



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0053

March 28, 2024

Smart Protection Ltd

CLAIMANT

v.

Sahand Kamal

RESPONDENT

FINDING OF BAD FAITH AND ORDER DISMISSING CLAIM

On February 22, 2024, Benjamin Katz (Katz) filed this copyright infringement claim on behalf of Smart Protection Ltd (Claimant). The claim provided a clearly invalid mailing address for the respondent that indicates that the respondent is in Barcelona, Spain, though claims before the Copyright Claims Board (Board) against respondents that do not reside in the United States are prohibited.

On February 26, 2024, the Board ordered Katz and Claimant 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 Katz and Claimant to file a response to that order, jointly or separately, by March 11, 2024. No response was filed.

On March 13, 2024, the Board ordered Katz and Claimant to appear at a conference to explain the conduct described in the Order to Show Cause, and sent them, at the addresses provided in the claim, a link to the virtual conference, which was scheduled for March 27, 2024 at 2:00 PM ET. 37 C.F.R. § 232.3(c). The presiding Copyright Claims Officer waited 10 minutes after the scheduled time for the conference to begin but neither Katz nor Claimant appeared. They 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 fact that Katz submitted, on behalf of Claimant, a claim with an obviously inaccurate domestic address for a foreign respondent, despite the knowledge that claims against foreign entities are prohibited, has not been refuted. 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, and 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, a 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, Katz also certified under penalty of perjury that the information provided in the claim was accurate and truthful to the best of his knowledge, and that he had confirmed its accuracy with Claimant. See 37 C.F.R. § 222.2(c)(12). Nevertheless, the claim stated that the respondent’s street address is at “Calle Major 32” in Barcelona, indicating a location in Spain, while also providing the “UT” state code for Utah as the respondent’s state, and 08010 as the respondent’s zip code. As stated in the Order to Show Cause, no city or town in Utah is named Barcelona; 08010 is a zip code in New Jersey; and all zip codes in Utah begin with an 84.

Entering a Utah state code and a New Jersey zip code for the respondent means that the filer must have both ignored the warnings on eCCB and entered a U.S. address to avoid the technological barriers to entering a foreign address. Therefore, the Board finds that the actions of Benjamin Katz and Smart Protection Ltd in this proceeding 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 has no difficulty in finding that Katz and Claimant 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 February 26, 2024, the Board issued an Order to Amend Noncompliant Claim notifying Claimant 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 March 27, 2024. 37 C.F.R. § 224.1(c)(2).

No amended claim was filed in the time allowed. Accordingly, the Board dismisses the claim without prejudice and closes case 24-CCB-0053. 37 C.F.R. § 222.17(a)–(b).

Copyright Claims Board