



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0164  
June 13, 2023

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Allen Nelson and Desiree Bard

CLAIMANT

v.

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Raheem McCaskill

RESPONDENT

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## FINDING OF BAD FAITH AND ORDER DISMISSING CLAIM

On May 9, 2023, an eCCB user (the “Filer”) purporting to be Desiree Bard filed claim 23-CCB-0164 before the Copyright Claims Board (Board) on behalf of the purported claimants Allen Nelson (Nelson) and Desiree Bard (Bard).

On May 22, 2023, the Board issued an Order to Show Cause. The Order outlined the Board’s investigation into the inconsistencies in the claim and conversation with the real Desiree Bard—contacted through the information the Copyright Office has for the Desiree Bard who registered the work at issue—which led to the Board ordering the Filer to submit documentation supporting their authorization to file the claim and to show cause why filing the claim did not constitute bad-faith conduct under 37 C.F.R. § 232.3. A response to the Order to Show Cause was due on June 5, 2023 and the Filer did not respond.

On June 6, 2023, the Board ordered the Filer to appear at a conference to explain the conduct described in the Order to Show Cause, and sent the link to the virtual conference to the email address on file listed in the claim for the claimant. The conference was scheduled for June 7, 2023 at 11:00 AM ET. 37 C.F.R. § 232.3(c). The presiding Copyright Claims Officer waited for 15 minutes after the scheduled time for the conference to begin, but the Filer did not appear. 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.

To briefly restate the facts, the Filer registered for eCCB as “Desiree Bard,” a “Self-Represented Party,” and filed 23-CCB-0164. The claim contains a suspicious amount of factual inaccuracies reminiscent of a previous bad-faith claim, and those inaccuracies are outlined in the Order to Show Cause. *See* Docket No. 2. These inaccuracies led the Board to contact the real Bard using the information listed in the Electronic Copyright Office (eCO) Registration System. Bard responded to the Board’s email stating that they had no knowledge of the Board, the other listed claimant, Allen Nelson, the respondent, or the claim. The Board has no information that supports the Filer’s ability to file the claim, and it appears that the Filer misrepresented their identity to the Board.

All participants in a Board proceeding have a duty to meet certain basic standards of conduct and are required to behave ethically and truthfully in connection with all submissions and appearances before the Board. 37 C.F.R. § 232.1(b). Further, bad-faith conduct is 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). Those filing a claim with the Board also have to certify the accuracy and truthfulness of their claim in order to commence a proceeding. 17 U.S.C. § 1506(e)(2). The Filer has made dubious, conflicting, and unsupported representations about their identity in the eCCB claim form and eCCB user profile. Therefore, the Board finds that the actions of the Filer constitute bad-faith conduct as defined in the Board’s regulations. Under this standard, the Board has no difficulty in finding that the Filer did not have a reasonable basis in law or in fact to file a claim before the Board.

The Board makes no finding whether the claimant Allen Nelson engaged in bad-faith conduct because there are insufficient facts in the record to form any conclusion as to whether Nelson was aware of or involved in the Filer’s misrepresentations, or indeed whether Nelson actually exists. The Board does not find that the actual registrant of the work, Desiree Bard, engaged in bad-faith conduct because the Board had a conversation with Bard during which it was clear that Bard was not aware, and had no connection to, the claim.

Further, the Board dismisses this claim without prejudice. To initiate a proceeding with the Board, the claimant or claimant’s legal counsel must, among other requirements, certify that the claim is accurate and truthful to the best of the certifying person’s knowledge. 17 U.S.C. § 1506(e)(2); 17 U.S.C. § 1506(y)(1); 37 C.F.R. § 222.2(c)(12). Because the record clearly demonstrates that the Filer used Bard’s identity in bad faith, the Board finds that the claim does not meet the certification requirement for sustaining a proceeding.

Copyright Claims Board