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7

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11 X17, Inc., a California corporation,

12 Plaintiff,

13 v.

14 YAHOO!, INC. and VERIZON
15 COMMUNICATIONS, INC.
Defendants.

Case No.: 5:20-cv-2683

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT (17 U.S.C. § 101 *et*
seq.) AND CONTRIBUTORY
COPYRIGHT INFRINGEMENT**

1 Plaintiff X17, Inc. (“X17”) alleges as follows:

2 **THE PARTIES**

3 1. Plaintiff X17, Inc. is a California corporation with offices located at
4 1301 Amalfi Drive, Pacific Palisades, CA 92072. X17 hosts a vast digital archive
5 of photographs of the biggest celebrities and newsmakers at x17agency.com.

6 2. Defendant Yahoo! Inc., is a Delaware corporation with offices located
7 at 701 1st Avenue, Sunnyvale, CA 94089.

8 3. Defendant Verizon Communications, Inc. (“Verizon”) is a Delaware
9 corporation with offices located at 1095 Avenue of the Americas New York, NY.

10 4. Plaintiff is informed and believes that Verizon’s business was branded
11 Oath after the acquisition of Yahoo, Inc. and AOL, Inc.

12 5. Defendant Yahoo! Inc., and Verizon Communications, shall be
13 collectively referred to as “Yahoo” or “Defendants”.

14 **JURISDICTION AND VENUE**

15 6. This is a civil action seeking damages and injunctive relief for
16 copyright infringement under the Copyright Act of the United States, 17 U.S.C. §
17 101, *et seq.*

18 7. This Court has subject matter jurisdiction over this action pursuant to
19 28 U.S.C. §§ 1331 and 1338(a).

20 8. This Court has personal jurisdiction over Defendants because
21 Defendant Yahoo! Inc.’s principal place of business is located in this district.

22 9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c),
23 and/or § 1400(a).

24 **FACTUAL ALLEGATIONS**

25 10. X17 brings this action seeking redress for Defendants’ infringement
26 of the copyright Registration Nos. VA2-192-327 and VA2-192-328 (the “Works”).

27 11. A true and correct copy of the Works is attached hereto as Exhibit A.

28 12. Yahoo and X17 entered into a Content License Agreement on January

1 11, 2012, which terminated on December 9, 2018 (“Content License Agreement”).

2 13. Yahoo decided not to renew the Content License Agreement upon
3 termination.

4 14. On or about December 18, 2018, X17 reached out to Yahoo regarding
5 the possibility of a renewed license agreement and did not receive a response.

6 15. On or about November 14, 2018, X17 sent an email to Yahoo
7 providing notice that the use of X17’s images from content partners such as Time,
8 Inc./People, Conde Nast/Advance, U.S. Weekly, Entertainment Tonight, etc.
9 (“Content Partners”) would be prohibited.

10 16. At no time did X17 grant distribution and/or syndication rights of the
11 Works to any of Yahoo’s Content Partners.

12 17. From January 1, 2019 to present, Plaintiff is informed and believes
13 that Yahoo improperly reproduced, published, and transmitted numerous X17
14 photographs including but not limited to the below (“Infringing Photographs”)
15 without a license:

- 16 • <https://www.yahoo.com/lifestyle/selena-gomez-wore-sold-urban-165502556.html>
- 17 • <https://finance.yahoo.com/news/meet-bella-gigis-favorite-shoe-184018269.html>
- 18 • <https://finance.yahoo.com/news/curious-case-kanye-west-shoes-212959219.html>
- 19 • <https://www.yahoo.com/entertainment/david-foster-katharine-mcphее-stroll-183547784.html>
- 20 • <https://finance.yahoo.com/news/kourtney-kardashian-does-her-holiday-162740583.html>
- 21 • <https://www.yahoo.com/entertainment/kourtney-kardashian-does-her-holiday-162740583.html>
- 22 • <https://www.yahoo.com/entertainment/kylie-jenner-kim-kardashian-look-152126008.html>
- 23 • <https://www.yahoo.com/entertainment/kylie-jenner-kim-kardashian-look-152126008.html>
- 24 • <https://www.yahoo.com/lifestyle/kylie-jenner-claims-paparazzi-photos-143021515.html>
- 25 • <https://www.yahoo.com/lifestyle/kylie-jenner-claims-paparazzi-photos-143021515.html>
- 26 • <https://www.yahoo.com/lifestyle/kylie-jenner-claims-paparazzi-photos-143021515.html>
- 27 • <https://www.yahoo.com/lifestyle/kylie-jenner-claims-paparazzi-photos-143021515.html>
- 28 • <https://www.yahoo.com/lifestyle/kylie-jenner-claims-paparazzi-photos-143021515.html>

