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10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION  
12

13 JACK SCHROEDER, an individual;  
and BRITNI SUMIDA, an individual;

14 Plaintiffs,  
15

16 v.

17 VOLVO GROUP NORTH AMERICA,  
LLC, a Delaware limited liability  
company.  
18

19 Defendant.  
20

Case No.

**COMPLAINT FOR COPYRIGHT  
INFRINGEMENT, UNFAIR  
COMPETITION, AND  
MISAPPROPRIATION OF  
LIKENESS**

**DEMAND FOR JURY TRIAL**

21 Plaintiffs Jack Schroeder (“Schroeder”) and Britni Sumida (“Sumida,” and  
22 collectively, with Schroeder, “Plaintiffs”) hereby complain against Defendant Volvo  
23 Group North America, LLC (“Volvo,” or “Defendant”) as follows.  
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## SUMMARY OF THE CASE

1  
2 1. Plaintiff Jack Schroeder is a renowned and sought after automotive and  
3 lifestyle photographer.

4 2. In or about April 2019, Schroeder organized a test-shoot, to take  
5 advantage of the “super bloom” of wildflowers in the high desert of Southern  
6 California. Schroeder featured a Volvo S60 in the shoot, and enlisted Britni  
7 Sumida—a highly sought after model—to capture lifestyle images alongside the car.

8 3. After shooting for the entire day, Schroeder culled approximately 100  
9 images from more than 1,000 that he captured; which he then painstakingly  
10 mastered and refined. As seen below, the final images are stunning.



25 4. On or about April 23, 2019, Schroeder posted a few of the images on  
26 Instagram. In addition to the positive response from his followers, Schroeder  
27 received a glowing Instagram comment from Volvo, requesting permission to use  
28 the images in its advertising.

1           5.       Schroeder responded via email, explaining that while he was flattered  
2 that Volvo liked the images, he does not license his work for free. In an effort to  
3 build a relationship with Volvo, and to entice them to purchase his work, Schroeder  
4 provided a link to his personal website, which included additional images from the  
5 shoot that had not been posted to Instagram.

6           6.       Volvo never responded to Schroeder’s email, and he assumed that the  
7 car company had simply lost interest in using his images. Six months later, however,  
8 Volvo began running a global advertising campaign (the “Campaign”) that  
9 inexplicably consisted solely of the nine photographs that Schroeder had posted to  
10 his Instagram account, as well as two photographs that he posted to his personal  
11 website (the “Photos”), including images featuring Ms. Sumida. The Campaign  
12 encouraged viewers to learn more about Volvo’s products (in this case, the Volvo  
13 S60 sedan), and directed viewers to a dedicated Volvo web page where they could  
14 purchase a S60. The page was created specifically to receive consumers who clicked  
15 on Schroeder’s photographs.

16           7.       Volvo’s unauthorized commercial exploitation of the Photos is  
17 particularly damaging because Ms. Sumida had been hired to star in an ad campaign  
18 for a different major car company, and her contract contained a provision preventing  
19 her from working for other auto manufacturers.

20           8.       Schroeder brings a straightforward copyright infringement claim (17  
21 U.S.C. § 101, *et seq.*) for misappropriation of his Photos. Because Volvo used  
22 images featuring Sumida in its advertising materials, she brings claims for unfair  
23 competition and false endorsement under the Lanham Act and related state law  
24 claims for misappropriation of likeness.

### 25   **JURISDICTION AND VENUE**

26           9.       This Court has original subject matter jurisdiction over this action and  
27 the claims asserted herein, pursuant to 28 U.S.C. Sections 1331 (“federal question  
28 jurisdiction”) and 1338(a)-(b) (“patent, copyright, trademark and unfair competition

1 jurisdiction”) in that this action arises under the laws of the United States and, more  
2 specifically, Acts of Congress relating to patents, copyrights, trademarks, and unfair  
3 competition. This Court also has diversity jurisdiction over this action based upon  
4 28 U.S.C. Section 1332 because there is complete diversity between Plaintiffs and  
5 Defendant, and the amount in controversy exceeds \$75,000.00, exclusive of interest  
6 and costs.

7 10. Defendant is subject to the personal jurisdiction of the Court because  
8 the Campaign was distributed in, expressly aimed at, and viewed by, California  
9 residents and residents of this District. Venue is proper in this District pursuant to 28  
10 U.S.C. Section 1391(b)(1)-(3) for the same reasons.

