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

14 JENNIFER RONDINELLI REILLY, an  
15 individual,

16 Plaintiff,

17 v.

18 INSTAGRAM, LLC, a Delaware limited  
19 liability company; and DOES 1-5,

20 Defendant.  
21

Case No. 2:16-cv-2100

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT**

**DEMAND FOR JURY TRIAL**

1 JENNIFER RONDINELLI REILLY, (“Reilly” or “Plaintiff”) hereby alleges for  
2 her complaint against INSTAGRAM, LLC (“Instagram”) and DOES 1-5 (collectively,  
3 “Defendants”) upon personal information as to Plaintiff’s own activities, and upon  
4 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, et  
9 seq.

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

12 3. Venue is appropriate pursuant to 28 U.S.C. § 1391(b)(1)–(3).

13 **II. PARTIES**

14 4. Plaintiff is an individual and resident of Wisconsin.

15 5. Instagram is a Delaware limited liability company registered to do business  
16 in California.

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 Defendants  
20 and allege facts supporting their liability when Plaintiff learns them through discovery.  
21 Plaintiff is informed and believes, and on that basis alleges, that each of the fictitiously  
22 named defendants is responsible in some manner for the acts and omissions that give rise  
23 to Plaintiff’s injuries, and that the Doe Defendants proximately caused Plaintiff’s injuries.

24 **III. FACTS**

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

27 7. Reilly is a fine art photographer. Reilly’s business is based on licensing and  
28 selling photographs she creates.

1 8. She owns all rights to an image of red lips and a microphone which was  
2 displayed without her permission on Instagram (the “Infringing Image”).

3 9. Reilly registered the Infringing Image with the U.S. Copyright Office and has  
4 Copyright Registration No. # VA-1-891-496 (November 19, 2013). A copy of Reilly’s  
5 copyright registration is attached as Exhibit A.

6 **B. Instagram users copied and displayed the Infringing Image without license or**  
7 **permission from Reilly.**

8 10. Instagram is a social media and networking company that provides its users a  
9 platform to share content. Users can access Instagram through its mobile application or  
10 website.

11 11. Instagram provides services to at least one Doe Defendant and allows that  
12 Doe Defendant to upload content onto Instagram’s server.

13 12. At least one Instagram user displayed and published the Infringing Image on  
14 Instagram’s mobile application and website without license or permission from Reilly (the  
15 “Infringing Uses”). A copy of the Infringing Uses is attached as Exhibit B.

16 **C. Instagram failed to remove the Infringing Uses despite notice from Reilly.**

17 13. On information and belief, Instagram can remove each Infringing Use that is  
18 hosted on its server.

19 14. Instagram has registered an agent with the United States Copyright Office  
20 for receipt of Digital Millennium Copyright Act (“DMCA”) notices.

21 15. Reilly sent DMCA notices to Instagram regarding the Infringing Uses on  
22 January 26, 2016, January 27, 2016, January 28, 2016. Reilly’s notices are attached as  
23 Exhibit C.

24 16. Reilly never authorized the Infringing Uses.

25 17. Instagram has not removed or disabled access to the Infringing Uses.

26 **IV. CAUSE OF ACTION**  
27 **DIRECT OR IN THE ALTERNATIVE CONTRIBUTORY COPYRIGHT**  
28 **INFRINGEMENT**

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

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

3 20. The Infringing Image is copyrightable subject matter under 17 U.S.C. §  
4 102(a)(5).

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

7 22. Reilly registered the copyright in the Infringing Image with the United States  
8 Copyright Office.

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

12 24. Without the permission or consent of Reilly, the Infringing Image was  
13 reproduced, derivative works were made from it, copies were distributed of it, and it was  
14 displayed on Instagram's mobile application and website.

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

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

17 27. Instagram had actual knowledge of the Infringing Uses. Reilly provided  
18 notices to Instagram in compliance with the DMCA, and Instagram failed to expeditiously  
19 disable access to or remove the Infringing Uses.

20 28. Instagram acted willfully.

21 29. Alternatively, Instagram directly infringed Reilly's copyrights by continuing  
22 to allow public access to the Infringing Uses on Instagram's server or on servers controlled  
23 by Instagram, or through access controlled by Instagram to servers controlled by third  
24 parties.

25 **V. RELIEF REQUESTED**

26 WHEREFORE, Reilly asks this Court to enter judgment against Instagram and its  
27 subsidiaries, affiliates, agents, employees, and all persons acting in concert or participation  
28 with them, granting the following relief:

- 1            1.      Temporary and permanent injunctions preventing and restraining
- 2 infringement of the Infringing Image by Instagram under 17 U.S.C. § 502;
- 3            2.      An order requiring the destruction of all copies made by or under the control
- 4 of Instagram of the Infringing Image and all articles by which such copies may be
- 5 reproduced under 17 U.S.C. § 503;
- 6            3.      An award of the actual damages suffered by Reilly as the result of
- 7 Instagram’s infringement plus the profits of Instagram attributable to the infringement
- 8 under 17 U.S.C. § 504(b);
- 9            4.      Alternatively, if Reilly so elects, an award of statutory damages for each
- 10 infringement under 17 U.S.C. § 504;
- 11           5.      A judgment that Instagram’s infringement was willful and an increased
- 12 statutory damage award under 17 U.S.C. § 504(c)(2);
- 13           6.      An award of Plaintiff’s full costs including a reasonable attorney’s fee under
- 14 17 U.S.C. § 505; and
- 15           7.      For such other and further relief as may be just and proper under the
- 16 circumstances.

17            Dated this 28th day of March, 2016.

18                            Respectfully Submitted,

19                            **NEWMAN DU WORS LLP**

20  
21                    By: *Peri-Elle Cabagnot*  
 22                            Derek Newman, State Bar No. 190467  
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25  
26                            Attorneys for Plaintiff  
 27                            **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 28th day of March, 2016.

Respectfully Submitted,

**NEWMAN DU WORS LLP**

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**JENNIFER RONDINELLI REILLY**

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