



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0229

August 28, 2023

Alexis I. Patterson

CLAIMANT

v.

Peter Maina

RESPONDENT

FINDING OF BAD FAITH AND ORDER DISMISSING CLAIM

On July 5, 2023, Alexis I. Patterson (Claimant) filed this claim before the Copyright Claims Board (Board) alleging copyright infringement and misrepresentation under 17 U.S.C. § 512. The claim provided a clearly invalid mailing address for the respondent in Nairobi, Kenya, even though claims against respondents that do not reside in the United States are prohibited.

On July 26, 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 August 9, 2023. No response was filed.

On August 18, 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 address provided in the claim, a link to the virtual conference, which was scheduled for August 18, 2023, at noon 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 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 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, 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 Nairobi, it also provided “AP” (Armed Forces Pacific) as the respondent’s state code, and 00100 as the respondent’s zip code, though 00100 addresses are located in Alaska.

Entering a zip code in Alaska and designating “Armed Forces Pacific” as the state for a respondent in Kenya 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 July 26, 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 August 25, 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-0229. 37 C.F.R. § 222.17(a)–(b).

Copyright Claims Board