



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0169
April 18, 2025

Martin McNeil

CLAIMANT

v.

Experience the Fight Media LLC

RESPONDENT

FINAL DETERMINATION

This matter has been fully submitted by the parties. For the reasons that follow, the Copyright Claims Board (“Board”) finds in favor of Claimant Martin McNeil (“Claimant” or “McNeil”) and awards \$2,850 in statutory damages.

I. Procedural History

McNeil filed this claim for copyright infringement against Experience the Fight Media LLC (“Respondent” or “Experience the Fight”) on May 13, 2023. Dkt. 1. McNeil filed an amended claim on June 23, 2023. Dkt. 3 (“Claim”). McNeil alleges that Respondent infringed his copyright in a photograph taken by McNeil by posting it on Respondent’s Twitter, Facebook, and Instagram accounts as part of efforts to promote Respondent’s business. Following the Board’s issuance of two default notices (Dkt. 22, 27), Respondent filed its response to the Claim on April 15, 2024. Dkt. 28 (“Response”). Following discovery, the Board ordered the filing of written testimony (Dkt. 50), which was completed on October 17, 2024.¹ The case is now ready for final determination.

II. Factual History

McNeil is a freelance professional photographer whose clients have included ESPN, Vox Media, The New York Times, The Daily Telegraph, and many other entities that have licensed photographic works that he has created at news, sports, arts, entertainment, and cultural events. With the exception of certain specific contractual arrangements, he retains the copyrights in the images he creates. McNeil Witness Statement (“McNeil Statement”)

¹ Thereafter, each party submitted a request for leave to use evidence not previously submitted. On October 25, 2024, Claimant submitted a request to submit copies of email correspondence with one of Respondent’s witnesses. Dkt. 119. The Board granted the request on the same day. Dkt. 120. On November 13, 2024, Respondent filed a similar request to submit a video of one of its witnesses. Dkt. 123. As discussed in footnote 4 below, the Board is granting that request.

¶¶ 3-5 (Dkt. 105).

On April 6, 2013, while on assignment for his client Vox Media (“Vox”), McNeil created a photograph (the “McGregor Photo”) depicting mixed martial arts athletes Marcus Brimage and Conor McGregor during their bout at a UFC event in Stockholm, Sweden. *Id.* ¶¶ 6-8; Claimant Exhibit B (Dkt. 87). McNeil registered the copyright for the McGregor Photo (Reg. No. VA 1-867-530) as part of a group of published photographs entitled “Photographs from ‘UFC on Fuel TV 9: Mousasi vs. Latifi’ shot on April 6, 2013.” McNeil Statement ¶¶ 11-12; Claimant Exhibit D (Dkt. 98). The effective date of registration is April 11, 2013, and the registration certificate states that the photographs were first published on April 6, 2013. *Id.*

Pursuant to an agreement with McNeil granting it exclusive rights for ninety days and a non-exclusive license thereafter, Vox published the McGregor Photo on its website mmafighting.com on April 6, 2013. McNeil Statement ¶¶ 8-10; Claimant Exhibit C (Dkt. 51).² Vox again published the McGregor Photo years later on Twitter, on March 27, 2020. McNeil Statement ¶ 13.

On April 6, 2023, a slightly altered version of the McGregor Photo appeared on the Facebook, Twitter, and Instagram accounts of “UFE” or “ufe.world.” *Id.* ¶¶ 14-16; Claimant Exhibits E-G (Dkt. 93, 85, and 74). McNeil describes the alterations to the original photograph as “desaturating it to be monochromatic, rotating it approximately twelve degrees counterclockwise from its original orientation, and cropping out the upper and lower portions of the McGregor Photo, whilst still retaining the ‘heart of the work.’” Claimant Party Statement (Dkt. 59) at 5.³ Respondent was never granted a license or consent to reproduce, prepare a derivative work, or publicly display the McGregor Photo. *Id.* ¶ 39.

Respondent asserts that the posted image was a “fan edit” that it did not create or commission. In fact, Respondent represents that it was produced independently and uploaded to the UFE accounts without Respondent’s authorization by a third-party content creator named Gris Antasaar (“Antasaar”) at the request of

² McNeil’s agreement with Vox also specified: “All Images shall remain the property of Photographer.” Claimant Exhibit C ¶ 5.

