

1 Stephen M. Doniger, Esq. (SBN 179314)
2 stephen@donigerlawfirm.com
3 Scott A. Burroughs, Esq. (SBN 235718)
4 scott@donigerlawfirm.com
5 Frank Gregory Casella (SBN 301494)
6 fcasella@donigerlawfirm.com
7 DONIGER/BURROUGHS
8 603 Rose Avenue
9 Venice California 90291
10 Telephone: (310) 590-1820

11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**

13 **CENTRAL DISTRICT OF CALIFORNIA**

14 HOWARD SCHATZ, as an individual

15 Plaintiff,

16 vs.

17 VERIZON COMMUNICATIONS, INC.,
18 a Delaware Corporation, d/b/a
19 “Yahoo.com”; OATH, INC., a Delaware
20 Corporation; and DOES 1-10,

21 Defendant

Case No.:

COMPLAINT FOR:

- 1. COPYRIGHT INFRINGEMENT
- 2. VICARIOUS AND/OR CONTRIBUTORY COPYRIGHT INFRINGEMENT
- 3. VIOLATIONS OF THE DIGITAL MILLENNIUM COPYRIGHT ACT (17 U.S.C. § 1202)

JURY TRIAL DEMANDED

22
23
24
25 Plaintiff, Howard Schatz, by and through his undersigned attorneys,
26 hereby prays to this honorable Court for relief based on the following:

27 **JURISDICTION AND VENUE**

- 28 1. This action arises under the Copyright Act of 1976.

1 2. This court has jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).

2 3. Venue is proper under 28 U.S.C. § 1391(c) and 1400(a) because a
3 substantial part of the acts and omissions giving rise to the claims occurred here.

4 **PARTIES**

5 4. Plaintiff is an individual residing in Los Angeles, California.

6 5. Plaintiff is informed and believes and thereon alleges that Defendant
7 VERIZON COMMUNICATIONS, INC., doing business as “Yahoo.com”, does
8 business in and with the state of California and in this District.

9 6. Plaintiff is informed and believes and thereon alleges that Defendant
10 OATH, INC., is a Delaware corporation and is doing business in and with the
11 state of California and in this District.

12 7. Defendants Does 1 through 10, inclusive, are other parties not yet
13 identified who have infringed Plaintiff’s copyrights, have contributed to the
14 infringement of Plaintiff’s copyrights, or have engaged in one or more of the
15 wrongful practices alleged herein. Their true names, whether corporate, individual
16 or otherwise, are presently unknown to Plaintiff, who therefore sues said
17 Defendants by such fictitious names, and will seek leave to amend this Complaint
18 to show their true names and capacities when same have been ascertained.

19 8. Plaintiff is informed and believes and thereon alleges that at all times
20 relevant hereto each of the Defendants was the agent, affiliate, officer, director,
21 manager, principal, alter-ego, and/or employee of the remaining Defendants and
22 was at all times acting within the scope of such agency, affiliation, alter-ego
23 relationship and/or employment; and actively participated in or subsequently
24 ratified and adopted, or both, each and all of the acts or conduct alleged, with full
25 knowledge of all the facts and circumstances, including, but not limited to, full
26 knowledge of each and every violation of Plaintiff’s rights and the damages to
27 Plaintiff’s proximately caused thereby.
28

1 9. Schatz is an accomplished and critically acclaimed photographer. His
2 works have been exhibited in museums and photography galleries internationally
3 and are included in innumerable private collections. Schatz's editorial work has
4 been published in magazines around the world, including Time, Sports Illustrated,
5 Vogue, Vogue Italia, GQ Italia, The New York Times Magazine, The New
6 Yorker, Stern, Life, Black/White, American Photo, Photo France, and Photo Italia.
7 He has received international acclaim for his work and has won virtually every
8 award in his field including numerous "Photographer of the Year" awards and
9 Gold Medals in the most prestigious competitions. His work has been published in
10 twenty-two monographs.

11
12 10. Plaintiff created and exclusively owns the photography depicted in
13 **Exhibit A** attached hereto. These works will be called the "Subject Photography"
14 herein.

