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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 JENNIFER RONDINELLI REILLY, an
14 individual,

15 Plaintiff,

16 v.

17 TWITTER, INC., a Delaware
18 Corporation; and DOES 1-5,

19 Defendant.
20

Case No. 2:16-cv-200

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 JENNIFER RONDINELLI REILLY, (“Reilly” or “Plaintiff”) hereby alleges
2 for her complaint against TWITTER, INC. (“Twitter”) and DOES 1-5
3 (collectively, “Defendants”) upon personal information as to Plaintiff’s own
4 activities, and upon information and belief as to the activities of others, as follows:

5 **I. JURISDICTION AND VENUE**

6 1. This Court has exclusive subject matter jurisdiction over this action
7 pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this is a claim for copyright
8 infringement arising under the Copyright Act for the United States, 17 U.S.C. § 101,
9 et seq.

10 2. This Court has personal jurisdiction over Twitter because it conducts
11 substantial business in the State of California and in this judicial district.

12 3. The claims alleged in this Complaint arise in the State of California and
13 the Central District of California and elsewhere.

14 4. Venue is appropriate pursuant to 28 U.S.C. § 1391(b)(1-3).

15 **II. PARTIES**

16 5. Plaintiff is an individual and resident of Wisconsin.

17 6. Upon information and belief, Twitter is a Delaware corporation with
18 its headquarters and principal business address at 795 Folsom St., Suite 600, San
19 Francisco California 94107.

20 7. Plaintiff doesn’t know the true names of defendants named in this
21 complaint as Does 1 through 5 and therefore sues those defendants by such fictitious
22 names. Plaintiff will amend the complaint to include the true names of the Doe
23 Defendants and allege facts supporting their liability when Plaintiff learns them
24 through discovery. Plaintiff is informed and believes, and on that basis alleges, that
25 each of the fictitiously named defendants is responsible in some manner for the acts
26 and omissions that give rise to Plaintiff’s injuries, and that the Doe Defendants
27 proximately caused Plaintiff’s injuries.
28

1 III. FACTS

2 **A. Reilly created copyrightable photographs and registered them with the**
3 **U.S. Copyright Office.**

4 8. Reilly is a fine art photographer whose work has been published. She
5 owns all rights to an image of red lips and a microphone which was displayed
6 without her permission on Twitter (the “Infringing Image”).

7 9. Reilly’s business is based on licensing and selling photographs she
8 creates. Reilly also sells merchandise which include her images.

9 10. Reilly registered the Infringing Image with the U.S. Copyright Office
10 and has Copyright Registration No. # VA-1-891-496, date registered November 19,
11 2013. Reilly’s copyright registration is attached as Exhibit A.

12 **B. Twitter users copied and displayed the Infringing Image without license**
13 **or permission from Reilly.**

14 11. Twitter operates an Internet-based service that allows its users to send
15 140-character messages through Twitter’s website and mobile site, client
16 applications, or third-party applications. Twitter calls its 140-character messages
17 “Tweets”. Tweets can contain a link to a video or image that is either hosted on
18 Twitter’s servers, or on third-party servers. Twitter has thousands or hundreds of
19 thousands of users in this District, including individuals, corporations, and
20 government entities. Thousands or hundreds of thousands of Tweets are sent to and
21 from this District every month. Twitter obtains substantial revenue from this
22 District.

23 12. Twitter users copied the Infringing Image multiple times without
24 license or permission from Reilly and sent one or more Tweets publicizing and
25 linking to it (the “Infringing Uses”). The Infringing Uses were hosted either on
26 Twitter or on third-party servers. Copies of the Infringing Uses are attached as
27 Exhibit B.
28

1 **C. Twitter failed to remove the Infringing Uses despite notice from Reilly.**

2 13. On information and belief, Twitter can remove each Infringing Use
3 that is hosted on Twitter. Twitter can also disable each Tweet advertising or linking
4 to an Infringing Use, regardless of whether the photograph is hosted on Twitter's
5 servers or on the Twitter user's or third-party servers.

6 14. Twitter has registered an agent with the United States Copyright
7 Office for receipt of Digital Millennium Copyright Act ("DMCA") notices.

