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10 *Attorneys for Plaintiff,*
BackGrid USA, Inc.

11
12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14

15 BACKGRID USA INC., a California
16 corporation,

17 Plaintiff,

18 v.
19

20 KATHERYN HUDSON p/k/a KATY
21 PERRY; and DOES 1-10, inclusive,

22 Defendants.
23

Case No.:

**COMPLAINT FOR
COPYRIGHT INFRINGEMENT
(17 U.S.C. § 501)**

DEMAND FOR JURY TRIAL

1 Plaintiff, BackGrid USA, Inc., complains against Defendant, Katheryn Hudson,
2 professionally known as Katy Perry (“Perry”), an individual, and DOES 1-10 (collectively,
3 “Defendants”) as follows:

4
5 **JURISDICTION AND VENUE**

6 1. This is a civil action against Defendants for acts of copyright infringement
7 under the Copyright Act, 17 U.S.C. §§ 101 *et seq.* This Court has subject matter
8 jurisdiction under 28 U.S.C. § 1331, 17 U.S.C. § 501(a), and 28 U.S.C. § 1338(a) and (b).

9 2. This Court has personal jurisdiction over defendant Perry because, on
10 information and belief, she is a resident of the State of California and this judicial district
11 and, on information and belief, is also doing business in the State of California and in this
12 judicial district.

13 3. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(1) and 28
14 U.S.C. § 1400(a).

15 **PARTIES**

16 4. Plaintiff BackGrid USA Inc. (“BackGrid”) is a California corporation existing
17 under the laws of California, with its principal place of business located in Redondo Beach,
18 California.

19 5. On information and belief, Defendant Perry is an American singer, songwriter,
20 actress, businesswoman, and entrepreneur who, on information and belief, is a resident of
21 Los Angeles County.

22 6. The true names or capacities, whether individual, corporate or otherwise, of
23 the Defendants named herein as DOES 1 through 10, inclusive, are unknown to Plaintiff,
24 who therefore sues said Defendants by such fictitious names. Plaintiff will ask leave of
25 Court to amend this Complaint and insert the true names and capacities of said Defendants
26 when the same have been ascertained.

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1 **FACTS COMMON TO ALL COUNTS**

2 *BackGrid and the Photograph that Frame This Dispute*

3 7. BackGrid owns and operates one of Hollywood’s largest celebrity-photograph
4 agencies that has earned a reputation of regularly breaking scoops on sought after celebrity
5 news. It owns the intellectual property rights, including the copyrights, to celebrity
6 photographs that have been licensed to numerous top-tier outlets, such as TMZ,
7 Entertainment Tonight, New York Post, People Magazine, Huffington Post, the Daily Mail,
8 as well as many television stations, newspapers and other prominent media outlets
9 throughout the world. Each license has been granted for valuable consideration, up to
10 hundreds of thousands of dollars.

11 8. Among many other in-demand photographs, BackGrid owns coveted
12 photographs of Perry dressed as Hillary Clinton for a Halloween Party in 2016 (hereinafter
13 the “BackGrid Photograph”).

14 9. BackGrid, through its predecessor AKM-GSI Media, Inc., filed for copyright
15 registration of the BackGrid Photograph within 90 days of its first publication with the
16 United States Copyright Office. The Copyright registration information in attached hereto
17 as Exhibit A.

18 *Defendant and Its Willful Infringing Activity*

19 10. Defendant Perry, a well-known musician and performer has over 80 million
20 Instagram followers, and her Instagram account is open to the public.

21 11. Defendant Perry, or someone acting on her behalf, violated federal law by
22 willfully infringing BackGrid’s copyright in the photograph by copying the photograph and
23 distributing it on Instagram via the @katyperry account on October 29, 2016 as seen here:
24 www.instagram.com/p/BMKy-fMA39o. Attached hereto as Exhibit B and incorporated
25 herein by reference is a true and correct screenshot of the infringed photograph at issue in
26 this lawsuit.

27 12. BackGrid corresponded with Perry, through her representatives, about her
28 infringement by letters and emails on or around July 7, 2017, August 24, 2017, December

1 12, 2017, April 5, 2018, June 8, 2018, August 1, 2018, September 7, 2018, May 2, 2019,
2 May 24, 2019, May 31, 2019, September 10, 2019, and October 4, 2019.

3 13. Nevertheless, Defendants failed to license the BackGrid Photograph even after
4 they had express notice that BackGrid was the owner. Defendants used, and continue to
5 use, the Photograph without authorization or permission from BackGrid to do so even after
6 being aware of the infringement.