³ Copies of the McGregor Photo (Claimant Exhibit D) and Respondent’s Twitter post (Claimant Exhibit F) are appended to this Final Determination. *See also* Claimant Exhibit AV (Dkt. 101).

Jack George (“George”), who described himself as an “avid MMA fan who began assisting UFE by posting content to their social media platforms.” Respondent Party Statement (Dkt. 111) at 2-3; George Statement (Dkt. 109); Antasaar Statement (Dkt. 110). Following the submission of Respondent’s written testimony, McNeil contacted Antasaar and asked whether Antasaar had authorized the witness statement submitted in his name. Reply Testimony Supplementary Evidence Document 1 (Dkt. 122). *See* fn. 1 above. Antasaar responded that “I did not draft, approve, or review this statement before it was submitted. I want to make it clear that I do not consent to my involvement in this.” Reply Testimony Supplementary Evidence Document 2 (Dkt. 121).⁴

Within a day of the appearance on the UFE accounts of the altered versions of the McGregor Photo, McNeil submitted takedown notices to the online service providers hosting those accounts, requesting that the “unlicensed derivative of the McGregor Photo be removed from these platforms.” McNeil Statement ¶ 17. Instagram, Facebook, and Twitter removed or disabled access to the allegedly infringing material over the course of the next few weeks. *Id.* ¶¶ 17-22; Claimant Exhibits H and I (Dkt. 97, 57).

On April 25, 2023, McNeil received an email from Saif Ibraheem (“Ibraheem”)⁵ at a ufe.world email address. The email, which was also sent to copyright@twitter.com, stated in part, “I was sent an email stating that we used your photo illegally due to a copyright violation. My apologies. We can take it down. I just do not want a strike from twitter. There was no ill intent from our end.” McNeil Statement ¶¶ 23-24; Claimant Exhibit J (Dkt. 61). The same email from Ibraheem said, “I will remove the post. We mistakenly used the copyright and want no issues.” Claimant Exhibit J. The following day, McNeil received an email from Twitter stating that it had received “a DMCA counter-notice about the materials you reported on the Twitter account @ufeworld.”⁶ McNeil Statement

⁴ Following McNeil’s submission of the email correspondence with Antasaar, Respondent submitted a request to use evidence not previously submitted: a one-minute, twelve-second video by a person identifying himself as Jack George, who repeated the substance of what was in the George Statement. Dkt. 123. Although the video does not add anything in substance to George’s previous testimony, the Board grants that request.

⁵ Ibraheem is Respondent’s Chief Executive Officer. Claimant Exhibit AN (Dkt. 76) at 17; Claimant Exhibit AO (Dkt. 75); *see also* Claimant Party Statement at 1. He is Respondent’s authorized representative in this proceeding. He was also named as a respondent in this proceeding, but he was dismissed without prejudice because Claimant was unable to serve him. Order Dismissing Saif Ibraheem without Prejudice (Dkt. 17).

⁶ It is apparent that the “DMCA counter-notice” referred to in the email from Twitter (Claimant Exhibit L) was Ibraheem’s April 25 email (Claimant Exhibit J), which contained verbatim language required under 17 U.S.C. § 512(g)(3) for such counter-notices.

¶¶ 27-28; Claimant Exhibit L (Dkt. 84). On May 9, 2023, Twitter sent McNeil an email stating that it had “ceased withholding the material.” McNeil Statement ¶¶ 29-30; Claimant Exhibit M (Dkt. 94).

Meanwhile, McNeil had also responded to Ibraheem’s April 25 email (Claimant Exhibit J) on the same day, observing that Ibraheem’s use was unlicensed and offering to settle his infringement claim in exchange for payment of his standard licensing fee. McNeil Statement ¶¶ 25-26; Claimant Exhibit K (Dkt. 66). Subsequently, after receiving the emails from Twitter, McNeil once again contacted Ibraheem (who had not replied to McNeil’s April 25 email) on May 10, 2023, restating his settlement offer. McNeil Statement ¶¶ 31-32; Claimant Exhibit N (Dkt. 52). On the same day, Ibraheem responded, “What are you talking about? You do understand that we unknowingly used your photo for a mere fan edit photo? We did not profit one single dollar from use of that photo. In fact, it was one of our worst performing pieces of content, in terms of engagement. In no world do I ever pay you for use of the photo. Once we knew that you had a copyright issue with the piece we took it down.” McNeil Statement ¶¶ 33-34; Claimant Exhibit O (Dkt. 73). McNeil and Ibraheem continued to exchange emails on that day. *Id.*; Claimant Exhibits P-T (Dkt. 79, 60, 89, 102, and 90). In one of those emails, Ibraheem stated, “if I were to know that there was a copyright on the photo, we would have never used it to begin with. Stop trying to make money off of us. We had no intent on using a copyrighted photo.” Claimant Exhibit S.

There is no evidence that the image reappeared on the ufe.world Facebook or Instagram pages, but it remained on the ufe.world Twitter page until April 2024. McNeil Statement ¶¶ 37-38.

III. Analysis

a. Liability

Respondent does not dispute that McNeil owns the copyright in the McGregor Photo. As stated in McNeil’s certificate of registration for the McGregor Photo, which was effective as of April 11, 2013, the McGregor Photo was published on April 6, 2013. Claimant Exhibit D; McNeil Statement ¶ 10. Because the certificate of registration was effective within five years after first publication of the McGregor Photo, it is *prima facie* evidence of the validity of the copyright and of the facts stated in the certificate. 17 U.S.C. § 410(c).

As described above, a slightly altered version of the McGregor Photo appeared, without McNeil’s authorization,

on the Facebook, Twitter, and Instagram accounts of “UFE” on April 6, 2023. In altering the photograph, Respondent infringed McNeil’s exclusive right “to prepare derivative works based upon the copyrighted work.” 17 U.S.C. § 106(2); *Morris v. Guetta*, No. LA CV12-00684 JAK, 2013 WL 440127, at *3-4 (C.D. Cal. Feb. 4, 2013). In posting the altered photo on social media, Respondent infringed McNeil’s exclusive rights “to reproduce the copyrighted work in copies or phonorecords” and “to display the copyrighted work publicly.” 17 U.S.C. § 106(1), (5); *teamLab Inc. v. Museum of Dream Space, LLC*, 650 F. Supp. 3d 934, 949 (C.D. Cal. 2023).

Although, as noted above, Respondent submitted statements asserting that the McGregor Photo was posted on the UFE accounts not by Respondent but by Antasaar at the behest of George, the Board concludes that the Antasaar Statement, which has been repudiated by Antasaar, is not credible. Moreover, in light of George’s assertions regarding the role of Antasaar, the Board concludes that the credibility of the testimony by George is tenuous at best. The Board concludes that even if the testimony of George is credible, a matter that the Board need not and does not determine, it does not negate Respondent’s liability for the public display of the McGregor Photo.

The McGregor Photo was posted on three social media accounts controlled by Respondent. Respondent has offered no explanation of how somebody who was not authorized by Respondent to post material on its social media accounts could have managed to do so. The George Statement describes a relationship between George and Respondent in which George did not have to obtain permission from Respondent to post *any particular* content, but in which he was “assisting UFE” (George Statement ¶ 4) with its authorization to post “content that I believed were relevant or interesting to this community.” *Id.* ¶ 1. The Board concludes that if George posted the McGregor Photo on Respondent’s social media accounts, he did so as an agent of Respondent.

Moreover, Respondent itself caused Twitter to restore the public display of the McGregor Photo on the UFE Twitter site by sending a counter-notice under 17 U.S.C. § 512(g)(3). Even if Respondent had not been legally responsible for the initial posting of the McGregor Photo on Twitter, it assumed responsibility and liability for the infringement when it sent a counter-notice that it knew would cause Twitter to recommence the public display.

Finally, as discussed above, Respondent repeatedly admitted in emails that “we” (that is, Respondent) used the McGregor Photo. Claimant Exhibits J, O, Q, S. *See also* Defense Statement for Fair Use (Dkt. 35; “Fair Use

Statement”) (filed by Ibraheem on behalf of Respondent) (“I do not contest that I copied the image and posted it on UFE’s social media page. However, I assert that my use of the image is protected under the fair use defense as outlined in 17 U.S.C § 107.”).

