



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0251

October 19, 2023

Pinwheel Crafts LLC

CLAIMANT

v.

Mary L. Pettit

RESPONDENT

FINAL DETERMINATION

The parties have reached a settlement and request that the Board dismiss this proceeding with prejudice and adopt certain settlement terms in a final determination pursuant to 17 U.S.C. § 1506(r)(2) and 37 C.F.R. § 222.18(h). Accordingly, the Board dismisses this proceeding and closes this case, on the terms stated herein.

Procedural History

Claimant Pinwheel Crafts LLC (Pinwheel) filed the claim on December 1, 2022, asserting a claim for infringement against respondent Mary L. Pettit (Pettit). The Board issued a noncompliance order on December 29, 2022, and Pinwheel filed an amended claim on January 1, 2023. Pinwheel alleged that Pettit, on amazon.com and on her own website, sold infringing products that include identical copies of Pinwheel's artwork registered with the U.S. Copyright Office (Reg. No. VA2319579), which Pinwheel describes as "fairy silhouettes." On January 26, 2023, the Board found the amended claim complied with the CASE Act and the Board's regulations. Pinwheel filed a proof of service that Pettit was served on April 12, 2023. Pettit did not opt out of the proceeding. The Board issued a scheduling order on June 29, 2023, requiring Pettit's response by July 31, 2023.

Pettit did not timely respond to the claim, and the Board issued default notices on August 2 and August 16, 2023, warning Pettit of the possibility of a default finding. The Board issued an amended scheduling order on August 30, 2023. Pettit responded on September 24, 2023, and the parties attended an initial conference on October 10, 2023.

On October 18, 2023, the parties submitted a joint request to dismiss this proceeding, in which they requested that the final determination include certain settlement terms. It states in full:

The parties have settled this matter and jointly wish the Board to dismiss the claims with prejudice. The parties jointly request that the Board issue the following settlement terms within a final determination:

1. Counter-Notices Removal and Communication with Amazon:

- a. Mary Pettit agrees to promptly request the removal of all counter-notices and appeals against Pinwheel Crafts LLC and provide a copy of this request to Amazon via Brand Registry. All correspondence with Amazon regarding this matter shall be copied to elaine@pinwheelcrafts.com.
- b. Mary Pettit will confirm that the infringing ASINs are B09NXLDTVF, B08HLHQ448 and recognize that the existing silhouettes infringed upon Pinwheel Crafts LLC's copyright VA2319579.

2. Copy of Signed Letter to Amazon:

a. Mary Pettit agrees to promptly provide Pinwheel Crafts LLC with a copy of the signed letter to Amazon, confirming the removal of counter-notices and appeals and any related actions.

3. Image Removal from Retailers:

a. Mary Pettit agrees to immediately remove all images and listings related to the copyrighted material from all online retailers, including but not limited to Amazon, as well as any brick and mortar retailers, if applicable.

Legal Standards

A determination rendered by the Board shall be reached by a majority of the Board; be in writing, and include an explanation of its factual and legal basis; to the extent requested, set forth the terms of any settlement agreed to; and include a clear statement of all damages and other relief awarded. 17 U.S.C. § 1506(t)(1)(A)-(B), (D)-(E).

“Upon receipt of a joint request to dismiss claims due to settlement, the Board shall dismiss the claims or counterclaims contemplated by the agreement with prejudice, unless the parties have included in their request that the claims or counterclaims shall be dismissed without prejudice. If the parties have requested that the Board adopt some or all of the terms of the settlement in its final determination, the Board may issue a final determination incorporating such terms unless the Board finds them clearly unconscionable.” 37 C.F.R. § 222.18(h).

Determination

Based on the records in this proceeding, the Board finds that the parties’ request for dismissal is appropriate and the Board grants the request. The parties’ request to adopt certain terms of their settlement agreement, set forth above, is also appropriate. The terms requested are not unconscionable. The Board therefore adopts the terms set forth above in this determination. 17 U.S.C. §§ 1506(r)(2) & (t)(1)(D); 37 C.F.R. § 222.18(h).

Damages are neither sought nor awarded. This determination constitutes the full and final relief provided in this claim.

The Board therefore dismisses the claim with prejudice and closes this case.

Copyright Claims Board