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12 **UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 KRISTEN PIERSON, an individual,

15 Plaintiff,

16 v.

17 EBAY, INC., a Delaware corporation; and
18 DOES 1-5;

19 Defendants.

Case No. 2:15-cv-09568

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 KRISTEN PIERSON, (“Pierson” or “Plaintiff”) hereby alleges for her complaint
2 against EBAY, INC. (“eBay”) and DOES 1-5 (collectively, “Defendants”) upon
3 personal information as to Plaintiff’s own activities, and upon information and belief as to
4 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 of the United States, 17 U.S.C. § 101, et
9 seq.

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

12 3. Venue is appropriate under 28 U.S.C. § 1391(b)(1-3).

13 **II. PARTIES**

14 4. Plaintiff is an individual and resident of Rhode Island.

15 5. eBay is a Delaware corporation registered to do business in California at
16 2065 Hamilton Avenue, San Jose, California 95125.

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

25 **III. FACTS**

26 **A. Pierson created copyrightable photographs and registered them with the U.S.
27 Copyright Office.**

28 7. Pierson is an award-winning photographer who specializes in event and live-

1 music photography. She owns all rights to an image of Corey Taylor of the band Slipknot
2 displayed without her permission on eBay (the “Infringing Image”).

3 8. Pierson’s business is based on licensing and selling photographs she creates.
4 Pierson’s photographs are currently available through her website and on commission.
5 She regularly licenses her images to musicians, music studios, and music promoters, as
6 well as to magazines and other media. Pierson’s work has been featured in Rolling Stone,
7 MSN, and the Alternative Press, among numerous other media.

8 9. Pierson registered the Infringing Image with the U.S. Copyright Office and
9 has Copyright Registration No. # VA1-887-068, date registered 01-15-2014. A copy of the
10 registration is provided as Exhibit A.

11
12 **B. eBay displayed the Infringing Image without license or permission from**
13 **Pierson and failed to remove the Infringing Image despite notice from Pierson.**

14 10. eBay is an online auction cite which allows consumer to consumer and
15 business to consumer sales.

16 11. On or around October 2015, Pierson discovered that eBay was displaying
17 the Infringing Image without license or permission on its website. Attached as Exhibit B
18 are screenshots of eBay’s infringing use.

19 12. On information and belief, eBay can remove each Infringing Use that is
20 hosted on its website.

21 13. eBay has a designated Copyright Agent.

22 14. On October 28, 2015, Pierson sent a notice to eBay’s designated agent
23 regarding the Infringing Use. Pierson’s notice is attached as Exhibit C.

24 15. On October 31, 2015, Pierson sent a second notice to eBay’s designated
25 agent regarding the Infringing Use. Pierson’s notice is attached as Exhibit D.

26 16. Pierson never authorized the Infringing Use.

27 17. eBay has not removed or disabled access to the Infringing Use.
28

IV. CAUSE OF ACTION

**DIRECT OR IN THE ALTERNATIVE CONTRIBUTORY COPYRIGHT
INFRINGEMENT**

18. Pierson hereby incorporates Paragraphs 1-17 by reference.

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

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

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

22. Pierson registered the copyright in the Infringing Image with the United States Copyright Office.

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

24. Without the permission or consent of Pierson, the Infringing Image was reproduced, derivative works were made from it, copies were distributed of it, and it was displayed on eBay's website.

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

26. eBay induced, caused, or materially contributed to the Infringing Uses.

27. eBay had actual knowledge of the Infringing Uses. Pierson provided notice to eBay in compliance with the DMCA, and eBay failed to disable access to or remove the Infringing Uses.

28. eBay acted willfully.

29. Alternatively, eBay directly infringed Pierson's copyrights by continuing to allow public access to the Infringing Uses on eBay's server or on servers controlled by eBay, or through access controlled by eBay to servers controlled by third parties.

VI. RELIEF REQUESTED

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

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

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

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

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

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

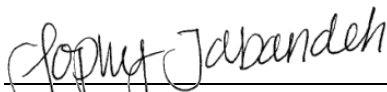
6. An award of Plaintiff's full costs including a reasonable attorney's fee under 17 U.S.C. § 505; and

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

Dated this 9th day of December, 2015.

Respectfully Submitted,

NEWMAN DU WORS LLP

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

Attorneys for Plaintiff
KRISTEN PIERSON


JURY DEMAND

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

Dated this 9th day of December, 2015.

Respectfully Submitted,

NEWMAN DU WORS LLP

By: 

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

Attorneys for Plaintiff
KRISTEN PIERSON

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