Respondent inaccurately contends that the “Copyright Act requires evidence of negligence or willful infringement to establish liability.” Respondent Party Statement at 4. However, “[s]trict liability is the rule in copyright cases, and the defendant who copies protected expression from a copyrighted work will be liable regardless of his innocence.” Paul Goldstein, 1 *Goldstein on Copyright* § 7.0.1 (2025); *Shapiro, Bernstein & Co. v. H. L. Green Co.*, 316 F.2d 304, 308 (2d Cir. 1963). Whether Respondent was aware that McNeil owned the copyright or that the McGregor Photo was protected by copyright is immaterial to the question whether Respondent is liable for copyright infringement.

b. Fair Use

Respondent asserted the defense of fair use in its Response and in its Fair Use Statement, but did not discuss fair use in its party statement or written testimony. While reciting the four statutory fair use factors, Respondent only addressed the first, second, and fourth factors.⁷ Regarding the first factor, Respondent stated that the purpose of the use was for noncommercial commentary on social media; the image was used “on UFE’s social media as a throwback post, allowing followers to comment and discuss the historic fight.” Fair Use Statement at 1. However, the only commentary Respondent provided was a caption briefly describing the image and asking, “What is your favorite McGregor moment?” Claimant Exhibits E-G. Respondent’s “commentary” was de minimis at best. The Board finds that Respondent’s purpose was the same as McNeil’s: to depict a critical moment in the McGregor-Brimage match. *See* McNeil Statement ¶ 6. The Board also credits McNeil’s evidence that Respondent’s purpose was commercial, to promote UFE’s business endeavors (which are directly related to fights), even though Respondent asserts that it never made a profit. *See* Claimant Exhibits AN and AS (Dkt. 76, 99); Claimant Party

⁷ The four statutory factors are: “(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.” 17 U.S.C. § 107.

Statement at 4-5; Fair Use Statement at 1.

Regarding the second fair use factor, which focuses on how creative the work is, “[a]s a basic matter, photographs are generally viewed as creative, aesthetic expressions of a scene or image and have long received thick copyright protection. This is so even though photographs capture images of reality.” *Brammer v. Violent Hues Productions, LLC*, 922 F.3d 255, 267 (4th Cir. 2019). The Board finds that the McGregor Photo is much more than a snapshot; it is a well-executed, perfectly timed photo of a key point in the McGregor-Brimage match.

Respondent does not address the third factor, the amount and substantiality of the portion of the work used by Respondent. McNeil accurately notes that “UFE’s derivative of the McGregor Photo appears to have been achieved by desaturating it to be monochromatic, rotating it approximately twelve degrees counterclockwise from its original orientation, and cropping out the upper and lower portions of the McGregor Photo, whilst still retaining the ‘heart of the work.’” Claimant Party Statement at 5. The Board agrees and finds that Respondent copied a substantial portion and, as McNeil notes, the heart of the work.

Finally, the effect of the Respondent’s use on the potential market for the work is obvious. McNeil, a professional photographer, regularly licenses the use of his photographs, McNeil Statement ¶¶ 40-54, including uses in social media. *Id.* ¶¶ 47-53. In fact, he had previously licensed the McGregor Photo to Vox Media. *Id.* ¶¶ 8-9; Claimant Exhibit C. As the Supreme Court recently noted: “Such licenses, for photographs or derivatives of them, are how photographers . . . make a living. They provide an economic incentive to create original works, which is the goal of copyright.” *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508, 535 (2023). Respondent’s unlicensed use of the McGregor Photo deprived McNeil of royalty payments to which he would otherwise have been entitled. *See Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 11 F.4th 26, 50 (2d Cir. 2021). The use was in a traditional and reasonable market for the McGregor Photo, and if the unlicensed use of such works were to become a widespread practice, it would effectively destroy the market. *Id.*

The Board concludes that all four fair use factors point toward a finding that Respondent’s use was not fair. Therefore, the Board finds that Respondent is liable to McNeil for copyright infringement.

IV. Damages

McNeil requests statutory damages in a sum not exceeding \$15,000, the maximum permitted statutory damages award per work in a CCB proceeding. Claimant Party Statement at 12; *see* 17 U.S.C. § 1504(e)(1)(A)(ii).

Courts have wide discretion to award statutory damages as long as they fall in the statutory range. *See F.W. Woolworth Co. v. Contemporary Arts, Inc.*, 344 U.S. 228, 231-32 (1952); *Peer Int'l Corp. v. Pausa Records, Inc.*, 909 F.2d 1332, 1336 (9th Cir. 1990). “[T]he court’s conception of what is just in the particular case, considering the nature of the copyright, the circumstances of the infringement and the like, is made the measure of the damages to be paid. . . . Within [the statutory] limitations the court’s discretion and sense of justice are controlling[.]” *L.A. Westermann Co. v. Dispatch Printing Co.*, 249 U.S. 100, 106 (1919).