- 1 • <https://finance.yahoo.com/news/justin-bieber-hailey-baldwin-best-152244903.html>
- 2 • <https://www.yahoo.com/entertainment/jennifer-garner-apos-apos-number-161138921.html>
- 3 • <https://finance.yahoo.com/news/jennifer-garner-apos-apos-number-161138921.html>
- 4 • <https://www.yahoo.com/entertainment/ben-affleck-enters-rehab-third-014711297.html>
- 5 • <https://finance.yahoo.com/news/ben-affleck-enters-rehab-third-014711297.html>
- 6 • <https://www.yahoo.com/lifestyle/kim-kardashian-west-takes-dior-144612263.html>
- 7 • <https://www.yahoo.com/lifestyle/kanye-west-sneaker-socks-171343309.html>
- 8 • <https://finance.yahoo.com/news/kristen-stewart-stella-maxwell-spending-184533976.html>
- 9 • <https://news.yahoo.com/news/kristen-stewart-stella-maxwell-spending-184533976.html>
- 10 • <https://finance.yahoo.com/news/ben-affleck-lindsay-shookus-step-201928072.html>
- 11 • <https://www.yahoo.com/entertainment/britney-spears-sam-asghari-step-001153231.html>
- 12 • <https://www.yahoo.com/entertainment/lily-collins-noah-centineo-just-010319361.html>
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18 18. Yahoo’s Content Partners did not remove the Works or the Infringing
19 Photographs.

20 19. X17 is entitled to redress for Defendants’ willful, knowing, and
21 purposeful use and exploitation of the Works, for its own financial benefit with
22 full knowledge that such use constituted infringement of, and was in disregard of,
23 X17’s rights.

24
25 **COUNT I**
26 **COPYRIGHT INFRINGEMENT**
27 **(17 U.S.C. §§ 106 and 501)**

28 20. Plaintiff incorporates by reference the above Paragraphs as if fully set forth herein.

1 21. X17 is the sole owner of a valid U.S. copyright registration in the
2 Works.

3 22. Through Defendants conduct as alleged herein, Defendants have
4 infringed X17's copyright in the Works in violation of both Sections 106 and 501
5 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

6 23. Defendants' acts of infringement are willful, intentional, and
7 purposeful, in disregard of and with indifference to X17's rights.

8 24. As a direct and proximate result of Defendants' conduct constituting
9 copyright infringement, X17 is entitled to his election of statutory damages under
10 17 U.S.C. § 504(c), or his actual damages in an amount to be proven at trial.

11 25. X17 is also entitled to Defendants' profits attributable to the
12 infringement, pursuant to 17 U.S.C. § 504(b), including an accounting of, and a
13 constructive trust with respect to such profits.

14 26. X17 is further entitled to his attorneys' fees and full costs pursuant to
15 17 U.S.C. § 505 and otherwise according to law.

16
17 **COUNT II**
CONTRIBUTORY COPYRIGHT INFRINGEMENT

18 27. Plaintiff incorporates by reference the above Paragraphs as if fully set
19 forth herein.

20 28. Plaintiff is informed and believes and alleges that Defendants,
21 knowingly induced, participated in, aided and abetted, and resultantly profited
22 from the reproduction, and/or creation of derivative works based on the Works.

23 29. Plaintiff is informed and believes that Defendants induced the
24 Content Partners' infringement of the Works.

25 30. By reason of the Defendants, Plaintiff has suffered and will continue
26 to suffer substantial damages to its business in an amount to be established at trial.

27 31. Plaintiff is entitled to disgorgement of Defendants' profits directly
28 and indirectly attributable to Defendants' infringement of the Works in an amount

1 to be established at trial.

2
3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff prays for judgment against Defendants, and each
5 of them, jointly and severally as follows:

- 6 1. For damages in such amount as may be found, or as otherwise permitted
7 by law.
- 8 2. Preliminarily and permanently enjoining Defendants, its agents,
9 servants, employees, officers and all persons and entities in active
10 concert and participation with them from using X17's Works.
- 11 3. For an accounting of, and the imposition of constructive trust with
12 respect to, Defendants' profits attributable to its infringement of X17's
13 copyright in the Work.
- 14 4. For prejudgment interest according to law.
- 15 5. For X17's reasonable attorneys' fees, costs, and disbursements in this
16 action.
- 17 6. For such other and further relief as the Court may deem just and proper.

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20 **DEMAND FOR JURY TRIAL**

21 Plaintiff demands a trial by jury.

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24 Date: April 17, 2020

FISH IP LAW, LLP

25
26 By: /s/ John van Loben Sels
27 John van Loben Sels
28 *Attorneys for Plaintiff*