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8 *Attorneys for Plaintiff Joseph Sohm*

9 UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

10 JOSEPH SOHM, )

11 Plaintiff, )

12 v. )

13 MCGRAW-HILL GLOBAL EDUCATION )  
14 HOLDINGS, LLC and MCGRAW-HILL )  
15 SCHOOL EDUCATION HOLDINGS, LLC )

16 Defendants. )

Case No. 16-cv-1316

COMPLAINT

DEMAND FOR JURY TRIAL

17  
18 Plaintiff Joseph Sohm, (“Sohm”) for his Complaint against Defendants McGraw-Hill  
19 Global Education Holdings, LLC and McGraw-Hill School Education Holdings, LLC (collectively  
20 “MHE”) alleges:

21 **STATEMENT OF ACTION**

22 1. This is an action for copyright infringement brought by Sohm, the owner of  
23 copyrights to the photographs described hereafter and originally licensed for limited use by MHE,  
24 against MHE for unauthorized uses of his photographs.

25 **PARTIES**

26 2. Joseph Sohm is a professional photographer who licenses photographic images to  
27 publishers, including MHE. He is a resident of Oak View, California.  
28



1 Boston, Inc., and The Image Works (“Agencies”), authorizing them to grant limited licenses for  
2 use of the Photographs to MHE, summarized in Exhibits 2-7 respectively.

3 10. After obtaining the licenses, MHE exceeded the licenses and infringed Sohm’s  
4 copyrights in the Photographs in various ways, including:

- 5 a. printing more copies of the Photographs than authorized;
- 6 b. distributing publications containing the Photographs outside the authorized  
7 distribution area;
- 8 c. publishing the Photographs in electronic, ancillary, or derivative publications  
9 without permission;
- 10 d. publishing the Photographs in international editions and foreign publications  
11 without permission; and/or
- 12 e. publishing the Photographs beyond the specified time limits.

13 11. After obtaining access to the Photographs, MHE also used them without any license  
14 or permission in additional publications that have not yet been identified. Because MHE alone  
15 knows of these wholly unauthorized uses, Sohm cannot further identify them without discovery.

16 12. MHE alone knows the full extent to which it has infringed Sohm’s copyrights by  
17 making unauthorized uses of the Photographs, but it has not shared this knowledge with Sohm.

18 13. More than two dozen other photographers and stock photography agencies have  
19 brought copyright infringement actions against MHE based on the same practice that Sohm alleges  
20 here.

21 14. The following examples of unauthorized printings illustrate MHE’s practice of  
22 infringing copyrights in photographs:

- 23 a. MHE licensed to print 100,000 copies of images in *Algebra 1* 2003. It  
24 printed 1,213,373 copies.
- 25 b. MHE licensed to print 100,000 copies of images in *Pre-Algebra* 2003. It  
26 printed 837,783 copies.
- 27 c. MHE licensed to print 300,000 copies of images in *Everyday Math* 2007. It  
28 printed 779,281 copies.

- 1 d. MHE licensed to print 60,000 copies of images in *Macmillan Health and Wellness*, Grade 3. It printed 345,050 copies.
- 2 e. MHE licensed to print 60,000 copies of images in *Macmillan Health and Wellness*, Grade 4. It printed 365,000 copies.
- 3 f. MHE licensed to print 60,000 copies of images in *Macmillan Health and Wellness*, Grade 5. It printed 358,000.
- 4 g. MHE licensed to print 100,000 copies of images in *Science 2008 – California* Grade 4. It printed 249,533.
- 5 h. MHE licensed to print 100,000 copies of images in *Biology 10e 2009*. It printed 195,958.
- 6 i. MHE licensed to print 105,000 copies of images in *Physics: Principles & Problems 2002*. It printed 289,449.
- 7 j. MHE licensed to print 100,000 copies of images in *Physics: Principles & Problems 2005*. It printed 594,608.
- 8 k. MHE licensed to print 100,000 copies of images in *Glencoe Science 2005*. It printed 580,377.
- 9 l. MHE licensed to print 100,000 copies of images in *The World and Its People 2005*. It printed 298,178.

10 15. In a parallel case, *Grant Heilman Photography, Inc. v. McGraw-Hill School Education Holdings, LLC, et al.*, No. 5:12-cv-2061-MMB, MHE conceded liability for **1,092** claims of copyright infringement pertaining to a single licensing agency. See Exhibit 8.

11 16. In the fall of 2014 in the same case, a jury sitting in the Eastern District of Pennsylvania found MHE liable for infringement of 38 photographs in 11 textbooks by committing the same scheme Sohm alleges here. See *Heilman*, No. 5:12-cv-2061-MMB (Doc. 180, Judgment). The jury awarded \$127,087 in actual damages and profits to that stock photography agency.

12 17. On November 25, 2014, Judge Rebecca Pallmeyer in the Northern District of Illinois found MHE liable on summary judgment for 81 counts of copyright infringement for engaging in the same scheme Sohm alleges here (“ . . . McGraw-Hill violated the licensing agreements in three distinct ways: print overruns, distribution outside the authorized geographic areas, and unlicensed reproductions in electronic media.”). See *Panoramic Stock Images, Ltd. v.*

1 *McGraw-Hill Global Education Holdings, LLC et al.*, No. 1:12-cv-09881 (Doc. 85, Memorandum  
2 Opinion and Order, p. 13).

3 ***Indirect Copyright Infringement***

4 18. Upon information and belief, MHE facilitated the international distribution of the  
5 Photographs by transmitting them to other entities, subsidiary companies, divisions, affiliates,  
6 and/or third parties ("Third Parties"). MHE encouraged the Third Parties to distribute MHE's  
7 publications containing the Photographs in new territories, to translate its publications into new  
8 languages, and to adapt its publications for distribution in additional territories.

9 19. MHE materially contributed to the international distribution of publications  
10 containing the Photographs through its offices in Asia, Europe, Latin America and India that "serve  
11 customers worldwide." (Exhibit 9.) "Each international group has its own sales, marketing, and  
12 editorial staffs, distribution center, and customer service operation. All distribute the full range of  
13 books produced by the McGraw-Hill Education Group -- either in English or in translated  
14 editions...." (*Id.*)

15 20. Upon information and belief, the Third Parties, after receiving the Photographs from  
16 MHE, translated the publications at issue into additional languages or published them in local  
17 adaptations or reprints and included the Photographs in these publications without Sohm's  
18 permission. For example, MHE reproduced and distributed one or more photographs it obtained  
19 from Sohm and/or his agencies to the Third Party publisher, McGraw-Hill Interamericana Editores,  
20 S.A. DE C.V., for use in unauthorized Spanish translation *Understanding Human Sexuality 9th*  
21 *Edition*. (Exhibit 10.)

22 21. Upon information and belief, MHE's unauthorized reproduction and distribution to  
23 the Third Parties took place in the United States.

24 22. Without discovery, Sohm has no way of comprehensively learning which  
25 Photographs MHE transmitted to Third Parties. Upon information and belief, MHE has, and could  
26 easily produce, documents evidencing the terms of its agreements with Third Parties and its  
27 transmission and distribution of the Photographs.

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