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9 *Attorneys for Plaintiff,*
10 **GEORGE GUTENBERG**

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

13 **GEORGE GUTENBERG,**

14 **Plaintiff,**

15 **v.**

16 **ZILLOW INC., a Washington**
17 **corporation; ZILLOW GROUP INC., a**
18 **Washington corporation; and DOES 1**
19 **through 25 inclusive,**

20 **Defendant.**

Case No. _____

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

21
22 Plaintiff GEORGE GUTENBERG for his complaint against ZILLOW INC.
23 and ZILLOW GROUP INC. alleges as follows:

24 **JURISDICTION AND VENUE**

25
26 1. This is a civil action seeking damages and injunctive relief for
27 copyright infringement under the Copyright Act of the United States 17 U.S.C.
28

1 § 101 *et seq.*

2 2. This Court has subject matter jurisdiction over Plaintiff's claims for
3 copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).
4

5 3. This court has personal jurisdiction over Defendants because
6 Defendants conduct business and/or reside within the State of California,
7 Defendants' acts of infringement complained of herein occurred in the State of
8 California, and Defendants caused injury to Plaintiff within the State of California.
9

10 4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
11 1400(a) in that this is the judicial district in which substantial part of the acts and
12 omissions giving rise to the claims occurred. Alternatively, venue is also proper
13 pursuant to 28 U.S.C. § 1400(b) because the Defendants reside and have a regular
14 and established business in this judicial district.
15

16 **PARTIES**

17
18 5. Plaintiff George Gutenberg ("Plaintiff or Gutenberg") is an individual
19 and professional photographer residing in Palm Desert, California.
20

21 6. Defendant Zillow, Inc. is a Washington corporation with its principal
22 place of business in Seattle, Washington.

23 7. Defendant Zillow Group Inc. was formed in 2014, following the
24 announcement of the planned merger of Zillow, Inc. and Trulia, Inc. ("Trulia").
25 Zillow Group, Inc. is a Washington corporation, with its principal place of business
26 in Seattle, Washington. Following the closing of the merger transaction on or about
27
28

1 February 17, 2015, Zillow Group owns 100% of the stock of both Zillow, Inc. and
2 Trulia. On information and belief, Zillow, Inc. is currently a wholly owned
3 subsidiary of Zillow Group, which controls or has the power to control Zillow, Inc.
4

5 8. For purposed of this complaint, Defendants Zillow Inc. and Zillow
6 Group Inc. will be collectively referred to as “Zillow.”
7

8 9. Zillow is registered with the Secretary of State to do business in
9 California, and maintains an office in California in this judicial district at 2600
10 Michelson Drive, Irvine, CA 92612.
11

12 10. Plaintiff is unaware of the true names and capacities of the Defendants
13 sued herein as DOES 1 through 25, inclusive, and for that reason, sues such
14 Defendants under such fictitious names. Plaintiff is informed and believes and on
15 that basis alleges that such fictitiously named Defendants are responsible in some
16 manner for the occurrences herein alleged, and that Plaintiff’s damages as herein
17 alleged were proximately caused by the conduct of said Defendants. Plaintiff will
18 seek to amend the complaint when the names and capacities of such fictitiously
19 named Defendants are ascertained. As alleged herein, “Defendant” shall mean all
20 named Defendants and all fictitiously named Defendants.
21
22

23 11. For the purposes of this Complaint, unless otherwise indicated,
24 “Defendants” includes all agents, employees, officers, members, directors, heirs,
25 successors, assigns, principals, trustees, sureties, subrogates, representatives and
26 insurers of Defendants named in this caption.
27
28

STATEMENT OF FACTS

Defendant Zillow’s Systematic Infringement of Real Estate Photographs

12. Founded in 2004, Zillow owns and operates the largest real estate website in the world, www.zillow.com (“Website”).

13. The core of Zillow’s Website is the “Living Database of All Homes,” which includes individual detail pages for most of the individual homes in the United States. These Home Detail Pages (“HDPs”) provide data such as sales history, number of rooms, and Zillow’s proprietary “Zestimate” calculation of the property’s current market value.