7 14. The Photograph is creative, distinctive, and valuable. Because of the subject's
8 celebrity status, and the Photograph's quality and visual appeal, BackGrid (and the
9 photographer it represents) stood to gain additional revenue from licensing the Photograph.

10 15. Moreover, Perry induced, caused, or materially contributed to the
11 reproduction, distribution and public display of the Photograph, all while knowing or
12 having reason to know of the infringement on her Instagram account was without
13 permission, consent, or license.

14 16. Defendants' unauthorized use harms the existing and future market for the
15 original Photograph. The Instagram post made the Photograph immediately available to
16 Perry's 80 million followers and others, consumers of entertainment news—and especially
17 news and images of Perry herself, as evidenced by their status as followers of her—who
18 would otherwise be interested in viewing licensed versions of the Photograph in the
19 magazines and newspapers that are BackGrid's customers.

20 17. In addition, Defendants' unauthorized use is expressly commercial in nature.
21 Perry uses her Instagram feed for the purpose of promotion—specifically, to promote her
22 business interests, products, and ventures; to promote and sell the products and services of
23 others; to maintain and increase her visibility and desirability as an endorser, actress,
24 model, and entertainment personality; and to promote her persona and celebrity status. In
25 short, every one of Perry's Instagram posts is fundamentally promoting something to her 80
26 million followers.

1 18. Defendants did not disclose their unauthorized use of the Photograph to
2 BackGrid nor seek permission to use the Photograph. But for BackGrid's discovery of
3 Defendants' authorized use, their infringement would still be concealed.

4
5 **FIRST CLAIM FOR RELIEF**

6 **(Copyright Infringement, 17 U.S.C. § 501)**

7 19. BackGrid hereby incorporates by reference the allegations in paragraphs 1
8 through 18 above.

9 20. BackGrid is the owner of all rights, title, and interest in the copyright of the
10 BackGrid Photograph that frame this dispute, which substantially consist of material
11 wholly original and which are copyrightable subject matter under the laws of the United
12 States.

13 21. Defendants have directly, vicariously, contributorily and/or by inducement
14 willfully infringed BackGrid's copyright by reproducing, displaying, distributing, and
15 utilizing the BackGrid Photograph for purposes of trade in violation of 17 U.S.C. § 501 *et*
16 *seq.*

17 22. All of the Defendants' acts are and were performed without permission,
18 license, or consent of BackGrid.

19 23. BackGrid has identified an instance of infringement by way of unlawful
20 reproduction and display of BackGrid's photograph.

21 24. As a result of the acts of Defendants alleged herein, BackGrid has suffered
22 substantial economic damage.

23 25. BackGrid is informed and believes and on that basis alleges that Defendants'
24 acts of copyright infringement, as alleged above, were willful, intentional, and malicious,
25 which further subjects Defendants to liability for statutory damages under Section
26 504(c)(2) of the Copyright Act in the sum of up to \$150,000 per infringement. Within the
27 time permitted by law, BackGrid will make its election between actual damages and
28 statutory damages.

1 which they could be used again by Defendants without BackGrid’s authorization—as well
2 as all related records and documents;

3 4. For actual damages and disgorgement of all profits derived by Defendants
4 from their acts of copyright infringement, removal, and for all damages suffered by it by
5 reasons of Defendant’s acts, under 17 U.S.C. § 504 (a)(1) & (b);

6 5. For statutory damages for copyright infringement, including willful
7 infringement, in accordance with 17 U.S.C. § 504(a)(2) & (c);

8 6. For reasonable attorneys’ fees incurred herein pursuant to 17 U.S.C. § 505;

9 7. For costs and pre-judgement interest pursuant to 17 U.S.C. § 504 (a)(1) & (b),
10 17 U.S.C. § 505; and

11 8. For any such other and further relief as the Court may deem just and
12 appropriate.

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14 Dated: October 29, 2019

ONE LLP

15
16 Bv: /s/ Joanna Ardalan
17 Joanna Ardalan
18 Attorneys for Plaintiff,
19 BackGrid USA, Inc.
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DEMAND FOR JURY TRIAL

Plaintiff BackGrid USA, Inc., hereby demands trial by jury of all issues so triable under the law.

Dated: October 29, 2019

ONE LLP

By: /s/ Joanna Ardalan
Joanna Ardalan
Attorneys for Plaintiff,
BackGrid USA, Inc.

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