11 **THE PARTIES**

12 11. Plaintiff Jack Schroeder is, and at all times relevant was, a citizen of  
13 California, residing in Los Angeles, California.

14 12. Plaintiff Britni Sumida is, and at all times relevant was, a citizen of  
15 California, residing in Los Angeles, California.

16 13. Plaintiffs allege, on information and belief, that Defendant Volvo  
17 Group North America, LLC is a Delaware corporation that manufactures and sells  
18 Volvo cars and trucks throughout the world, and in this District. Volvo maintains a  
19 headquarters in Greensboro, North Carolina.

20 **GENERAL ALLEGATIONS**

21 14. Schroeder is a professional photographer, specializing in automotive  
22 photography. Britni Sumida is a highly sought after professional actor and model,  
23 having appeared in notable advertising campaigns for companies like Timex,  
24 Hurley, and Chase bank; as well as starring in the music video for the band Angels  
25 and Airwaves’ song “Kiss & Tell,” which currently has over 2.8 million views on  
26 YouTube.

27 15. Schroeder took the Photos in April 2019, in Anza, California. The  
28 purpose of the Photos was to hone his skills, keep his portfolio up to date with

1 images of current models of cars—in this case, the 2019 Volvo S60—and to take  
2 advantage of the “super-bloom” of wildflowers happening in Southern California at  
3 the time. The copyright for the Photos was registered with the United States  
4 Copyright Office, effective May 25, 2020 (United States Copyright Registration  
5 VA0002204816).

6 16. Sumida, a close friend of Schroeder’s, participated in the test shoot as a  
7 favor—and as a fun, creative way to enjoy the super-bloom, with the potential to  
8 add some new images to her own portfolio.

9 17. On or about April 23, 2019 Schroeder posted nine of the Photos to his  
10 Instagram account, receiving enthusiastic praise from among his 11,000+ followers,  
11 and other Instagram users. Indeed, on or about April 23, 2019, Volvo left the  
12 following public comment on Schroeder’s Instagram:

13 *We love your post and would like to share it! To accept comment with*  
14 *#yesvolvousa you can read T&Cs at [http://live.storystream.it/Volvo-](http://live.storystream.it/Volvo-car-us/)*  
*car-us/*

15 Volvo left another public comment a week later, again praising Schroeder’s photos  
16 and requesting to use them:

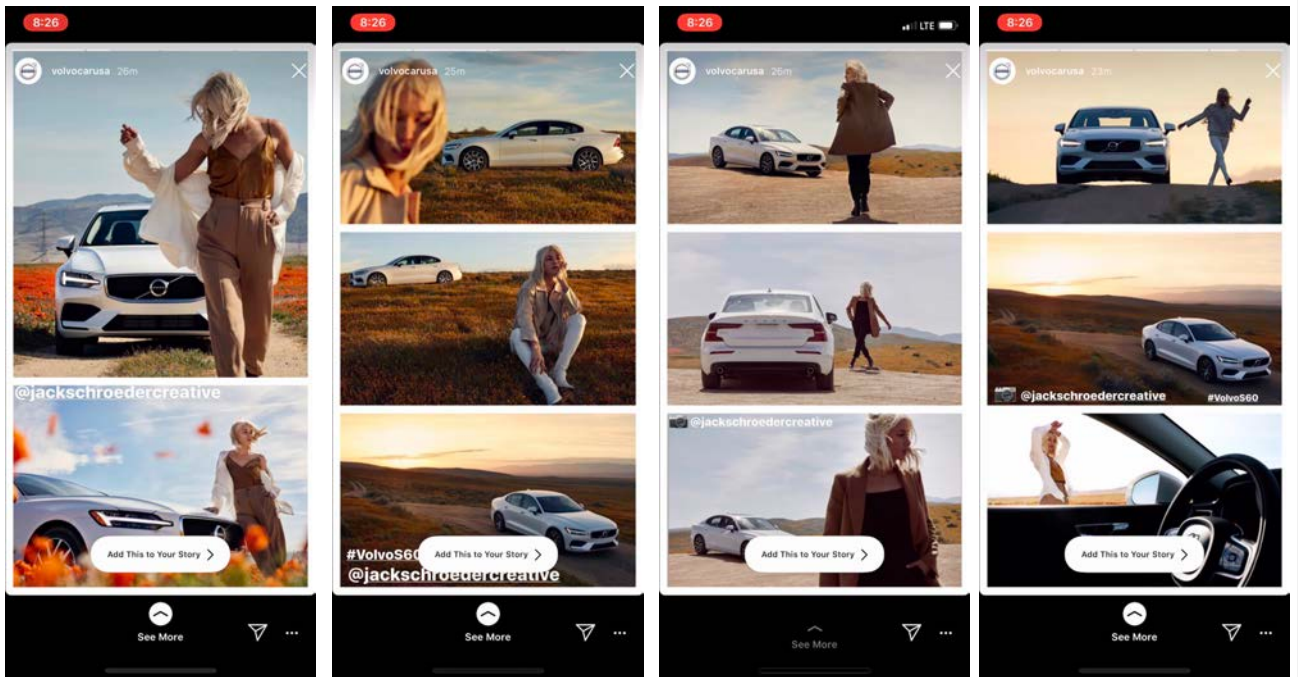
17 *@jackschroedercreative We think your post is great and would love to*  
18 *share it on our website! To accept mention us in a comment with*  
*#YesVolvoUSA. T&C’s at <http://live.storystream.it/Volvo-car-us/rights>*