14. In many instances, the HDPs include exterior and/or interior photographs of the home at a particular address.

15. The HDPs for properties currently listed for sale identify the sales price, the listing agent, and other real estate agents in the area. On information and belief, Zillow derives the great majority of its revenue by advertising local real estate agents on these listings.

16. On information and belief, Zillow obtains information on current real estate listings in data feeds culled primarily from regional associations of brokers known as multiple listing services (“MLS”).

17. MLSs are private databases of individual properties created and maintained by real estate professionals -- primarily licensed real estate brokers -- to help their clients buy and sell real estate. The databases contain relevant

1 information about current real estate listings including, in many instances,
2 photographs of listed properties.

3
4 18. Typically, once a property is sold or otherwise taken off the market,
5 the information about the listing, including the photographs of the property, are no
6 longer accessible through the MLS database.

7
8 19. On information and belief, there are over 700 MLS systems across the
9 United States.

10 20. On information and belief, Zillow copies as many as five million
11 photographs per day through its hundreds of MLS feeds without verifying
12 copyright ownership of the copied photographs.

13
14 **George Gutenberg is a Real Estate Photographer**

15 21. Gutenberg is a professional architectural and commercial
16 photographer, specializing in the photography of high-end luxury residential
17 properties and commercial buildings, as well as hospitality, restaurant, and retail
18 environments. His work has been featured in over 100 domestic and international
19 magazine covers.
20

21
22 22. Typically, Gutenberg is hired by real estate agents as an independent
23 contractor to photograph a property for a negotiated fee. Gutenberg retains the
24 copyright to all photographs taken of each property, and grants the real estate agent
25 a limited license to use the photographs for up to one-year purposes of marketing
26 the property. The limited license allows the real estate agent to place the
27
28

1 photographs on their website, in brochures, real estate magazines, and on the MLS.
2 The license expressly states that it is not transferrable and prohibits third party use
3 without permission from Gutenberg. Attached hereto as Exhibit A is a true and
4 correct copy of a typical licensing agreement between Gutenberg and a real estate
5 agent.
6

7 23. In addition to marketing real estate, Gutenberg frequently licenses
8 individual photographs from his library for use in print and online publications, as
9 well as for private, editorial, and commercial usage.
10

11 24. Gutenberg is the sole owner and author of a 543 photograph of various
12 real estate properties (“Images”), which are part of his larger library of architectural
13 and interior design-type photographs.
14

15 25. Gutenberg has registered his Images with the United States Copyright
16 Office as group registrations. Attached hereto as Exhibit B is document containing
17 true and correct copies of Gutenberg’s Images as well as true and correct
18 registration information.
19

20 26. On or about March 2018, Gutenberg discovered that a number of his
21 Images were being used on Zillow’s Website. After a subsequent investigation,
22 Gutenberg discovered that hundreds of his Images were being used on Zillow’s
23 HDP pages.
24

25 27. Gutenberg had no record of issuing a license to Zillow or otherwise
26 granting permission for Zillow to use any of the Images.
27
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendants

- For an award of actual damages and disgorgement of all of Defendant’s profits attributable to the infringement for the registered Works as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff’s election, an award for statutory damages against Defendant in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- For an order pursuant to 17 U.S.C. § 502(a) enjoining Defendants from any further infringing use of any of Plaintiff’s Images;
- For costs of litigation and reasonable attorney’s fees against Defendant pursuant to 17 U.S.C. § 505;
- For an award of pre- and post-judgment interest; and
- For any other relief the Court deems just and proper.

Dated: September 14, 2018

Respectfully submitted,

/s/ Mathew K. Higbee
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DEMAND FOR A BENCH TRIAL

Plaintiff, George Gutenberg, hereby demands a bench trial in the above matter.

Dated: September 14, 2018

Respectfully submitted,

/s/ Mathew K. Higbee
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