



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0258

September 29, 2023

Boho Magic LLC, Lior Abady

CLAIMANTS

v.

Rajesh Vishvakarma

RESPONDENT

FINDING OF BAD FAITH AND ORDER DISMISSING CLAIM

On August 3, 2023, Boho Magic LLC and Lior Abady (Claimants) filed this claim before the Copyright Claims Board (Board) alleging copyright infringement and misrepresentation under 17 U.S.C. § 512. The claim provided an invalid mailing address for the respondent.

On August 30, 2023, the Board ordered Claimants to show cause why filing the claim in this form did not constitute bad-faith conduct under 37 C.F.R. § 232.3. The Order to Show Cause further ordered Claimants to file a response to that order by September 13, 2023. No response was filed.

On September 25, 2023, the Board ordered Claimants to appear at a conference to explain the conduct described in the Order to Show Cause, and sent Claimants, at the address provided in the claim, a link to the virtual conference, which was scheduled for September, 29, 2023 at 10:30AM EST. 37 C.F.R. § 232.3(c). The presiding Copyright Claims Officer waited 15 minutes after the scheduled time for the conference to begin but Claimants did not appear. Claimants did not notify the Board that they would not be attending or explain their absence thereafter. The Officer recorded a statement on the record and then concluded the conference.

The Claimants have not explained why this claim was submitted with an inaccurate domestic address for a foreign respondent. Claims “asserted against a person or entity residing outside the United States” are categorically “not subject to determination by the Copyright Claims Board.” 17 U.S.C. § 1504(d)(4). The eCCB online filing system specifically informs filers of this prohibition in a notice stating, “the CCB **cannot** hear claims . . . [w]ith foreign respondents,” and explaining that the consequences of such a claim include “potential limits on filing future claims.” eCCB requires a United States address for respondents, including a United States state or district and zip code. When this claim was submitted through eCCB, an additional notice in the “Respondent” section of the claim form warned the filer that claims cannot be filed against respondents residing outside of the United States. Before submitting the claim, Claimants also certified under penalty of perjury that the information provided in the claim was accurate and truthful to the best of Claimants’ knowledge. See 37 C.F.R. § 222.2(c)(12).

The claim stated that the respondent’s mailing address is in “Unknown, DE, 10000.” Entering an address in this manner means that the filer must have both ignored the warnings on eCCB and entered false U.S. address information to avoid the technological barriers to entering a foreign address. Therefore, the Board finds that Claimants’ actions constitute bad-faith conduct, as defined in the Board’s regulations: “Bad-faith conduct occurs

when a party pursues a claim, counterclaim, or defense for a harassing or other improper purpose, or without a reasonable basis in law or fact. Such conduct includes any actions taken in support of a claim, counterclaim, or defense and may occur at any point during a proceeding before the Board, including before a proceeding becomes an active proceeding.” 37 C.F.R. § 220.1(c). Under this standard, the Board finds that Claimants did not have a reasonable basis in law or in fact to file a claim before the Board against a respondent residing outside the United States despite the clear warnings and technological barriers to deter such a filing.

In addition, on August 30, 2023, the Board issued an Order to Amend Noncompliant Claim notifying Claimants that the claim did not comply with the requirements of the CASE Act and related regulations and would be dismissed unless an amended claim was filed by September 29, 2023. 37 C.F.R. § 224.1(c)(2).

No amended claim has been filed. Accordingly, the Board dismisses the claim without prejudice and closes case 23-CCB-0229. 37 C.F.R. § 222.17(a)–(b).

Copyright Claims Board