19 18. The terms and conditions that Volvo identified in their comments are  
20 unreasonable, especially to a professional photographer. Volvo would be free to use  
21 the Photos in all media, in perpetuity; and Schroeder would receive no  
22 compensation or creative input. Thus, on May 3, 2019, Schroeder emailed Volvo  
23 explaining that while he was flattered by their interest in his work, he would not  
24 license the Photos under the terms offered. Instead, Schroeder offered to negotiate a  
25 license, and sent links to his personal website, which featured additional images  
26 Volvo might want to use. Schroeder never received a response to this email, and he  
27 assumed that Volvo was interested in the Photos only if they could use them without  
28 paying compensation. Unfortunately, he had no idea how right he was.



1 **A. Volvo uses the Photos in its global advertising campaign.**

2 19. On or about November 19, 2019, to increase sales, attract new  
3 customers, and enhance its brand goodwill, Volvo published an Instagram “story” (a  
4 collection of images that is available to view for a limited time) featuring the Photos  
5 as the sole creative element. As seen in the images below, Volvo used a special  
6 “swipe up” feature that directs the viewer to an external (i.e. outside of Instagram)  
7 website where they can purchase a featured product—in this case, the Volvo S60.



19 20. If this unauthorized use were not enough, Volvo also posted the Photos  
20 on its verified Pinterest page, which boasts over 10 million monthly viewers—even  
21 going so far as to include the Photos as the page’s main header:



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Unlike Volvo’s Instagram “story,” the images posted to Volvo’s verified Pinterest account do not credit Schroeder as the photographer; and while Volvo has removed its copies of the Photos from Instagram, all eleven of the Photos inexplicably remain available to view on Pinterest to this day.<sup>1</sup> Like its Instagram story, Volvo’s Pinterest pages directed its 10 million+ monthly viewers to a dedicated website where they could read about and purchase an S60.

21. The images that Volvo published to its verified Pinterest page included not only those that Schroeder had posted to Instagram, but two others that he had made available only on a promotional web page and the personal website identified in his May 3, 2019 email rejecting Volvo’s request to use his Photos for free.

22. On November 20, 2019, Schroeder emailed Volvo explaining that they were using his Photos without his authorization, and that this use had not only damaged him, but also Ms. Sumida. Specifically, Schroeder explained that “because the images posted by @VolvoCarsUSA featured female talent that is currently in an exclusivity contract with a specific automotive brand, her modeling agency is not happy about the situation,” and that “for a brand to post the images as an online social campaign, it puts her career in jeopardy.” Out of concern for his friend’s career, and in the interest of reaching a quick and amicable solution, Schroeder requested that the images featuring Ms. Sumida be removed.

23. Receiving no response, Schroeder emailed Volvo again two days later, repeating his concerns, and requesting that her images be removed from Volvo’s social network sites. Volvo responded by thanking Schroeder for notifying them and stating that the Photos “would not be used going forward.”

24. Unfortunately, Volvo failed to comply with Schroeder’s request.

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<sup>1</sup> See, <https://www.pinterest.com/pin/757238124832380012/> (last accessed June 9, 2020).

