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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Robert Barbera,

Plaintiff,

v.

Dua Lipa,

Defendant.

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

Plaintiff Robert Barbera (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against defendant Dua Lipa (“*Defendant*”) states and alleges as follows:

INTRODUCTION

1. This action seeks to recover damages for copyright infringement.
2. Plaintiff herein creates photographic images and owns the rights to these photographs which Plaintiff licenses for various uses including online and print publications.
3. Defendant owns and operates a social media account with the name



1 of “dualipa” on Instagram (the “*Account*”).

2 4. Defendant, without permission or authorization from Plaintiff
3 actively copied, stored, and/or displayed Plaintiff's photographs on the Account
4 and engaged in this misconduct knowingly and in violation of the United States
5 copyright laws.

6 **PARTIES**

7 5. Plaintiff Robert Barbera is an individual who is a citizen of the State
8 of New York and maintains a principal place of business at 98 Suffolk Street, Apt.
9 41, Manhattan in New York City, New York.

10 6. Upon information and belief, Defendant Dua Lipa, is an individual
11 who is a citizen of the State of California and who resides at 3612 Woodhill
12 Canyon Road, Studio City in Los Angeles County, California and is liable and
13 responsible to Plaintiff based on the facts herein alleged.

14 **JURISDICTION AND VENUE**

15 7. This Court has subject matter jurisdiction over the federal copyright
16 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

17 8. This Court has personal jurisdiction over Dua Lipa because she is
18 domiciled in California.

19 9. Venue is proper under 28 U.S.C. §1391(a)(2) because Dua Lipa
20 resides in this Judicial District and/or because a substantial part of the events or
21 omissions giving rise to the claim occurred in this Judicial District.

22 **FACTS COMMON TO ALL CLAIMS**

23 10. Plaintiff by way of counsel attempted to resolve this matter with
24 counsel for Defendant. However, after Plaintiff provided Defendant with a draft
25 Complaint, communication slowed and eventually stopped.

26 11. Upon being informed of the infringement, Defendant removed the
27 infringing post from their account.



1 12. Plaintiff emailed Defendant multiple times to give them notice that
2 this claim was going to be filed. Plaintiff received no response and as such has
3 been forced by the Defendant to request the Court’s assistance in adjudicating this
4 matter.

5 13. Plaintiff is a professional photographer by trade who is the legal and
6 rightful owners of photographs which he licenses to online and print publications.

7 14. Plaintiff has invested significant time and money in building
8 Plaintiff’s photograph portfolio.

9 15. Plaintiff has obtained active and valid copyright registrations from
10 the United States Copyright Office (the “USCO”) which cover many of Plaintiff’s
11 photographs while many others are the subject of pending copyright applications.

12 16. Plaintiff’s photographs are original, creative works in which Plaintiff
13 owns protectable copyright interests.

14 17. The Account is associated with Defendant.

15 18. Defendant has exclusive access to post content on Defendant’s
16 Account.

17 19. Defendant uses the Account to advertise her musical works and
18 brand as well as promote her business interests whereby Defendant financially
19 benefits.

20 20. On July 26, 2018, Plaintiff authored several photographs of
21 songstress Dua Lipa (“*Photograph 1-2*”). Copies of each individual Photograph
22 (hereinafter collectively “*Photographs*”) are attached hereto collectively as
23 Exhibit 1.

24 21. Plaintiff applied to the USCO to register the Photographs on or about
25 June 18, 2019 under Application No. 1-7801152193.

26 22. The Photographs were registered by the USCO on June 18, 2019
27 under Registration No. VA 2-162-626.
28

1 23. On June 19, 2019, Plaintiff observed the Photographs on the Account
2 in a post dated July 26, 2018. Copies of the screengrabs of the Account including
3 the Photographs are attached hereto collectively as Exhibit 2.

4 24. Copies of the Photographs were displayed on Defendant’s Instagram
5 Account at www.instagram.com at URL:
6 <https://www.instagram.com/p/BltZMIqlc74/> (*Exhibit 2-Infringement #1-2*).

7 25. Without permission or authorization from Plaintiff, Defendant
8 volitionally selected, copied, stored and displayed each of Plaintiff’s copyright
9 protected Photographs as are set forth in Exhibit “1” on the Account.

10 26. Upon information and belief, the Photographs were copied, stored
11 and displayed without license or permission, thereby infringing on Plaintiff’s
12 copyrights (hereinafter singularly the “*Infringement*” and collectively the
13 “*Infringements*”).

