden@coleschotz.com;

ecarbone@coleschotz.com

Attorneys for Plaintiff, Marenem, Inc.

Dated: April 7, 2023

EXHIBIT A



OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

REGISTER OF COPYRIGHTS
United States of America

FORM TX

For a Nondramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER

TXu 1-017-290



EFFECTIVE DATE OF REGISTRATION

APR 27 2001
Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK

1

Secret Stories - Going Beyond the Alphabet

PREVIOUS OR ALTERNATIVE TITLES

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work

If published in a periodical or serial give: Volume

Number

Issue Date

On Pages

NAME OF AUTHOR

2

Katherine Eleonore Garner

Was this contribution to the work a "work made for hire?"

☐ Yes
☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of *U.S.A.*
Domiciled in

DATE OF BIRTH AND DEATH
Year Born Year Died

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. *text, illustrations*

Methods/Technique for phonics instruction involving dramatic stories

NAME OF AUTHOR

DATE OF BIRTH AND DEATH
Year Born Year Died

Was this contribution to the work a "work made for hire?"

☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of
Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

NAME OF AUTHOR

DATE OF BIRTH AND DEATH
Year Born Year Died

Was this contribution to the work a "work made for hire?"

☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country

OR Citizen of
Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed.

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

1998

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published. Month Day Year

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.

*(56) 795-3239 Katherine Garner
15925 Springhill Ct.
Wellington, FL 33414, USA*

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATION RECEIVED

APR 27 2001

ONE DEPOSIT RECEIVED

APR 27 2001

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions.

• Sign the form at line 8.

DO NOT WRITE HERE

Page 1 of 2 pages

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instruction 1). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "author" of that part, and leave the space for dates of birth and death blank.

See instructions before completing this page.

EXHIBIT B

CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

FORM PA

For a Work of the Performing Arts
UNITED STATES COPYRIGHT OFFICE

PA 1-126-222



FPOB01126222

EFFECTIVE DATE OF REGISTRATION

Marybeth Peters

Apr 08 2002
Month Day Year

REGISTER OF COPYRIGHTS

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

Secret Stories - Cracking the Reading Code!

PREVIOUS OR ALTERNATIVE TITLES ▼

Secret Stories - Cracking the Reading Code!

NATURE OF THIS WORK ▼ See instructions

text, illustrations and musical practice activities for the purpose of phonetic instruction in reading

NAME OF AUTHOR ▼

a Katherine Garner

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼Was this contribution to the work a
"work made for hire?"☒ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of USA

OR Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORKAnonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ NoIf the answer to either
of these questions is
"Yes," see detailed
instructions

NATURE OF AUTHORSHIP

Briefly describe nature of material created by this author in which copyright is claimed. ▼

text and lyrics

NAME OF AUTHOR ▼

b Katherine Garner

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼Was this contribution to the work a
"work made for hire?"☒ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of USA

OR Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORKAnonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ NoIf the answer to either
of these questions is
"Yes," see detailed
instructions

NATURE OF AUTHORSHIP

Briefly describe nature of material created by this author in which copyright is claimed. ▼

artwork

NAME OF AUTHOR ▼

c

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼Was this contribution to the work a
"work made for hire?"☐ Yes☐ No

AUTHOR'S NATIONALITY OR DOMICILE

Name of Country

OR Citizen of

OR Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO
THE WORKAnonymous? ☐ Yes ☐ NoPseudonymous? ☐ Yes ☐ NoIf the answer to either
of these questions is
"Yes," see detailed
instructions

NATURE OF AUTHORSHIP

Briefly describe nature of material created by this author in which copyright is claimed. ▼

YEAR IN WHICH CREATION OF THIS
WORK WAS COMPLETEDThis information
must be given
in all cases.

a 1998

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information
ONLY if this work
has been published.

Month

Day

Year

3 1 02

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as
the author given in space 2. ▼Katherine Garner
15925 Springhill Ct.
Wellington, FL 33414

APPLICATION RECEIVED

OCT 1 2002

ONE DEPOSIT RECEIVED

Apr 08 2002

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in
space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions

• Sign the form at line 9

DO NOT WRITE HERE

EXAMINED BY

FORM PA

CHECKED BY

CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

Yes ☐ No ☐ If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ☐ If your answer is "no," go to space 7.☐ This is the first published edition of a work previously registered in unpublished form.☐ This is the first application submitted by this author as copyright claimant.☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number

Year of Registration

7841-017-290

2001

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

Existing Material Identify any preexisting work or works that this work is based on or incorporates.

some previously registered words, music -
artwork

a

6

See instructions
before completing
this space.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

new and revised text and illustrations and musical
lyrics

b

7

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent.

Name/Address/Apt/City/State/ZIP

Katherine Garner
15925 Spring Hill Ct
Wellington, FL 33414

b

Home and daytime telephone number (561) 795-3239

Fax number

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one

- ☐ author
☐ other copyright claimant
☐ owner of exclusive right(s)
☐ authorized agent of

8

Name of author or other copyright claimant, or owner of exclusive right(s) of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Katherine Garner

Date 9-30-02

Handwritten signature (X)

x

Katherine Garner

Certificate
will be
affixed in
indow
velope
this
address:

Name

Number/Street/Apt

City/State/ZIP

Katherine Garner
15925 Spring Hill Ct.
Wellington, FL 33414

YOU MUST

- Complete all necessary spaces
- Sign your application in space 8

SEND ALL ELEMENTS
IN THE SAME PACKAGE

- Application form
- Nonrefundable filing fee in check or money order payable to Register of Copyrights
- Deposit material

MAIL TO:
Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000As of July 1, 1999,
the filing fee for
Form PA is \$30.

9

7 U.S.C. § 506(e). Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

GPO 2000-200,000

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