1 Despite having been notified that their unauthorized use of the Photos was causing  
2 damage to Plaintiffs—and to Ms. Sumida’s career and contractual relationships in  
3 particular—Volvo only removed its Instagram story, and left the infringing images  
4 on its verified Pinterest page. Plaintiffs were left with little choice but to retain  
5 counsel to vindicate their rights against such an intransigent corporate behemoth.

6 **B. In response to their complaints, Volvo tries to strong-arm Plaintiffs by**  
7 **bullying their associates.**

8 25. On January 27, 2020, Plaintiffs’ counsel sent a cease and desist letter to  
9 Volvo, demanding that it immediately cease all uses of the Photos, after which  
10 Volvo finally removed the Photos from its verified Pinterest page. On March 6,  
11 Volvo, through its counsel, responded to Plaintiffs’ letter by acknowledging their  
12 use of the Photos on Instagram, but feigning ignorance about Volvo’s use or display  
13 of the Photos “in any other manner.”

14 26. Despite this inauspicious start, Plaintiffs continued to communicate  
15 with Volvo in cordial manner. Those efforts proved to be in vain when, on May 22,  
16 2020, Volvo’s counsel sent an aggressive and intimidating letter to Porch House  
17 Pictures—a small mom & pop production company that Schroeder has worked  
18 with—threatening to sue them for creating a 20 second video using footage taken  
19 during Plaintiffs’ April 2019 test-shoot. Specifically, Volvo claimed that the posting  
20 of images and video from Schroeder’s test-shoot that “prominently display and  
21 feature Volvo’s S60 mark, Volvo’s distinct, trademark-protected logo, and a motor  
22 vehicle that bears unique design features immediately identifiable with Volvo’s  
23 brand and line of automotive products,” constitute “clear, continuing violations of  
24 Volvo’s rights under federal and state law.” Quite a far cry from the laudatory  
25 comments Volvo had published to Schroeder’s Instagram post last year.

26 27. Volvo’s letter to Porch House was nothing more than a transparent  
27 attempt to bully Schroeder and Sumida into dropping their claims. Indeed Volvo’s  
28 counsel acknowledged that they had learned about Porch House’s video “[d]uring



1 the course of investigating Mr. Schroeder’s and Ms. Sumida’s allegations,” and that  
2 they were aware that Schroeder has a professional relationship with Porch House.<sup>2</sup>  
3 Bizarrely, while their letter made no reference to the Campaign, or their use of  
4 Schroeder’s Photos, Volvo affirmatively stated that it never engaged Jack Schroeder  
5 to advertise or promote Volvo’s products—a half-truth at best, considering  
6 Schroeder had explicitly denied Volvo permission to use his Photos.

7 28. The Photos were incorporated into the Campaign without Plaintiffs’  
8 authorization—or even their knowledge. The purpose of the Campaign was to invite  
9 and encourage consumers to purchase Volvo products, and to enhance Volvo’s  
10 image and goodwill.

11 29. In this regard, Volvo, undertook to unlawfully copy, and did unlawfully  
12 copy, the Photos for the purpose of incorporating them into the Campaign. On  
13 information and belief, Volvo chose to include the Photos in the Campaign because  
14 of their aesthetic value and to give the false impression that Plaintiffs—and Ms.  
15 Sumida, in particular—are affiliated with and endorse Volvo.

16 30. The Campaign featuring the Photos was offered across Volvo’s social  
17 media platforms, including, but not limited to, its verified Instagram and Pinterest  
18 accounts. Reflecting its importance and appeal, the Photos were also chosen as the  
19 main header image for Volvo’s verified Pinterest homepage, which boasts more than  
20 “10 million+ monthly viewers.”

21 31. On information and belief (based on the content of the Campaign), the  
22 Campaign was designed to draw in and engage the consumers to whom Volvo

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24 <sup>2</sup> This statement is misleading. In fact, Volvo had long been aware of Porch House’s authorized  
25 use of images and video from Plaintiffs’ test-shoot. Indeed, on or about May 4, 2019, Volvo left  
the following laudatory comments on Porch House’s Instagram post:

26 *@porchhousepictures Your content is great! We’d love to share it on our website. To*  
27 *accept mention us in a comment with #YesVolvoUSA. T&C’s at*  
28 *<http://live.storystream.it/Volvo-car-us/rights>*

1 hoped to sell products.

