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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

CHRISTOPHER BOFFOLI, an individual,
Plaintiff,
v.
FACEBOOK, INC., a Delaware corporation,
Defendant.

Case No. 2:20-cv-237
COMPLAINT FOR COPYRIGHT INFRINGEMENT
DEMAND FOR JURY TRIAL

CHRISTOPHER BOFFOLI, (“Boffoli” or “Plaintiff”) hereby alleges for his complaint against FACEBOOK, INC. (“Facebook” or “Defendant”) upon personal information as to Plaintiff’s own activities, and upon information and belief as to the activities of others, as follows:

NATURE OF THE CASE

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

JURISDICTION AND VENUE

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

1 3. This Court has personal jurisdiction over Facebook because it conducts
2 substantial business in the State of Washington and because the acts and omissions
3 in question occurred here.

4 4. The claims alleged in this Complaint arise in the State of Washington
5 and the Western District of Washington and elsewhere.

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

7 **PARTIES**

8 6. Plaintiff is an individual and resident of the state of Washington.

9 7. Facebook is a Delaware corporation with its principal place of business in
10 Palo Alto, California.

11 **FACTS**

12 **A. Boffoli created copyrightable photographs and registered them with the**
13 **U.S. Copyright Office.**

14 8. Boffoli is a fine art, editorial, and commercial photographer who created
15 “Big Appetites,” a series of photographs featuring tiny figures photographed
16 against real food backdrops. Big Appetites has been published in more than 100
17 countries around the world and has been featured in major publications such as the
18 New York Times, Washington Post, NPR, and CBS This Morning, among many
19 others.

20 9. Fine art photographs from Boffoli’s Big Appetites collection can be
21 found in galleries and private collections in the US, Canada, Europe and Asia.
22 Boffoli is frequently hired by top advertising agencies and brands for commercial
23 commissions based on his work. He also is hired by various publications for
24 editorial commissions. Boffoli’s images frequently are licensed for publication in
25 books, magazines, calendars, online publications, commercial websites, and
26 greeting cards.

27 10. Boffoli’s business is based on licensing and selling the photographs he
28 creates. Big Appetites fine art photographs are currently available for purchase at

1 fine art galleries and have also been included in museum exhibitions in the US and
2 abroad.

3 11. Boffoli registered each photograph in the Big Appetites series with the
4 U.S. Copyright Office and has Copyright Registration Nos. VAu001106484 (2011),
5 VAu001148370 (2013), VA0001948517 (2013), and VAu001198948 (2015).

6 **B. Facebook’s customer posts photographs from Big Appetites without**
7 **license or permission from Boffoli on webpages housed on Facebook’s**
8 **platform.**

9 12. Facebook provides services to at least one user and allowed that user or
10 users to display content on Facebook’s platform, including content that infringes
11 on Boffoli’s copyright (the “Infringing Content”).

12 13. The Infringing Content displayed by Facebook contains numerous
13 photographs from Big Appetites without license or permission from Boffoli. A copy
14 of the infringing content is provided as Exhibit A.

15 **C. Facebook failed to prevent the Infringing Content from being accessible**
16 **over the Internet despite notice from Boffoli.**

17 14. Facebook can remove the Infringing Content displayed on Facebook’s
18 platform. Facebook can also disable its users’ ability to post content to the Internet.

19 15. Facebook’s registration with the United States Copyright Office for
20 receipt of Digital Millenium Copyright Act (“DMCA”) identifies “ip@fb.com” as
21 the email address of its designated agent. A copy of Facebook’s registration is
22 provided as Exhibit B.

23 16. Between August and October 2019 Boffoli issued DMCA takedown
24 notices reporting the Infringing Content immediately after he discovered that
25 Facebook was displaying copies of his copyrighted works. Facebook reported that it
26 removed the Infringing Content. Boffoli’s correspondence with Facebook is
27 attached as Exhibit C.

28 17. Boffoli never authorized his work to be posted on Facebook.

1 18. As late as January 9, 2020—more than 100 days after receiving Boffoli’s
2 first notice—Facebook had not removed or disabled access to the Infringing
3 Content. (*See* Exhibit A.)

4 19. On or about January 30, 2020, Facebook removed or disabled access to
5 the Infringing Content only after communication from Boffoli’s attorney. Facebook
6 admitted it failed to previously remove the material despite notice and stated that
7 its failure to do so was due to a technical error.

8 **CAUSE OF ACTION**

9 **Copyright Infringement and Contributory Copyright Infringement**

10 20. Boffoli hereby incorporates Paragraphs 1–19 by reference.

11 21. Boffoli is, and at all relevant times has been, the owner of the copyright
12 in the photographs in the Big Appetites series.

13 22. Each photograph in Big Appetites is copyrightable subject matter under
14 17 U.S.C. § 102(a)(5).

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

17 24. Boffoli registered the copyright in each photograph in Big Appetites with
18 the United States Copyright Office.

19 25. Boffoli has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce
20 the photographs in Big Appetites, (2) prepare derivative works based on Big
21 Appetites, (3) distribute copies of Big Appetites, and (4) display Big Appetites
22 publicly.

23 26. Without the permission or consent of Boffoli, photographs from Big
24 Appetites were reproduced, derivative works were made from, copies were
25 distributed of, and the photographs were displayed on Facebook’s platform.

26 27. Boffoli’s exclusive rights in the photographs in Big Appetites were
27 violated.

1 28. Facebook induced, caused, or materially contributed to the Infringing
2 Content’s publication.

3 29. Facebook had actual knowledge of the Infringing Content. Boffoli
4 provided notice to Facebook in compliance with the DMCA, and Facebook failed
5 to expeditiously disable access to or remove the Infringing Content.

6 30. Facebook acted willfully.

7 31. Alternatively, Facebook directly infringed Boffoli’s copyrights by
8 continuing to allow public access to the Infringing Content on Facebook’s
9 platform.

10 **RELIEF REQUESTED**

11 WHEREFORE, Boffoli asks this Court to enter judgment against Facebook
12 granting the following relief:

13 1. Temporary and permanent injunctions preventing and restraining
14 infringement of Big Appetites by Facebook under 17 U.S.C. § 502;

15 2. An order requiring the destruction of all copies made by or under the
16 control of Facebook of the photographs in Big Appetites and all articles by which
17 such copies may be reproduced under 17 U.S.C. § 503;

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

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

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

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

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

1 Dated: February 14, 2020

Respectfully submitted,

2 NEWMAN DU WORS LLP

3
4 s/ Keith Scully

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10 Counsel for Plaintiff

11 Christopher Boffoli

12 **JURY DEMAND**

13 Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Christopher Boffoli demands a trial
14 by jury of all issues presented in this complaint which are triable by jury.

15
16 Dated: February 14, 2020

Respectfully submitted,

17 NEWMAN DU WORS LLP

18
19 s/ Keith Scully

Keith Scully, WSBA No. 26877

20
21 Counsel for Plaintiff

22 Christopher Boffoli