



COPYRIGHT CLAIMS BOARD

Docket numbers: 24-CCB-0262 & 24-CCB-0266
October 21, 2024

ALIAKSEI YARATS

CLAIMANT

v.

Dao Duy Tan

RESPONDENT

FINDING OF BAD FAITH AND ORDER DISMISSING CLAIM

On September 5, 2024, Aliaksei Yarats (Claimant) filed claim 24-CCB-0262 before the Copyright Claims Board (Board). On September 7, 2024, Claimant filed claim 24-CCB-0266. Both claims alleged copyright infringement against the same respondent, Dao Duy Tan (Respondent). The claims provided a clearly invalid mailing address for Respondent, and information in the claims indicated that Respondent is not a United States resident, even though claims against respondents that do not reside in the United States are prohibited. In the address fields, the claims provided an obvious Vietnamese address for the street address while listing Vermont as Respondent's state of residence and a Vermont zip code, seemingly in an attempt to circumvent the filing system's prohibition on entering foreign addresses for respondents.

On September 18, 2024, the Board ordered Claimant to show cause why filing the claims in this form did not constitute bad-faith conduct under 37 C.F.R. § 232.3. The Orders to Show Cause further ordered Claimant to respond to that order in both proceedings by October 2, 2024. No response was filed.

On October 8, 2024, the Board ordered Claimant to appear at two conferences, scheduled for October 15, 2024, at 10:00 AM ET and 10:30 AM ET, to explain the conduct described in the Orders to Show Cause. 37 C.F.R. § 232.3(c). The Board sent Claimant, at the email address provided in the claim, a link to the virtual conferences beforehand. The presiding Copyright Claims Officer waited 15 minutes after the scheduled time for the conferences 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 conferences.

The fact that Claimant submitted claims with obviously foreign address information, and 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 in a notice stating, "the CCB **cannot** hear claims ... [w]ith foreign respondents," and explains 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 the claims were submitted through eCCB, an additional notice in the "Respondent"

section of the claim forms warned the filer that claims cannot be filed against respondents residing outside of the United States. Before submitting the claims, 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 claims provided "VT" (Vermont) as the respondent's state code and 05091 as the respondent's zip code, they also listed the respondent's mailing address in Hanoi, the capital of Vietnam.

Entering a Vermont zip code and designating Vermont as the state for a respondent in Vietnam means Claimant must have 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 the Claimant's actions in pursuing these claims 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 purposes, or without a reasonable basis in law or fact. Such conduct includes 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 claims before the Board against a respondent residing outside of the United States despite the clear warnings and technological barriers to deter such filings. The Board therefore finds Claimant to have engaged in an act of bad-faith conduct in these proceedings.

In addition, on September 18, 2024, the Board issued an Order to Amend Noncompliant Claim in each proceeding, informing Claimant that the claims did not comply with the requirements of the CASE Act and related regulations and would be dismissed unless amended claims were filed by October 18, 2024. 37 C.F.R. § 224.1(c)(2). No amended claim was filed in the time allowed. Accordingly, the Board dismisses both proceedings without prejudice and closes case 24-CCB-0262 and 24-CCB-0266.

Copyright Claims Board