2 32. Further purposes of the Campaign were to (1) promote sales of Volvo's  
3 vehicles and more specifically its S60 sedan; and (2) benefit the reputation and  
4 recognition of the Volvo brand as a whole. The Campaign was intended to (and on  
5 information and belief, did) engage customers, increase traffic to Volvo's  
6 dealerships, websites, social media accounts, and increase Volvo's sales revenues.

7 33. On information and belief (based on the nature of the advertising) the  
8 Campaign was seen by millions of consumers worldwide, because it was shared  
9 across a network of official Volvo social media channels.

10 34. After discovering Volvo's unauthorized use of the Photos, Plaintiffs  
11 promptly demanded Defendant cease using the infringing images. Defendant  
12 feigned ignorance about the scope of their use, and Volvo continued to use the  
13 infringing images for months after Plaintiffs requested that they be removed.

14 35. Due to Defendant's misconduct as alleged herein, Plaintiffs' reputation  
15 and career have been irreparably tarnished, diminishing the value of their work and  
16 causing decreased revenue in the future. In addition, Volvo continued using the  
17 Photos for months despite having been notified that such use threatened Ms.  
18 Sumida's career in general, and specific professional contractual relationships.

19 36. Volvo benefitted from the misappropriation and infringement in  
20 numerous ways, including but not limited to the following: (1) they enjoyed the  
21 increased digital impressions and sales increases generated by the Campaign; and  
22 (2) the association with Plaintiffs increased the value, image, and positioning of the  
23 Volvo brand.

24 37. Plaintiffs have sustained significant injury and monetary damages due  
25 to Defendant's wrongful acts as alleged in this Complaint. Plaintiffs are at present  
26 unable to ascertain the full extent of the monetary damages they have suffered by  
27 reason of said acts. To determine the full extent of such damages, including such  
28 profits of Defendant as may be recoverable, Plaintiffs will require an accounting

1 from each Defendant of all monies generated from their wrongful conduct.

2 38. Plaintiffs are informed and believe, and thereon allege, that  
3 Defendant's alleged conduct was, and continues to be, intentional, deliberate,  
4 willful, wanton, committed with the intention of injuring Plaintiffs, and depriving  
5 Plaintiffs of their legal rights; was, and is, despicable conduct that subjects Plaintiffs  
6 to a cruel and unjust hardship; and was, and continues to be, undertaken with  
7 oppression, fraud and malice. Accordingly, Plaintiffs are entitled to an award of  
8 punitive or exemplary damages.

9 39. Defendant's actions have caused, and will continue to cause, damage  
10 and irreparable harm to Plaintiffs (as described above) and are likely to continue  
11 unabated, thereby causing further damage and irreparable harm to Plaintiffs, unless  
12 preliminarily and permanently enjoined and restrained by the Court.

13

14 **First Claim for Relief for Copyright Infringement**  
15 **(By Schroeder against Volvo)**

16 40. Plaintiffs incorporate by this reference all paragraphs of this Complaint  
17 as if set forth in full in this cause of action.

18 41. Schroeder's Photos were created in 2019. The Photos are original  
19 works that may be copyrighted under United States law. Schroeder applied to the  
20 copyright office and received a certificate of registration for the Photos, dated May  
21 25, 2020 and identified as United States Copyright Registration Number  
22 VA0002204816.

23 42. After Schroeder's creation of the Photos and (on information and  
24 belief) with full knowledge of Schroeder's rights, Defendant infringed Schroeder's  
25 copyrights by copying, as described above, the Photos and exhibiting such copied  
26 images as advertising materials, including in the Campaign.

27 43. Even after Schroeder protested, Defendant continued to infringe his  
28 copyrights by continuing to exhibit unauthorized copies of the Photos in advertising

1 materials, including on Defendant's social media websites.

2 44. All of Defendant's acts were performed without Schroeder's  
3 permission, license or consent.

4 45. As a result of Defendant's infringement, Schroeder has suffered and  
5 will continue to suffer substantial damage to his business in the form of diversion of  
6 trade, loss of profits, and a diminishment in the value of his Photos, rights, and  
7 reputation; all in amounts that are not yet ascertainable but not less than the  
8 jurisdictional minimum of this court. As a result of Defendant's misconduct as  
9 alleged herein, Schroeder's reputation and career has been irreparably tarnished,  
10 diminishing the value of his works, and decreasing revenue derived from his work.

