

The Tennessee Jury Verdict Reporter

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October 2022

Statewide Jury Verdict Coverage

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Copyright Infringement - ACT

(the testing company) alleged a Tennessee company that also provides testing services stole its intellectual property to provide school testing in South Carolina – the trial court found infringement via summary judgment but the jury rejected ACT's claim on causation and damages – beyond that the jury awarded the defendant significant damages on its tortious interference counterclaim, ACT contacting South Carolina about the infringement

ACT, Inc. v. Worldwide Interactive Network, 3:18-186

Plaintiff: Laura Chapman and Yasamin Parsafar, San Francisco, CA and Charles B. Westmoreland, Houston, TX all of *Sheppard Mullin and Hugh J. Moore, Jr., Chambliss Bahner & Stophel*, Chattanooga
Defense: W. Kyle Carpenter, W. Chadwick Hatmaker and Kaitlyn E. Hutcherson, *Woolf Cline Bright Allen & Carpenter*, Knoxville and Samuel W. Outten, Washington, D.C., John C. McElwaine, Charleston and W. Logan Lewis, Greenville, SC, all of *Nelson Mullins*

Verdict: Defense verdict on copyright claim by plaintiff; \$5,618,000 for defendant on false advertising and tortious interference counterclaim

Federal: **Knoxville**

Judge: Travis R. McDonough

Date: 9-9-22

ACT, Inc., a non-profit Iowa company, is well-known for providing testing services to high school

students through the ACT test which is a measurement for college admission. ACT also provides workplace and school testing to measure performance. This case would be out its proprietary "WorkKeys" program. WorkKeys measures skills in math, reading and graphics among other things. The program also provides a career readiness system that measures proficiency on a scale from bronze to platinum.

ACT licensed its products to Worldwide Interactive Network (WIN). WIN is a Kingston, TN company that also provides testing services. It is operated by Teresa Chasteen.

ACT's license with WIN with WorkKeys lasted from 2006 to 2010. The parties had a dispute at this time and ended their business relationship. ACT and WIN entered a settlement agreement at this time.

Moving forward to 2017, the state of South Carolina sought to measure student performance by 11th graders. It requested a proposal for a WorkKeys type program. WIN won the bid with its own version of WorkKeys - the former ACT partner was now a competitor.

ACT learned that WIN was using its intellectual property in the South Carolina deal and advised South Carolina of this. This led to WIN's relationship (and contract) with the state being negatively affected.

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