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11 **UNITED STATES DISTRICT COURT**
12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
13 **AT LOS ANGELES**

14 KRISTIN PIERSON, an individual,

15 Plaintiff,

16 v.

17 TWITTER, INC., a Delaware
18 Corporation,

19 Defendant.

Case No. 15-5668

**COMPLAINT FOR
COPYRIGHT INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 KRISTEN PIERSON, (“Pierson” or “Plaintiff”) hereby alleges for her
2 complaint against Twitter, Inc. (“Twitter”) upon personal information as to
3 Plaintiff’s own activities, and upon information and belief as to the activities of
4 others, as follows:

5 **I. NATURE OF THE ACTION**

6 1. This is a claim for copyright infringement arising under the copyright
7 laws of the United States, Title 17 of the United States Code.

8 **II. JURISDICTION AND VENUE**

9 2. This Court has exclusive subject matter jurisdiction over this action
10 pursuant to 28 U.S.C. §§ 1331 and 1338(a).

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

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

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

16 **III. PARTIES**

17 6. Plaintiff is an individual and resident of Rhode Island.

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

21 **IV. FACTS**

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

24 8. Pierson is an award-winning photographer who specializes in event
25 and live-music photography. She owns all rights to an image of guitarist Herman Li
26 of the band Dragonforce displayed without her permission on Twitter (the
27 “Infringing Image”).

28 9. Pierson’s business is based on licensing and selling photographs she

1 creates. Pierson's photographs are currently available through her website and on
 2 commission. She regularly licenses her images to musicians, music studios, and
 3 music promoters, as well as to magazines and other media. Pierson's work has been
 4 featured in Rolling Stone, MSN, and the Alternative Press, among numerous other
 5 media.

6 10. Pierson registered the Infringing Image with the U.S. Copyright Office
 7 and has Copyright Registration No. # VA0001827176, date registered 08-27-2012.

8 **B. A Twitter user or users copied and displayed the Infringing Image**
 9 **without license or permission from Pierson.**

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

19 12. A Twitter user or users copied the Infringing Image without license or
 20 permission from Pierson and on information and belief sent one or more Tweets
 21 publicizing and linking to it (the "Infringing Uses"). The Infringing Uses were
 22 hosted either on Twitter or on third-party servers.

23 **C. Twitter failed to remove the Infringing Uses despite notice from**
 24 **Pierson.**

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

1 14. Twitter has registered an agent with the United States Copyright
2 Office for receipt of Digital Millenium Copyright Act (“DMCA”) notices.

3 15. On March 4, 2014, Pierson sent a notice to Twitter’s registered agent
4 regarding the Infringing Uses. Pierson’s notice is attached as Exhibit A.

5 16. Pierson never authorized the Infringing Uses.

6 17. Twitter has not removed or disabled access to the Infringing Uses.

7 **V. CAUSE OF ACTION**
8 **DIRECT OR IN THE ALTERNATIVE CONTRIBUTORY COPYRIGHT**
9 **INFRINGEMENT**

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

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

13 20. The Infringing Image is copyrightable subject matter under 17 U.S.C.
14 § 102(a)(5).

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

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

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

23 24. Without the permission or consent of Pierson, the Infringing Image
24 was reproduced, derivative works were made from it, copies were distributed of it,
25 and it was displayed on Twitter.

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

27 26. Twitter induced, caused, or materially contributed to the Infringing
28 Uses.

27 27. Twitter had actual knowledge of the Infringing Uses. Pierson provided

1 notice to Twitter in compliance with the DMCA, and Twitter failed to
2 expeditiously disable access to or remove the Infringing Uses.

3 28. Twitter acted willfully.

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

8 VI. RELIEF REQUESTED

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

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

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

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

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

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

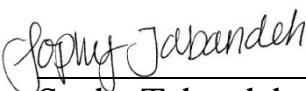
24 6. An award of Plaintiff's full costs including a reasonable attorney's fee
25 under 17 U.S.C. § 505; and

26 7. For such other and further relief as may be just and proper under the
27 circumstances.
28

1 Dated this 27th day of July, 2015.

2
3 Respectfully Submitted,

4 **NEWMAN DU WORS LLP**

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

9 Attorneys for Plaintiff

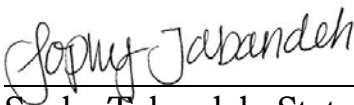
10 **KRISTEN PIERSON**

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 27th day of July, 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