11 46. By reason of its infringement of Schroeder's copyrights as alleged  
12 herein, Defendant is also liable to him for the actual damages he has incurred as a  
13 result of the infringement, and for any profits of Defendant directly or indirectly  
14 attributable to such infringement.

15

16 **Second Claim for Relief for Unfair Competition under Section 43(a) of**

17 **The Lanham Act (15 U.S.C. § 1125(a))**

18 **(By Sumida, against Volvo)**

19 47. Plaintiffs incorporate by this reference all paragraphs of this Complaint  
20 as if set forth in full in this cause of action.

21 48. Sumida's likeness has secondary meaning, as that term is understood in  
22 trademark law. As described above, Defendant has falsely used Sumida's likeness in  
23 the Campaign, creating the false impression that Sumida endorses Volvo. Members  
24 of the public have come to recognize Sumida's likeness as belonging to her. This  
25 was done to promote and attract customers to Volvo's website and dealerships, and  
26 thereby generate revenue for Defendant. Thus, this was done in furtherance of  
27 Defendant's commercial benefit. Sumida is in the business of commercializing her  
28 identity and selling her images to reputable brands and companies for profit. By

1 virtue of Sumida’s use of her image and identity to build her brand, her likeness has  
2 acquired a distinctiveness through secondary meaning. Sumida’s image either  
3 suggests the basic nature of her product or service, identifies the characteristic of her  
4 product or service, or suggests the characteristics of her product or service that  
5 requires an effort of the imagination by the consumer in order to be understood as  
6 descriptive.

7 49. The goodwill and reputation associated with Sumida’s likeness has  
8 continuously grown throughout the general public. Sumida’s likeness is now known  
9 throughout the United States, the State of California, and the world, as a source of  
10 origin for her services and endorsements.

11 50. Defendant’s use of Sumida’s likeness is designed to create and does  
12 create the false and deceptive commercial impression that Volvo and its products are  
13 associated with and/or endorsed by Sumida. The use by Defendant of Sumida’s  
14 likeness is likely to cause confusion, mistake, or deception of purchasers as to  
15 Sumida’s endorsement of the goods.

16 51. Customers and potential purchasers are likely to be attracted to Volvo’s  
17 products advertised in the Campaign, creating an initial interest in the goods upon  
18 seeing them and creating a lasting appreciation, believing them to be endorsed by or  
19 otherwise associated with Sumida, thereby resulting in consumer confusion.  
20 Defendant’s conduct will damage Sumida’s ability to enjoy, maintain and exploit  
21 her hard-won recognition—and indeed, threatens to disrupt her contractual  
22 relationships with her clients.

23 52. By Defendant’s conduct alleged here, Defendant has wrongfully  
24 appropriated for itself business and goodwill value that properly belongs to Sumida  
25 and that Sumida has invested time, money, and energy in developing.

26 53. By reason of Defendant’s acts of unfair competition as alleged herein,  
27 Sumida has suffered and will continue to suffer substantial damage to her business  
28 in the form of diversion of trade, loss of profits, and a dilution in the value of her



1 rights and reputation, all in amounts which are not yet ascertainable but which are  
2 estimated to be not less than the jurisdictional minimum of this court.

3 54. By virtue of Defendant's acts hereinabove described, Defendant has  
4 committed, and is continuing to commit, unlawful, unfair, and fraudulent business  
5 acts in violation of, *inter alia*, 15 U.S.C. § 1125(a).

6 55. Defendant's acts of unfair competition in violation of 15 U.S.C. §  
7 1125(a) have caused, and will continue to cause, damage and irreparable harm to  
8 Sumida (as described above) and are likely to continue unabated, thereby causing  
9 further damage and irreparable harm to Sumida, and to the goodwill associated with  
10 Sumida's valuable and well-known likeness; and Sumida's business relationships,  
11 unless preliminarily and permanently enjoined and restrained by the Court.

12 56. Sumida has no adequate remedy at law and will suffer irreparable  
13 injury if Defendant is allowed to continue to engage in the wrongful conduct herein  
14 described.

