

**FILED**

**APR - 9 2013**

**Clerk, U.S. District and  
Bankruptcy Courts**

**O+Z**

**Oppenheim  
+ Zebrak, LLP**

**Matthew J. Oppenheim**  
4400 Jenifer Street, NW, Suite 250  
Washington, DC 20015  
202.450.3958 | 866.766.1678 (fax)  
matt@oandzlaw.com

April 8, 2013

***By Hand-Delivery***

Clerk's Office  
U.S. District Court for the District of Columbia  
333 Constitution Avenue, NW  
Washington, DC 20001

Case: 1:13-mc-00338  
Assigned To : Unassigned  
Assign. Date : 4/9/2013  
Description: MISCELLANEOUS

**Re: Application for DMCA Subpoena**

Dear Sir or Madam:

On behalf of my client, Cengage Learning, Inc. (hereinafter, "Cengage"), I respectfully request that the Clerk issue a subpoena pursuant to 17 U.S.C. § 512(h).

By way of background, Section 512(h) of the Digital Millennium Copyright Act provides that a "copyright owner or a person authorized to act on the owner's behalf may request the clerk of any United States District Court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection." 17 U.S.C. § 512(h)(1). For a subpoena to be issued, Section 512 (h) requires that a copyright owner file the following with the Clerk:

- (1) A copy of the notification required by Section 512(c)(3)(A);
- (2) A proposed subpoena; and
- (3) A sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.

Accordingly, attached for filing with the Clerk are Cengage's notification pursuant to Section 512(c)(3)(A), a proposed subpoena, and a sworn declaration. As Cengage has complied with the requirements of the statute, they ask that the Clerk pursuant to Section

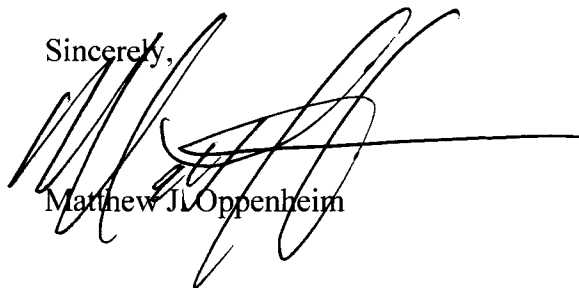
Fee Pd  
\$4000

Letter to Clerk's Office  
April 8, 2013  
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512(h)(4) expeditiously issue and sign the proposed subpoena and return it to Cengage (c/o undersigned counsel) for service on the subpoena recipient.

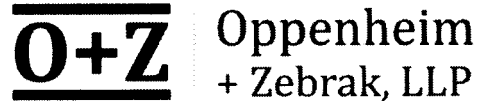
Thank you for your cooperation and prompt response in this matter. If you have any questions, I am reachable as noted above.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew J. Oppenheim", is written over a horizontal line. The signature is stylized and cursive.

Matthew J. Oppenheim

Enclosures



**Matthew J. Oppenheim**  
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Bankruptcy Courts**

*By Federal Express*

Copyright Agent  
Amazon.com Legal Department  
P.O. Box 81226  
Seattle, WA 98108

MC 13-338

**Re: Infringements**

Dear Copyright Agent:

We represent Cengage Learning, Inc., John Wiley & Sons, Inc., and The McGraw-Hill Companies, Inc., among others (hereinafter, "Publishers"). We provide this notice pursuant to the Section 512 of Title 17 of the U.S. Code (as enacted by the "Online Copyright Infringement Liability Limitation Act") to request that you immediately take action with respect to infringements that are occurring by seller "progressivecanada" on Amazon.com at the addresses described on the attachment. This notice is being provided to you as the party responsible for hosting the user's storefront.

Based on the information at our disposal, we have a good faith belief that the material located on and/or being distributed from seller progressivecanada is infringing Publishers' copyrights. The copyrighted works that have been infringed include, among others, those listed on the attachment hereto.

The unauthorized copies are identified by their titles or variations thereof. Such copies, titles, listings, references, descriptions, depictions, and material that are the subject of infringing activities are hereinafter referred to as "Infringing Material."

Given the infringing activity, we urge you to cooperate with our efforts to protect Publishers' intellectual property rights and immediately do the following:

1. Immediately take steps to remove or disable access to all of the Infringing Materials;  
Letter to Amazon.com

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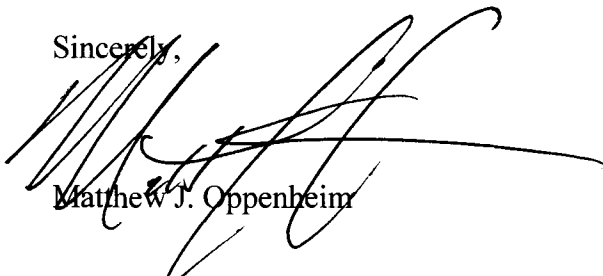
2. Notify any seller who may have participated in reproducing or distributing the Infringing Material that their conduct was illegal and could be subject to enforcement; and
3. Take appropriate action against any responsible seller under your Abuse Policy/Terms of Service Agreement, including termination of repeat offenders under Section 512(i) of Title 17 of the U.S. Code.

I believe that the information in this notification is accurate. Under penalty of perjury, I hereby affirm that I am authorized to act on Publisher's behalf whose exclusive copyright rights I believe to have been infringed as described herein. By providing this notice, Publishers is not waiving its right to engage in other enforcement activities, and reserve all rights to do so at any time.

You or the account holder may contact me at the above-listed contact details.

Thank you for your cooperation and prompt response in this matter.

Sincerely,



Matthew J. Oppenheim

Attachment

**EXHIBIT A**

Probability and Statistics for Engineering and the Sciences

Author: Devore

ISBN: 0538733527

Mathematical Statistics with Applications

Author: Wackerly

ISBN: 0495110817

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

District of Columbia

In re DMCA Subpoena to Amazon, Inc.
Plaintiff
v.
Defendant
Musc
Civil Action No. 13-338
(If the action is pending in another district, state where: )

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Copyright Agent, Amazon.com Legal Department
P.O. Box 81226, Seattle, WA 98108

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: All identifying information for the seller, "progressivecanada", from any and all sources, including but not limited to billing or administrative records that prove the name(s), address(es), telephone number(s), email address(es), account number(s), and any other electronic or physical documents identifying the names, addresses, or contact information of its operator(s).

Table with 2 columns: Place and Date and Time. Place: Oppenheim + Zembrak, LLP, 4400 Jenifer Street, NW, STE 250, Washington, DC 20015. Date and Time: 04/25/2013 10:00 am

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time. Both fields are empty.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 4/9/2013
04/08/2013

ANGELA D. CAESAR

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Cengage Learning, Inc.

, who issues or requests this subpoena, are:

Matthew J. Oppenheim matt@oandzlaw.com 202.450.3958
4400 Jenifer Street, NW, STE 250
Washington, DC 20015

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_ *Server's signature*

\_\_\_\_\_ *Printed name and title*

\_\_\_\_\_ *Server's address*

Additional information regarding attempted service, etc: