

ORIGINAL

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VHT, INC.,

Plaintiff,

v.

ZILLOW GROUP, INC., et al.,

Defendants.

CASE NO. C15-1096JLR

VERDICT FORM

We, the jury, being duly impaneled and sworn, provide the following answers to the questions submitted by the court:

QUESTION NO. 1: Do you find by a preponderance of the evidence that VHT has proven its direct copyright infringement claim as to one or more of the VHT Photos?

YES ☒ NO ☐

If you answered "Yes" to Question No. 1, then you must answer Question No. 2. If you answered "No" to Question No. 1, then you must skip Question No. 2 and answer Question No. 3.

QUESTION NO. 2: How many of the VHT Photos do you find that Zillow directly infringed?

28,125

You must answer Question No. 3.

QUESTION NO. 3: Do you find by a preponderance of the evidence that VHT has proven its contributory copyright infringement claim as to one or more of the VHT Photos?

YES ☒ NO ☐

If you answered "Yes" to Question No. 3, then you must answer Question No. 4. If you answered "No" to Question No. 3, then you must skip Question No. 4 and answer Question No. 5.

QUESTION NO. 4: How many of the VHT Photos do you find that Zillow contributorily infringed? (This number shall not include any images counted in Question No. 2.)

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You must answer Question No. 5.

QUESTION NO. 5: Do you find by a preponderance of the evidence that VHT has proven its vicarious copyright infringement claim as to one or more of the VHT Photos?

YES ☒ NO ☐

1 *If you answered "Yes" to Question No. 5, then you must answer Question No. 6. If you*
 2 *answered "No" to Question No. 5, then you must skip Question No. 6 and answer*
 3 *Question No. 7.*

4 **QUESTION NO. 6:** How many of the VHT Photos do you find that Zillow
 5 vicariously infringed? (This number shall not include any images counted in Question
 6 Nos. 2 and 4.)

7 _____
 8 *If you answered "No" to Question Nos. 1, 3, and 5, you must skip the remainder of the*
 9 *questions, sign the jury verdict form, and return it to the courtroom deputy. If you*
 10 *answered "Yes" to any of Question Nos. 1, 3, or 5, you must answer Question No. 7.*

11 **QUESTION NO. 7:** Do you find by a preponderance of the evidence that Zillow
 12 has proven its license affirmative defense as to one or more of the VHT Photos you
 13 counted in Question Nos. 2, 4, and 6?

14 YES _____ NO ☒ _____

15 *If you answered "Yes" to Question No. 7, then you must answer Question No. 8. If you*
 16 *answered "No" to Question No. 7, then you must skip Question No. 8 and answer*
 17 *Question No. 9.*

18 **QUESTION NO. 8:** How many of the VHT Photos that you counted in Question
 19 Nos. 2, 4, and 6 do you find that Zillow was licensed to use?

20 _____
 21 *You must answer Question No. 9.*
 22

QUESTION NO. 9: Do you find by a preponderance of the evidence that Zillow has proven its fair use affirmative defense as to one or more of the VHT Photos you counted in Question Nos. 2, 4, or 6?

YES _____ NO ✓

If you answered "Yes" to Question No. 9, then you must answer Question No. 10. If you answered "No" to Question No. 9, then you must skip Question No. 10 and answer Question No. 11.

QUESTION NO. 10: How many of the VHT Photos that you counted in Question Nos. 2, 4, and 6 do you find were fair use? (This number shall not include any images counted in Question No. 8, or any images that you find that Zillow displayed, distributed, or used to prepare derivative works by means other than cropping and/or scaling.)

0

You must answer Question No. 11.

QUESTION NO. 11: Consider only those VHT Photos that you found were infringing (Question Nos. 2, 4, and 6) and not licensed or fair use (Question Nos. 8 and 10). What do you find is the amount of VHT's actual damages that resulted from the infringement of those VHT Photos?

79,875 (2.84 x 28,125)

If your response to Question No. 11 is \$0.00, you must skip Question No. 12 and answer Question No. 13. If your response to Question No. 11 is greater than \$0.00, then you must answer Question No. 12.

1 **QUESTION NO. 12:** Of the total actual damages that you indicated in response
2 to Question No. 11, what amount resulted from the infringement of VHT Photos that
3 were eligible for statutory damages, as identified in Exhibit 512?

4 54,846.08

5 *You must answer Question No. 13.*

6 **QUESTION NO. 13:** Consider only those VHT Photos that you found were
7 infringing (Question Nos. 2, 4, and 6) and not licensed or fair use (Question Nos. 8 and
8 10). How many of those photographs are among those that are eligible for statutory
9 damages, as identified in Exhibit 512?

10 19,312

11 *If your response to Question No. 13 is zero, you must skip the remainder of the questions,*
12 *sign the jury verdict form, and return it to the courtroom deputy. If your response to*
13 *Question No. 13 is greater than zero, then you must answer Question No. 14.*

14 **QUESTION NO. 14:** Consider only those VHT Photos that you identified in
15 response to Question No. 13. How many of those photographs have independent
16 economic value?

17 19,312

18 *If your response to Question No. 14 is zero, you must skip the remainder of the questions,*
19 *sign the jury verdict form, and return it to the courtroom deputy. If your response to*
20 *Question No. 14 is greater than zero, then you must answer Question No. 15.*

21 **QUESTION NO. 15:** Consider only the images that you identified in Question
22 No. 14. Please categorize those images based on whether Zillow infringed willfully,

innocently, or neither willfully nor innocently. (Note that your numbers listed below should add up to equal the number in your response to Question No. 14.)

Number of Images Infringed Willfully:

3,373 x 1500

Number of Images Infringed Innocently:

15,939 x 200

Number of Images Infringed Neither Willfully nor Innocently:

0

You must answer Question No. 16.

QUESTION NO. 16: What is the total amount of statutory damages you award to VHT?

8,247,300

Please sign and date this form, and notify the courtroom deputy that you have reached a verdict.

Dated this 9th day of February, 2017.

Elizabeth A. Moley
PRESIDING JUROR