15 57. In committing these acts of unfair competition, Defendant acted  
16 willfully, wantonly, and recklessly; and with conscious disregard for Sumida's  
17 rights. Sumida is therefore entitled to punitive damages.

18  
19 **Third Claim for Relief for Unfair Competition under**  
20 **California Business and Professions Code §§ 17200, *et seq.***

21 **(By Sumida, against Volvo)**

22 58. Plaintiffs incorporate by this reference all paragraphs of this Complaint  
23 as if set forth in full in this cause of action.

24 59. Defendant, by means of the conduct described above, have engaged in,  
25 and are engaging in, unlawful, unfair, fraudulent and deceptive business practices  
26 under California Business and Professions Code §§ 17200 through 17203. These  
27 acts and practices undertaken by Defendant violate California Business &  
28 Professions Code § 17200 in that they are—as described above—unfair, fraudulent,

1 and/or unlawful. Specifically, without limiting the generality of the foregoing, such  
2 acts and practices constitute violations of the Lanham Act, and are and were  
3 fraudulent in that: (a) Defendant seek to deceive consumers regarding Defendant's  
4 association with Plaintiff, and (b) the general public and trade is likely to be  
5 confused regarding the business relationship between Sumida and Defendant.  
6 Further, without limiting the generality of the foregoing, the harm to Sumida and to  
7 members of the general public far outweighs the utility of Defendant's practices  
8 and, consequently, Defendant's practices constitute an unfair business act or practice  
9 within the meaning of Business and Professions Code § 17200.

10         60. Sumida has sustained, and will continue to sustain, serious and  
11 irreparable injury to her business and reputation, as a direct and proximate result of  
12 Defendant's conduct (as described above). Unless Defendant is enjoined by this  
13 Court, there is a substantial possibility that they will continue to engage in such  
14 unlawful, unfair, and deceptive business practices, for which Sumida is without an  
15 adequate remedy at law. Accordingly, Sumida is entitled to a preliminary injunction  
16 and permanent injunction against Defendant and their officers, directors, employees,  
17 agents, representatives, affiliates, subsidiaries, distributors, and all persons acting in  
18 concert with them, prohibiting them from engaging in further unlawful, unfair  
19 and/or fraudulent business practices.

20         61. As a direct result of Defendant's unlawful, unfair, fraudulent, and  
21 deceptive business practices, Defendant has received, and continue to receive,  
22 income and profits that they would not have earned but for their unlawful, unfair,  
23 and deceptive conduct and Sumida is entitled to disgorgement of such funds  
24 wrongfully obtained.

25         62. By reason of Defendant's acts of unfair competition as alleged herein,  
26 Sumida has suffered and will continue to suffer substantial damage to her business  
27 in the form of loss of profits, and a dilution in the value of her rights and reputation,  
28 all in amounts which are not yet ascertainable but which are estimated to be not less

1 than the jurisdictional minimum of this court.

2 63. Sumida is also entitled under the provisions of Business and  
3 Professions Code §17208 to an injunction prohibiting Defendant, and each of them,  
4 from engaging in any act, directly or indirectly, which constitute unlawful, unfair,  
5 and deceptive business practices.

6 64. In committing these acts of unfair competition, Defendant acted  
7 willfully, wantonly, and recklessly; and with conscious disregard for Sumida's  
8 rights. Sumida is therefore entitled to punitive damages.

9 65. Defendant's conduct, if allowed to proceed and continue and/or let  
10 stand, will cause irreparable damage to Sumida's valuable business relationships  
11 and consumer relations and will require Sumida to undertake efforts to mitigate  
12 damage to such relations, all to Sumida's detriment. Further, such mitigation costs  
13 will require substantial time, effort, and expenditures by Sumida, all to Sumida's  
14 detriment.

15 **Fourth Claim for Relief for Unfair Competition under**  
16 **California Common Law**  
17 **(By Sumida, against Volvo)**

18 66. Plaintiffs incorporate by this reference all paragraphs of this Complaint  
19 as if set forth in full in this cause of action.

20 67. The above-described conduct of Defendant constitutes unfair  
21 competition under the common law of the State of California.

22 68. As a result of Defendant's actions, Sumida has been damaged in an  
23 amount to be proven at trial.

24  
25 **Fifth Claim for Relief for Violation of California Civil Code § 3344**  
26 **(By Sumida against Volvo)**

27 69. Plaintiffs incorporate by this reference all paragraphs of this Complaint  
28 as if set forth in full in this cause of action.

