



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0357
December 15, 2023

Volodymyr Iling

CLAIMANT

v.

Denys Tkachenko

RESPONDENT

FINDING OF BAD FAITH AND ORDER DISMISSING CLAIM

On October 28, 2023, Volodymyr Iling (Claimant) filed this claim before the Copyright Claims Board (Board) alleging misrepresentation under 17 U.S.C. § 512. The claim provided a clearly invalid mailing address for the respondent in Kyiv, Ukraine, even though claims against respondents that do not reside in the United States are prohibited.

On November 14, 2023, the Board ordered 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 Claimant to file a response to that order by November 28, 2023. No response was filed.

On November 29, 2023, the Board ordered Claimant to appear at a conference to explain the conduct described in the Order to Show Cause, and sent Claimant, at the email address provided in the claim, a link to the virtual conference, which was scheduled for December 11, 2023, at 10:00 AM EST. 37 C.F.R. § 232.3(c). The presiding Copyright Claims Officer waited 20 minutes after the scheduled time for the conference to begin but Claimant did not appear. Claimant 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 Claimant submitted a claim with obviously inaccurate domestic address information 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, Claimant also certified under penalty of perjury that the information provided in the claim was accurate and truthful to the best of Claimant’s knowledge. See 37 C.F.R. § 222.2(c)(12). Nevertheless, while the claim stated that the respondent’s mailing address is in Kyiv, it also provided “AE” (Armed Forces Europe) as the respondent’s state code, and 02002 as the respondent’s zip code, which is not a United States postal code.

Entering a non-existent zip code in Alaska and designating “Armed Forces Europe” as the location for a respondent in Ukraine means that the filer must have both ignored the warnings on eCCB and entered U.S. address information to avoid the technological barriers to entering a foreign address. Therefore, the Board finds that Claimant’s 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 has no difficulty finding that 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 November 14, 2023, 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 December 14, 2023. 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 23-CCB-0357. 37 C.F.R. § 222.17(a)–(b).

Copyright Claims Board