In deciding the appropriate amount of statutory damages to award, courts generally seek to establish a relationship between statutory damages and actual damages. *See, e.g., Atari Interactive, Inc. v. Redbubble, Inc.*, 546 F. Supp. 3d 883, 888 (N.D. Cal. 2021) (“A statutory damages award ‘must bear a plausible relationship to Plaintiff’s actual damages’”) (citation omitted); *Clever Covers, Inc. v. Southwest Florida Storm Defense, LLC*, 554 F. Supp. 2d 1303, 1313 (M.D. Fla. 2008) (statutory damages “‘are not intended to provide a plaintiff with a windfall recovery’; they should bear some relationship to the actual damages suffered”) (citation omitted); *Fitzgerald Publishing Co. v. Baylor Publishing Co.*, 670 F. Supp. 1133, 1140 (E.D.N.Y. 1987) (“Undoubtedly these [statutory] damages should bear some relation to the actual damages suffered[.]”); *Seoul Broad. Sys. Int’l v. Young Min Ro*, No. 9-cv-433, 2011 WL 3207024, at *8 (E.D. Va. July 27, 2011) (“After all, ‘when awarded, statutory damages should bear some relation to the actual damages suffered.’”) (citation omitted); *Aberle v. GP Clubs, LLC*, No. 19-cv-1066-RP, 2020 WL 4035074, at *4 (W.D. Tex. July 17, 2020) (“while there ‘need not be a direct correlation between statutory damages and actual damages,’ it has generally been held that ‘the statutory award should bear some relation to actual damages suffered’”) (citation omitted); *Bly v. Banbury Books, Inc.*, 638 F. Supp. 983, 987 (E.D. Pa. 1986) (“numerous courts have held that asserted statutory damages should bear some relation to the actual damages suffered”) (citations omitted). Actual damages are primarily measured by “the extent to which the market value of the copyrighted work at the time of the infringement has been injured or destroyed by the infringement.” *Fitzgerald Publishing Co. v. Baylor*

Publishing Co., 807 F.2d 1110, 1118 (2d Cir. 1986). To secure actual damages, a claimant typically establishes impairment of market value by demonstrating lost sales or other lost profits that would have been obtained from the sale or license of the infringed work but for the respondent's infringement. See *Stevens Linen Associates v. Mastercraft Corp.*, 656 F.2d 11, 15 (2d Cir. 1981); *Baker v. Urban Outfitters, Inc.*, 254 F. Supp. 2d 346, 356 (S.D.N.Y. 2003). Such amounts should be based on a "factual basis" and not "undue speculation." *On Davis v. The Gap, Inc.*, 246 F.3d 152, 165 (2d Cir. 2001).

In support of his request for statutory damages, McNeil submitted redacted copies of eighteen licenses he had issued for uses of photographs he had taken over a period between 2012 and 2024. Claimant Exhibits V-AM (Dkt. 100, 82, 56, 54, 96, 105, 86, 80, 91, 83, 104, 62, 70, 63, 64, 103, 72, 92). Most of those licenses are remote in time, subject matter, or scope, and the Board has wide discretion to "consider what is just in the particular case" when awarding statutory damages. *L.A. Westermann Co.*, 249 U.S. at 106. The Board has reviewed each of the submitted licenses and concludes that the license that appears to be the most similar with respect to subject matter, use, and date is Claimant Exhibit AM (Dkt. 92), a license granted on January 21, 2024 for use on several social media platforms of a photograph taken by McNeil of a UFC weigh-in. The license fee for that use was \$946.00. Unlike a number of the licenses submitted by McNeil, which related works depicting motion picture and television industry personalities, this photograph (like the McGregor Photo) related specifically to a UFC fight. The licensed use was for several social media platforms, including Facebook, Twitter, and Instagram, the three platforms where Respondent's acts of infringement took place. The date of the license was nine and one-half months after Respondent's act of infringement commenced.