1           70. California Civil Code § 3344(a) provides:

2           “Any person who knowingly uses another’s name, voice, signature,  
3           photograph, or likeness, in any manner on or in products, merchandise,  
4           or goods, or for purposes of advertising or selling, or soliciting  
5           purchases of products, merchandise, goods or services, without such  
6           person’s prior consent, or, in the case of a minor, the prior consent of  
7           his parent or legal guardian, shall be liable for any damages sustained  
8           by the person or persons injured as a result thereof. In addition, in any  
9           action brought under this section, the person who violated the section  
10          shall be liable to the injured party or parties in an amount equal to the  
11          greater of seven hundred fifty dollars (\$750) or the actual damages  
12          suffered by him or her as a result of the unauthorized use, and any  
13          profits from the unauthorized use that are attributable to the use and are  
14          not taken into account in computing the actual damages. In establishing  
15          such profits, the injured party or parties are required to prove his or her  
16          deductible expenses. Punitive damages may also be awarded to the  
17          injured party or parties. The prevailing party in any action under this  
18          section shall also be entitled to attorney’s fees and costs.”

19          71. Defendant’s conduct alleged above, constitutes a violation of Section  
20          3344 of the California Civil Code, because Defendant knowingly used Sumida’s  
21          likeness for commercial purposes without authorization.

22          72. Each such use was unequivocally and directly for purposes of  
23          advertising or selling, or soliciting purchases of products, merchandise, goods or  
24          services by Volvo, such that prior consent was required.

25          73. As a direct and proximate result of Defendant’s wrongful acts, Sumida  
26          has been damaged in an amount that is not yet fully ascertainable, but which  
27          exceeds the jurisdictional minimum of this court.

28          74. Sumida is informed and believes and based thereon alleges that  
29          Defendant in committing the above described actions, acted willfully, maliciously,  
30          and oppressively, and with full knowledge of the adverse effects of their actions on  
31          Sumida, and with willful and deliberate disregard fro the consequences to Sumida.  
32          By reason thereof, Sumida is entitled to recover punitive and exemplary damages  
33          from Defendant in an amount to be determined at the time of trial.

34          75. Sumida also seeks a preliminary and permanent injunction to prohibit  
35          Defendant from any further use of her likeness for Defendant’s advantage.

1 **Sixth Claim for Relief for Misappropriation of Likeness under California**  
2 **Common Law**  
3 **(By Sumida, against Volvo)**

4 76. Plaintiffs incorporate by this reference all paragraphs of this Complaint  
5 as if set forth in full in this cause of action.

6 77. Defendant's conduct alleged above, constitutes a violation of Sumida's  
7 common law rights of publicity and privacy, because Defendant knowingly used  
8 Sumida's likeness for their advantage and without authorization.

9 78. Sumida is informed and believes and based thereon alleges that  
10 Defendant in committing the above described actions, acted willfully, maliciously,  
11 and oppressively, and with full knowledge of the adverse effects of their actions on  
12 Sumida, and with willful and deliberate disregard fro the consequences to Sumida.  
13 By reason thereof, Sumida is entitled to recover punitive and exemplary damages  
14 from Defendant in an amount to be determined at the time of trial.

15 79. Sumida also seeks a preliminary and permanent injunction to prohibit  
16 Defendant from any further use of her likeness for Defendant's advantage.

17  
18 **PRAYER**

19 WHEREFORE, Plaintiffs pray judgment against Defendant as follows:

20 1. That Plaintiffs are awarded all damages, including future damages, that  
21 Plaintiffs have sustained, or will sustain, due to the acts complained of herein,  
22 subject to proof at trial;

23 2. That Plaintiffs are awarded their costs, attorneys' fees and expenses in  
24 this action;

25 3. That Plaintiffs are awarded pre-judgment interest;

26 4. For an order permanently enjoining Defendant and their employees,  
27 agents, servants, attorneys, representatives, successors, and assigns, and all persons  
28 in active concert or participation with any of them, from engaging in the misconduct





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**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a jury trial on their claims on all issues triable by a jury.

DATED: June 9, 2020

GLUCK LAW FIRM P.C.

By: \_\_\_\_\_ /s/  
Jeffrey S. Gluck  
Attorneys for Plaintiffs