15 11. Plaintiff has registered the Subject Photography with the Copyright
16 Office.

17 12. Defendants, and each of them, have willfully copied, reproduced,
18 displayed, and distributed the Infringing Content for financial benefit and without
19 Plaintiff's consent, as seen in the screen captures and/or URLs depicted in **Exhibit**
20 **B** hereto. Said material will be referred to as "Infringing Content" herein.

21 13. Plaintiff did not consent to the aforementioned use of the Subject
22 Photography.

23 **FIRST CLAIM FOR RELIEF**

24 (For Copyright Infringement – Against all Defendants, and Each)

25 14. Plaintiff repeats, re-alleges, and incorporates herein by reference as
26 though fully set forth, the allegations contained in the preceding paragraphs.

27 15. Plaintiff alleges on information and belief that Defendants, and each
28 of them, accessed the Subject Photography by without limitation, viewing the

1 Subject Photography on Plaintiff's website or social media profiles, on other sites
2 online, or in physical publications. The identicality of the copying also show
3 access.

4 16. Plaintiff alleges on information and belief that Defendants, and each
5 of them, copied, reproduced, displayed, and distributed the Subject Photography
6 online as seen in the screen captures attached hereto as **Exhibit B**.

7 17. Plaintiff alleges on information and belief that Defendants, and each
8 of them, infringed Plaintiff's copyrights by creating infringing derivative works
9 from the Subject Photography and publishing same to the public.

10 18. Due to Defendants', and each of their, acts of infringement, Plaintiff
11 has suffered general and special damages in an amount to be established at trial.

12 19. Due to Defendants' acts of copyright infringement as alleged herein,
13 Defendants, and each of them, have obtained direct and indirect profits they would
14 not otherwise have realized but for their infringement of Plaintiff's rights in the
15 Subject Photography. As such, Plaintiff is entitled to disgorgement of Defendants'
16 profits directly and indirectly attributable to Defendants' infringement of Plaintiff's
17 rights in the Subject Photography in an amount to be established at trial.

18 20. Plaintiff alleges on information and belief that Defendants, and each
19 of them, have committed acts of copyright infringement, as alleged above, which
20 were willful, intentional and malicious, which further subjects Defendants, and
21 each of them, to liability for statutory damages under Section 504(c)(2) of the
22 Copyright Act in the sum of up to \$150,000.00 per infringement and/or a
23 preclusion from asserting certain equitable and other defenses.
24

25 //

26 //

27 //

28 //

1 **SECOND CLAIM FOR RELIEF**

2 (For Vicarious and/Contributory Copyright Infringement – Against all Defendants,
3 and Each)

4 21. Plaintiff repeats, re-alleges, and incorporates herein by reference as
5 though fully set forth, the allegations contained in the preceding paragraphs.

6 22. Plaintiff alleges on information and belief that Defendants knowingly
7 induced, participated in, aided and abetted in and profited from the illegal
8 reproduction and distribution of the Subject Photography as alleged hereinabove.
9 Such conduct included, without limitation, publishing photographs obtained from
10 third parties that Defendant(s) knew, or should have known, were not authorized to
11 be published by Defendant(s); publishing the Infringing Content on affiliate, third-
12 party, and social media sites; and distributing the Infringing Content to third-
13 parties for further publication.
14

15 23. Plaintiff alleges on information and belief that Defendants, and each
16 of them, are vicariously liable for the infringement alleged herein because they had
17 the right and ability to supervise the infringing conduct and because they had a
18 direct financial interest in the infringing conduct. Specifically, Defendants, and
19 each of them, received revenue in connection with the Infringing Content, and
20 were able to supervise the distribution, broadcast, and publication of said content.

21 24. By reason of the Defendants', and each of their, acts of contributory
22 and vicarious infringement as alleged above, Plaintiff has suffered general and
23 special damages in an amount to be established at trial.

24 25. Due to Defendants' acts of copyright infringement as alleged herein,
25 Defendants, and each of them, have obtained direct and indirect profits they would
26 not otherwise have realized but for their infringement of Plaintiff's rights in the
27 Subject Photography. As such, Plaintiff is entitled to disgorgement of Defendants'
28

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.