



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0095

January 5, 2024

Videohat LLC

CLAIMANT

v.

beIN SPORTS Americas

RESPONDENT

## ORDER DISMISSING CLAIM WITHOUT PREJUDICE

On August 10, 2023, the Board found this claim compliant and issued a Notice of Compliance and Direction to Serve. Dkt. 13. A claimant has 90 days after receiving the Notice of Compliance to file a proof of service or waiver of service form with the Board. 17 U.S.C. § 1506(g); 37 C.F.R. § 222.5(b)(3)(i), (c)(5). On August 12, 2023, Claimant emailed the Board inquiring about how to serve Respondent, and Board staff responded to the email on August 14, 2023, providing some guidance and resources, and stating in part:

How service is accomplished will depend on who the respondent is, where they are located, and whether they have a designated service agent. In some cases, service can be accomplished easily. In other cases, it may be more difficult, and it may be advisable to seek professional assistance. For example, the state where the respondent is served may not allow service by mail.

*See* Dkt. 18. On November 8, 2023, the last day of the 90-day service period, the Board mistakenly issued an order dismissing the claim. That same day, Claimant filed a proof of service form, and the Board removed the dismissal order from the docket. Dkt. 15 & 16. The proof of service form recited that Respondent had been served “by USPS Mail in accordance with the state law for serving a summons in an action brought in New York.” Dkt. 15. On November 14, 2023, Board staff corresponded with Claimant regarding the means of service; Claimant stated that it had mailed the service materials to Respondent’s “official address” in Florida. *See* Dkt. 17 p. 1.

On December 19, 2023, the Board issued an Order to Show Cause, providing Claimant until January 3, 2024 to respond and explain why the claim should not be dismissed for failure to complete service and file a valid proof of service within the 90-day period required under 17 U.S.C. § 1506(g). Dkt. 17.

The Order to Show Cause noted that the mailing Claimant described did not appear to be valid service under any provision of 17 U.S.C. § 1506(g)(5)(A). In particular, “Florida law would govern service under section 1506(g)(5)(A)(1). The Board is aware of no authority under Florida law that permits service of process by mail”; and while section 1506(g)(5)(A)(2) permits service on certain business entities “by delivering a copy” to an officer or qualifying agent, such delivery “requires personal delivery to that person, not mailing. . . . Therefore, the claimant’s use of mail to serve the respondent is invalid.” Dkt. 17 p. 2. The Order to Show Cause further provided:

If the claimant does not respond to the order to show cause by [January 3, 2024], or if the claimant does respond and it is determined that service was not effective, the claim will be dismissed without prejudice—allowing the claimant to refile his case before the CCB or in federal court—and this case will be closed. In

the response, the claimant shall explain how the proof of service filed on November 8, 2023, establishes that respondent was properly served under 17 U.S.C. § 1506(g).

*Id.* Claimant did not submit a response to the Order to Show Cause. On December 28, 2023, Claimant filed a copy of the Board's August 14, 2023 email, adding: "We emailed the board a sample of our service before mailing it and we assumed it was enough to use do it this way. Is there a way we can serve them by email now?" Dkt. 18. Though Claimant emailed the Board a partially completed proof of service form on August 12, 2023, asking if its format would suffice, Board staff noted in response that "the state where the respondent is served may not allow service by mail." *See id.*

Claimant has not shown that Respondent was properly served, and the time period for service has expired. Accordingly, the Board dismisses the claim without prejudice and closes this case.

Copyright Claims Board