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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

LINDA MATLOW,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Cause No: 1:18-cv-1782
	)	
RODGERS BROADCASTING CORP.,	)	
	)	
Defendant.	)	

**COMPLAINT  
Summary of lawsuit**

1. The Plaintiff, Linda Matlow, took a photograph of singer John Parr in the 1980's and registered the Parr Photo with the U.S. Copyright office in 2011. On August 8, 2017, Plaintiff discovered her rare vintage exclusive copyrighted photo of singer John Parr being used on Twitter by Radio Station KMIX 106.9. Defendant RODGERS BROADCASTING CORP. ("RODGERS") which owns KMIX 106.9 had published the Parr Photo ("Exhibit A") on its Twitter Account, even though the Defendant had no rights or authority to publish the Parr Photo. The Plaintiff requests damages against Defendant RODGERS for violations of the U.S. Copyright laws.

**JURISDICTION AND VENUE**

2. This copyright infringement action arises under 17 U.S.C. § 101 et seq. This Court has jurisdiction over this action under 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1338 (acts of Congress related to copyright).

3. This Court has personal jurisdiction over the Defendant by virtue of their

transacting, doing, and soliciting business in this District, and because a substantial part of the relevant events occurred in this District and because a substantial part of the property that is the subject of this action is situated here. The Corporate headquarters of Defendant RODGERS is Richmond, Indiana.

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and 1400(a) because the named Defendant resides in this district and because a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; and/or conduct business in this district.

#### **PARTIES**

5. The Plaintiff, Linda Matlow a professional photographer and lives in Chicago, Illinois.

6. Defendant RODGERS BROADCASTING CORP. (“RODGERS”) has conducted and does conducts business in this district. The Corporate headquarters of Defendant RODGERS is Richmond, Indiana. RODGERS owns Radio station KMIX 106.9 which published the Parr Photo without permission from the copyright owner.

#### **FACTS**

7. In the 1980’s, the Plaintiff, a United States citizen, took her rare vintage exclusive photo of singer John Parr.

8. Plaintiff is the sole owner of the Parr Photo and its copyrights.

9. The photograph is an original work that is copyrighted under United States law. A copy of the photo is attached as Exhibit A, hereinafter referred to as “Parr Photo”.

10. The “Parr Photo” was registered by the Plaintiff on December 7, 2011 with the United States Copyright Office and assigned Registration Number VAu 1-085-861.

## COUNT I

### COPYRIGHT INFRINGEMENT

11. Defendant RODGERS has a Twitter account and displayed the Plaintiff’s copyrighted Parr Photo without her permission on Defendant’s Twitter Account. (Exhibit B Screen Shot of Infringement)

12. Defendant RODGERS displayed the Parr Photo on Twitter to advertise its radio station KMIX 106.9 in Connerville Indiana.

13. Defendant RODGERS is liable to Plaintiff because Defendant had the right and ability to control and supervise the content of and to control and supervise the access of the Twitter account.

14. Upon information and belief, the Defendant RODGERS downloaded or took the Parr Photo without permission from the internet. (Exhibit B Screen Shot of Infringement)

15. Defendant RODGERS did not disclose the source of the stolen Photo or otherwise conferred credit to the owner; instead, the Defendant RODGERS

willfully and recklessly falsely claimed that Defendant RODGERS owned the copyrights of all images on its Twitter Account.

16. During the year 2017, the website of Defendant RODGERS published the Parr Photo for its commercial use without paying for said use and without obtaining the necessary authorization from the Plaintiff, the copyright owner.

17. While the Defendant will know the exact date of first publication, based upon the Plaintiff's investigation, during the year 2017, Defendant began publishing the Parr Photo and used the Parr Photo for its commercial use without paying for said use and without obtaining the necessary authorization from the Plaintiff.

18. The Defendant knew that it did not own the Parr Photo and knew the Defendant had not obtained the rights to publish the Parr Photo, but recklessly and falsely represented to the world otherwise.

19. Defendant RODGERS has not paid anyone for the right to publish the Parr Photo, but instead fraudulently declared to Twitter and others that the Defendant RODGERS owned the copyrights to the Parr Photo.