Claimant Exhibits AI and AL are the most comparable of the other licenses submitted by McNeil. Exhibit AI (Dkt. 63), a license granted on May 4, 2021, was for worldwide use of the McGregor Photo itself on the Facebook page of GiveMeSport, which describes itself as "a multi-channel digital sports publication that has been delivering sports news, analysis features, and opinion-based content." See <https://www.facebook.com/GiveMeSport/>. The licensee was located in the United Kingdom and the license fee was £686.31. Claimant Exhibit AI. McNeil accurately calculates the value of that license in U.S. dollars as \$952.80, McNeil Statement ¶¶ 50-51, an amount

almost identical to the license fee for Exhibit AM. Exhibit AL (Dkt. 73) was a license issued to The Young Turks, Inc. on August 18, 2023 for editorial and corporate website use of a photograph of UFC CEO Dana White, for a fee of \$800. Exhibits AI and AL confirm that Exhibit AM's license fee of \$946 is in the range of reasonable license fees for Respondent's infringing use.

McNeil argues that a much higher settlement offer that he made to Respondent in April 2023 "represented fair and reasonable industry-standard rates and should be used by the Board as the basis for rendering an award of \$15,000 in statutory damages." McNeil Statement ¶¶ 55-57. However, evidence of settlement offers cannot be submitted to prove the amount of statutory damages that should be awarded. *Nunes v. Rushton*, No. 2:14-cv-00627-JNP-DBP, 2018 WL 2214593, at *2-3 (D. Utah May 14, 2018); see *PRL USA Holdings, Inc. v. U.S. Polo Association, Inc.*, 520 F.3d 109, 113 (2d Cir. 2008); *Yue v. Chordiant Software, Inc.*, C08-00019 JW, 2010 WL 11575579, at *3-4 (N.D. Cal. Apr. 22, 2010) (evidence of "settlements and licenses negotiated after the commencement of litigation are not relevant to what a willing buyer would have been reasonably required to pay a willing seller of plaintiff's work").

Across the country, courts typically award statutory damages in a range from approximately two to six times the lost licensing fee for the infringed work, with around three times the lost fee being most prevalent. See, e.g., *BWP Media USA Inc. v. A.R. Commc'ns, LLC*, No. 6:14-CV-120-Orl-22KR, 2014 WL 5038590, at *4 (M.D. Fla. Oct. 6, 2014); *Broadcast Music, Inc. v. Paden*, No. 5:11-02199-EJD, 2011 WL 6217414, at *5 (N.D. Cal. Dec. 14, 2011); *Barcroft Media, Ltd. v. Coed Media Group, LLC*, 297 F. Supp. 3d 339, 359 (S.D.N.Y. 2017); *Sixx Gunner Music v. The Quest, Inc.*, 777 F. Supp. 2d 272, 274 (D. Mass. 2011); *Broadcast Music, Inc. v. Amici III, Inc.*, No. 14-CV-5002, 2014 WL 7271915, at *1 (D.N.J. Dec. 16, 2014); *Broadcast Music, Inc. v. Eatnout, LLC*, No. 2:15cv254, 2015 WL 12803458, at *3 (E.D. Va. Dec. 29, 2015); *Broadcast Music, Inc. v. Ken V, Inc.*, 159 F. Supp. 3d 981, 990 (E.D. Mo. 2016); *Minden Pictures, Inc. v. Buzznick, LLC*, No. 2:22-cv-00369-RJS-CMR, 2023 WL 2243177, at *5 (D. Utah Feb. 27, 2023); *MOB Music Publ'g v. Zanzibar on the Waterfront, LLC*, 698 F. Supp. 2d 197, 207-08 (D.D.C. 2010). Such awards are justified because "the award 'should put infringers on notice that it costs less to obey the copyright laws than to violate them.'" *Broadcast Music, Inc. v. DFK Entertainment, LLC*, No. 1:10-CV-1393 GLS/DRH, 2012 WL 893470, at *4

(N.D.N.Y. Mar. 15, 2012) (citation omitted); *Philpot v. L.M. Commc'ns II of S.C., Inc.*, 343 F. Supp. 3d 694, 702 (E.D. Ky. 2018) (“Merely awarding statutory damages in the amount of the profits reaped from a copyright infringement would do little to discourage infringers.”).

Following that practice, the Board concludes that an appropriate multiplier would be approximately three times the estimated licensing fee of \$946 and that the statutory damages award should be in the amount of \$2,850.

V. Conclusion

The Copyright Claims Board finds Respondent, Experience the Fight Media LLC, liable for infringement, and awards Claimant, Martin McNeil, \$2,850 in statutory damages.

APPENDIX



Claimant Exhibit D – McNeil's Photograph



Claimant Exhibit F – Respondent's Twitter Post