

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOHN WILEY & SONS, INC., :

Plaintiff, :

-against- : 08 Civ. 7834 (GEL)

SUPAP KIRTSANG D/B/A : ECF Case

BLUECHRISTINE99 AND JOHN :

DOE NOS. 1-5, :

Defendants. :

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RESPONSES OF PLAINTIFF TO THE
INTERROGATORIES OF DEFENDANT

Pursuant to Rule 33 of the Federal Rules of Civil Procedure and Rules 26.3 and 33.3 of the Civil Rules of this Court, plaintiff John Wiley & Sons, Inc. hereby responds to the interrogatories of defendant Supap Kirtsaeng as follows.

General Objection

Plaintiff objects to each interrogatory on the ground that it is improper under Rule 33.1 of the Civil Rules of this Court. Without waiving this objection, Wiley responds as follows.

Interrogatory 1

Identify all persons who prepared, participated in preparing, and/or who provided information for, the answers to these Interrogatories.

Response to Interrogatory 1

In addition to counsel, Plaintiff identifies Patrick Murphy, John Wiley & Sons, Inc., 111 River Road, Hoboken, New Jersey 07030, (201) 748-6014 and Gervaise Mourlet, Dunnegan LLC, 350 Fifth Avenue, New York, New York 10118 (212) 332-8300.

Interrogatory 2

Identify all persons having relevant knowledge of this matter, the facts set forth in the Complaint and/or in the Answer, and/or other relevant facts.

Response to Interrogatory 2

Plaintiff identifies Patrick Murphy, John Wiley & Sons, Inc., 111 River Road, Hoboken, New Jersey 07030, (201) 748-6014.

Interrogatory 3

Identify each and every person whom you intend to call as a witness at the trial of this matter, and state with particularity the nature of the testimony to be given by each witness and the facts underlying and/or supporting such testimony.

Response to Interrogatory 3

Plaintiff intends to call Supap Kirtsang to testify on any and all matters relevant to the action. Plaintiff has not decided which other witnesses, if any, it may call.

Interrogatory 4

Identify the amount of revenues that Plaintiff has received from the sale of *Foreign Editions* (as defined in the Plaintiff's interrogatory demands to the Defendant) of Wiley textbooks.

Response to Interrogatory 4

Plaintiff objects to this Interrogatory on the grounds that the information it seeks is not relevant. Plaintiff also objects to this interrogatory on the grounds that it is unduly burdensome and it is not reasonably calculated to lead to admissible evidence.

Interrogatory 5

Identify by title and author each Foreign Edition of Wiley's textbooks and the geographical places where they are sold.

Response to Interrogatory 5

Plaintiff objects to this Interrogatory on the grounds that the information it seeks is not relevant. Plaintiff also objects to this interrogatory on the grounds that it is unduly burdensome, overly broad and it is not reasonably calculated to lead to admissible evidence. Without waiving this objection, Plaintiff states that the Foreign Editions of the works identified in the complaint are intended by Wiley to be sold only in certain countries outside of the United States as that term is defined in the Copyright Act of 1976, 17 U.S.C. § 101 et seq. However,

without the consent of Plaintiff, certain persons, including Defendant, have resold the subject Foreign Editions, unlawfully, in the United States.

Interrogatory 6

Identify by title and author each Foreign Edition of the textbooks of Wiley that you believe that Defendant has sold and identify all other persons or entities who have sold such Foreign Editions in the United States, the place where such sales were made, the means of sale and the volume of sales by each individual and/or entity of each Foreign Edition.

Response to Interrogatory 6

Plaintiff objects to this Interrogatory on the grounds that the information it seeks is not relevant. Plaintiff also objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad and it is not reasonably calculated to lead to admissible evidence. Without waiving any of the above objections, Plaintiff respectfully refers Defendant to the schedule of copyrights annexed to the complaint in this action. In any event, the titles sold by Defendant are known by Defendant, not Plaintiff.

Interrogatory 7

Identify each individual and/or entity who/which has sold Foreign Editions of Wiley textbooks against whom you have commenced a lawsuit and the site where the lawsuit was filed, together with applicable index numbers for each case.

Response to Interrogatory 7

Plaintiff objects to this interrogatory on the ground that it is unduly burdensome. Without waiving this objection, Plaintiff identifies the actions listed on Exhibit A that have been commenced in the United States District Court for the Southern District of New York.

Interrogatory 8

Identify the title, date of sale, purchaser, and contact information of the purchasers of each Foreign Edition of Wiley textbooks in the United States.

Response to Interrogatory 8

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad, it is not reasonably calculated to lead to admissible evidence.

Interrogatory 9

Identify the date of sale, price, seller, and contact information of the seller for each Foreign Edition of any textbook Defendant purchased.

Response to Interrogatory 9

Plaintiff objects to this interrogatory on the grounds that the requested information is in Defendant's control and is not currently known by Plaintiff.