20. Defendant refuses to pay for the unauthorized use of Parr Photo.

21. Defendant has not agreed be enjoined from using the Parr Photo.

22. After the Defendant published the Parr Photo, Defendant permitted third parties to access the Twitter account and copy the Parr Photo.

23. Defendant is vicariously liable for each such downloaded copy of the Parr Photo initiated by each third-party Internet User regardless of whether Defendant was aware that the third party was creating the downloaded copy.

24. Defendant is liable for all profits resulting from each downloaded copy of the Parr Photo created by each such third-party Internet User.

25. Defendant is liable for copyright infringement regardless of whether Defendant knew that any use of the Parr Photo would infringe copyrights Plaintiff owns.

26. Plaintiff has complied in all respects with 17 U.S.C. §§ 101 et seq., and secured the exclusive rights and privileges in and to the copyrights of the above-referenced works.

27. Plaintiff has been and still is the sole proprietor of all rights, title, and interest in and to the copyrights in their respective works as referenced above.

28. Defendant RODGERS's conduct violates the exclusive rights belonging to Plaintiff as owner of the copyrights, including without limitation Plaintiff's rights under 17 U.S.C. § 106.

29. Plaintiff seeks damages for Defendant's use of Plaintiff's advertising idea comprising the Parr Photo.

30. On information and belief, Plaintiff alleges that, as a direct and proximate result of their wrongful conduct, Defendant RODGERS has realized and continues

to realize profits and other benefits rightfully belonging to Plaintiff. Accordingly, Plaintiff seek an award of damages pursuant to 17 U.S.C. §§ 504 and 505.

31. Defendant's infringing conduct has also caused and is causing substantial and irreparable injury and damage to Plaintiff in an amount not capable of determination, and, unless restrained, will cause further irreparable injury, leaving the Plaintiff with no adequate remedy at law.

32. Defendant has willfully and deliberately engaged in, and, is willfully engaging in, the acts complained of with oppression, fraud, and malice ("Acts") and in conscious disregard of the rights of Plaintiff. Plaintiff is, therefore, entitled to the maximum statutory damages allowable.

33. Examples of these willfully and deliberately Acts, include but not limited to the following:

- a. Defendant RODGERS downloaded or took the Parr Photo from the internet and included said photo on the Defendant's Twitter account.
- b. Defendant failed to designate the source of the stolen Parr Photo or otherwise confer credit to the owner.
- c. Defendant recklessly, willfully and falsely asserted to Twitter and others that the Defendant owned the copyrights of all content, images and photos contained on the Defendant's Twitter account.

- d. Defendant knew that it did not own Parr Photo and knew the Defendant had not obtained the rights to publish the Parr Photo, but deliberately and falsely represented to the world otherwise.
- e. Defendants has not paid anyone for the right to use Parr Photo, but instead fraudulently declared to Twitter and others that the Defendant owned the copyrights to the Parr Photo.

THEREFORE, Plaintiff prays for judgment against Defendant RODGERS as follows:

- a. Declaring that Defendant's unauthorized conduct violates Plaintiff's rights under common law and the Federal Copyright Act;
- b. Immediately and permanently enjoining Defendant RODGERS, their members, officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing any of Plaintiff's copyrighted articles or copyrighted material without consent or otherwise infringing Plaintiff's copyrights or other rights in any manner;
- c. Enjoin Defendant from "republishing" any of Plaintiff's copyrighted materials that, if granted, would require that the Parr Photo not be available on their internet or Twitter account would thereby make it impossible for third party Internet users to download copies of the Parr Photo.
- d. Ordering Defendant RODGERS to account to Plaintiff for all gains, profits, and advantages derived by Defendants, and third-party users by their infringement of Plaintiff's copyrights or such damages as are proper, and since Defendant intentionally infringed plaintiff's

copyrights, for the maximum allowable statutory damages for each violation;

- e. Awarding Plaintiff actual and/or statutory damages for Defendant copyright infringement in an amount to be determined at trial;
- f. Awarding Plaintiff their costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. §§ 504 & 505.
- g. Awarding Plaintiff such other and further relief as is just and proper.

Respectfully Submitted:

Date: May 23, 2018

/s Richard N. Bell  
Richard N. Bell

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