14 27. Each Infringement includes a URL (“*Uniform Resource Locator*”)
15 for a fixed tangible medium of expression that was sufficiently permanent or
16 stable to permit it to be communicated for a period of more than a transitory
17 duration and therefore constitutes a specific infringement. *17 U.S.C. §106(5)*;
18 *Perfect 10, Inc. v. Amazon.com, Inc.* 508 F.3d 1146, 1160 (9th Cir. 2007).

19 28. Each Infringement is an exact copy of the entirety of Plaintiff’s
20 original images that were directly copied and stored by Defendant on the Account.

21 29. Upon information and belief, Defendant takes an active and
22 pervasive role in the content posted on its Account, including, but not limited to
23 copying, posting, selecting, commenting on and/or displaying images including
24 but not limited to Plaintiff’s Photographs.

25 30. Upon information and belief, the Photographs were willfully and
26 volitionally posted to the Account by Defendant.

27 31. Upon information and belief, Defendant engaged in the
28

1 Infringements knowingly and in violation of applicable United States Copyright
2 Laws.

3 32. Upon information and belief, Defendant has the legal right and
4 ability to control and limit the infringing activities on its Account and exercised
5 and/or had the right and ability to exercise such right.

6 33. Upon information and belief, Defendant has received a financial
7 benefit directly attributable to the Infringements.

8 34. Upon information and belief, the Infringements increased traffic to
9 the Account and, in turn, caused Defendant to realize an increase in the revenues
10 generated via Defendant's promotional events and the sale of Defendant's musical
11 works.

12 35. Upon information and belief, a large number of people have viewed
13 the unlawful copies of the Photograph on the Account.

14 36. Upon information and belief, Defendant at all times had the ability
15 to stop the reproduction and display of Plaintiff's copyrighted material.

16 37. Defendant's use of the Photographs, if widespread, would harm
17 Plaintiff's potential market for the Photographs.

18 38. As a result of Defendant's misconduct, Plaintiff has been
19 substantially harmed.

20 **FIRST COUNT**

21 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

22 39. Plaintiff repeats and incorporates by reference the allegations
23 contained in the preceding paragraphs, as though set forth in full herein.

24 40. The Photographs are original, creative works in which Plaintiff owns
25 valid copyright properly registered with the United States Copyright Office.

26 41. Plaintiff has not licensed Defendant the right to use the Photographs
27 in any manner, nor has Plaintiff assigned any of its exclusive rights in the
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1 Copyrights to Defendant.

2 42. Without permission or authorization from Plaintiff and in willful
3 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
4 illegally copied, stored, reproduced, distributed, adapted, and/or publicly
5 displayed works copyrighted by Plaintiff thereby violating one of Plaintiff's
6 exclusive rights in its copyrights.

7 43. Defendant's reproduction of the Photographs and display of the
8 Photographs on the Account constitutes willful copyright infringement. *Feist*
9 *Publications, Inc. v. Rural Telephone Service Co., Inc.*, 499 U.S. 340, 361 (1991).

10 44. As a result of Defendant's violations of Title 17 of the U.S. Code,
11 Plaintiff is entitled to an award of actual damages and disgorgement of all of
12 Defendant's profits attributable to the infringements as provided by 17 U.S.C. §
13 504 in an amount to be proven.

14 45. As a result of the Defendant's violations of Title 17 of the U.S. Code,
15 the court in its discretion may allow the recovery of full costs pursuant to 17
16 U.S.C. § 505 from Defendant.

17 46. As a result of Defendant's violations of Title 17 of the U.S. Code,
18 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his
19 copyright pursuant to 17 U.S.C. § 502.

20 **JURY DEMAND**

21 47. Plaintiff hereby demands a trial of this action by jury.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE** Plaintiff respectfully requests judgment as follows:

24 That the Court enters a judgment finding that Defendant has infringed on
25 Plaintiff's rights to the Photographs in violation of 17 U.S.C. §501 et seq. and
26 award damages and monetary relief as follows:

27 a. finding that Defendant infringed upon Plaintiff's copyright
28

1 interest in the Photographs by copying and displaying without
2 a license or consent;

- 3 b. for an award of actual damages and disgorgement of all of
4 Defendant's profits attributable to the infringements as
5 provided by 17 U.S.C. § 504 in an amount to be proven;
6 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining
7 Defendant from any infringing use of any of Plaintiff's works;
8 d. for costs of litigation against Defendant pursuant to 17 U.S.C.
9 § 505;
10 e. for pre judgment interest as permitted by law; and
11 f. for any other relief the Court deems just and proper.
12

13 DATED: June 20, 2022

14 **SANDERS LAW GROUP**

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