Interrogatory 10

State whether any civil action(s) has (have) been filed against you in any court or arbitration proceedings

and identify the parties to and disposition of such proceedings.

Response to Interrogatory 10

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad and it is not reasonably calculated to lead to admissible evidence. Without waiving this objection, Plaintiff respectfully refers Defendant to its response to the interrogatory numbered 7.

Interrogatory 11

State whether you or your agents have any written statements or communications, videos, tape or voice recordings of any conversation, voice mails, or other communications relating to the allegations set forth in the Complaint, Plaintiff's claims and/or the defenses asserted in this action, and if so, provide true and correct copies of any such writings, videos, tapes, and/or voice recordings from any potential witness(es).

Response to Interrogatory 11

Plaintiff objects to this interrogatory to the extent that it requests information and/or documents protected the attorney-client privilege and/or the attorney work product doctrine. Without waiving the above objections, Plaintiff provides the documents annexed hereto as Exhibit B.

Interrogatory 12

State whether you or your agents have received any oral statements from any potential witness in this matter. If so, identify each such witness, the date the

statement was made, to whom the statement was made and summarize the contents of each statement. If any notes, memoranda and/or writings were prepared in the course of obtaining such oral statements, attach copies of any and all such notes, memoranda, and/or writings to the answers to these interrogatories.

Response to Interrogatory 12

Plaintiff objects to this interrogatory to the extent that it requests information and/or documents protected the attorney-client privilege and/or the attorney work product doctrine. Without waiving the above objections, Plaintiff does not know of any such statements.

Interrogatory 13

Identify all foreign registrations or copyrights owned by you or by others in connection with Foreign Editions of Wiley textbooks and identify the person or entities which hold the copyrights or other rights to any Foreign Editions of Wiley textbooks.

Response to Interrogatory 13

Plaintiff objects to this Interrogatory on the grounds that the information it seeks is not relevant. Plaintiff also objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad, and not reasonably calculated to lead to admissible evidence. Without waiving the above objections, Plaintiff owns the following United States copyright registrations:

1. Management, (November 14, 2005) (TX-6-269-257).
2. Information Technology for Management, (August 20, 2004) (TX-6-013-876).

3. Accounting Principles (July 13, 1987) (TX-2-111-034).
4. Fundamentals of Heat and Mass Transfer, Sixth Edition (July 28, 2006) (TX-6-410-153).
5. Introduction to Heat Transfer, Fifth Edition (August 14, 2006) (TX-6-407-668).
6. Fundamentals of Physics: Part 1, Eighth Edition (September 17, 2007) (TX-6-827-902).
7. Materials Science and Engineering: An Introduction, Seventh Edition (June 19, 2006) (TX-6-405-304).
8. Organic Chemistry, Fourth Edition (April 19, 1989) (TX-2-544-723).

Interrogatory 14

Identify all efforts you use to police the quality of goods sold under any of your alleged trademarks.

Response to Interrogatory 14

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad and to the extent that it requests information and/or documents protected by the attorney-client privilege and/or the attorney work product doctrine. Without waiving the above objections, Plaintiff states that it regularly searches the Internet for infringing goods.

Interrogatory 15

Identify in specific detail how Wiley's U.S. textbooks differ in quality or substance from each corresponding Foreign Edition of such textbook.

Response to Interrogatory 15

Plaintiff objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad and it is not reasonably calculated to lead to admissible evidence. Without waiving the above objections, Plaintiff respectfully refers Defendant to the exemplars of documents produced in response to Defendant's discovery requests and refers Defendant to paragraphs 11 and 12 of the complaint.

Interrogatory 16

Identify in detail the corporate relationship between you and any manufacturers and/or authorized distributors of Foreign Editions of Wiley textbooks and attach any distribution or license agreement relating to the same.

Response to Interrogatory 16

Plaintiff objects to this Interrogatory on the grounds that the information it seeks is not relevant. Plaintiff also objects to this interrogatory on the grounds that it is vague, ambiguous, unduly burdensome, overly broad and it is not reasonably calculated to lead to admissible evidence.


Without waiving the above objections, Plaintiff identifies Wiley India (P.) Ltd., 4435/7 Ansari Road, Daryaganj, New Delhi 110 002, John Wiley & Sons (Asia) Pte. Ltd., 2 Clementi Loop #02-01, Singapore 129809, and John

Wiley & Sons (HK) Ltd., Level 28, Three Pacific Place, 1
Queens Road East, Hong Kong, as the overseas distributors
of the Asian editions and Indian editions of the Foreign
Editions of the works identified in the complaint.

Defendant has not provided Plaintiff with the
documents to show which other Foreign Editions are at issue
in this action.

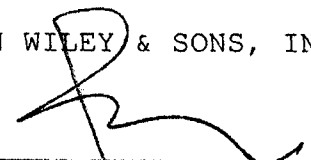
Dated: New York, New York
March 18, 2009

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