8 15. On November 18, 2015, Reilly sent 28 notices to Twitter regarding the
9 Infringing Uses. Reilly's notices are attached as Exhibit C.

10 16. Reilly never authorized the Infringing Uses.

11 17. Twitter has not removed or disabled access to 50 of the 56 Infringing
12 Uses.

13 **IV. CAUSE OF ACTION**
14 **DIRECT OR IN THE ALTERNATIVE CONTRIBUTORY COPYRIGHT**
15 **INFRINGEMENT**

16 18. Reilly hereby incorporates Paragraphs 1-17 by reference.

17 19. Reilly is, and at all relevant times has been, the owner of the copyright
18 in the Infringing Image.

19 20. The Infringing Image is copyrightable subject matter under 17 U.S.C. §
20 102(a)(5).

21 21. Reilly has complied in all respects with the provisions of the Copyright
22 Act and all regulations thereunder.

23 22. Reilly registered the copyright in the Infringing Image with the United
24 States Copyright Office.

25 23. Reilly has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce
26 the Infringing Image, (2) prepare derivative works based on the Infringing Image,
27 (3) distribute copies of the Infringing Image, and (4) display the Infringing Image
28 publicly.

24. Without the permission or consent of Reilly, the Infringing Image was

1 reproduced, derivative works were made from it, copies were distributed of it, and it
2 was displayed on Twitter.

3 25. Reilly's exclusive rights in the Infringing Image were violated.

4 26. Twitter induced, caused, or materially contributed to the Infringing
5 Uses.

6 27. Twitter had actual knowledge of the Infringing Uses. Reilly provided
7 notice to Twitter in compliance with the DMCA, and Twitter failed to
8 expeditiously disable access to or remove the Infringing Uses.

9 28. Twitter acted willfully.

10 29. Alternatively, Twitter directly infringed Reilly's copyrights by
11 continuing to allow public access to the Infringing Uses on Twitter's server or on
12 servers controlled by Twitter, or through access controlled by Twitter to servers
13 controlled by third parties.

14 VI. RELIEF REQUESTED

15 WHEREFORE, Reilly asks this Court to enter judgment against Twitter and
16 Twitter's subsidiaries, affiliates, agents, employees, and all persons acting in
17 concert or participation with them, granting the following relief:

18 1. Temporary and permanent injunctions preventing and restraining
19 infringement of the Infringing Image by Twitter under 17 U.S.C. § 502;

20 2. An order requiring the destruction of all copies made by or under the
21 control of Twitter of the Infringing Image and all articles by which such copies may
22 be reproduced under 17 U.S.C. § 503;

23 3. An award of the actual damages suffered by Reilly as the result of
24 Twitter's infringement plus the profits of Twitter attributable to the infringement
25 under 17 U.S.C. § 504(b);

26 4. Alternatively, if Reilly so elects, an award of statutory damages for each
27 infringement under 17 U.S.C. § 504;

28

1 5. A judgment that Twitter’s infringement was willful and an increased
2 statutory damage award under 17 U.S.C. § 504(c)(2);

3 6. An award of Plaintiff’s full costs including a reasonable attorney’s fee
4 under 17 U.S.C. § 505; and

5 7. For such other and further relief as may be just and proper under the
6 circumstances.

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Dated this 11th day of January, 2016.

Respectfully Submitted,

NEWMAN DU WORS LLP

By: *Sophy Tabandeh*
Sophy Tabandeh, State Bar No. 287583
Derek Newman, State Bar No. 190467

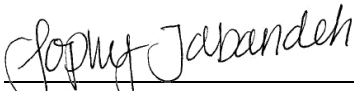
Attorneys for Plaintiff
JENNIFER RONDINELLI REILLY

JURY DEMAND

Pursuant to FED. R. CIV. P. 38(b), Plaintiff Jennifer Rondinelli Reilly demands a trial by jury of all issues presented in this complaint which are triable by jury.

Dated this 11th day of January, 2016.

Respectfully Submitted,
NEWMAN DU WORS LLP

By: 

Sophy Tabandeh, State Bar No. 287583
Derek Newman, State Bar No. 190467

Attorneys for Plaintiff
JENNIFER RONDINELLI REILLY

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