



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0112

October 23, 2023

Paramount Pictures Corporation

CLAIMANT

v.

JMC POP UPS LLC

RESPONDENT

FINAL DETERMINATION

The parties have reached a settlement and request that the Board dismiss this proceeding with prejudice and adopt certain settlement terms in a final determination pursuant to 17 U.S.C. § 1506(r)(2); 37 C.F.R. § 222.18(h). Accordingly, the Board issues this final determination on the terms stated herein.

Procedural History

Claimant Paramount Pictures Corporation (Paramount) filed the claim on August 24, 2022, asserting a claim of copyright infringement. Paramount alleged that the respondent, JMC POP UPS, LLC (JMC) infringed two of the claimant's works *Coming to America* (Reg. No. PA0000376420) and *Coming 2 America* (Reg. No. PA0002280086) by operating a pop-up restaurant recreating the "McDowell's" restaurant featured in the films.

On October 6, 2023, the Board found the claim was compliant with the CASE Act and the Board's regulations and directed the claimant to proceed with service. Paramount filed a proof of service that JMC was served on November 18, 2022. JMC did not opt out of the proceeding. After respondent retained counsel, JMC filed a response on March 28, 2023, and the Board issued an Order Amending Scheduling Order on March 31, 2023. Following the initial conference on April 5, 2023, the parties filed a Joint Request to Stay Proceeding Pending Settlement on April 12, 2023. The stay was extended six subsequent times. On October 18, 2023, the parties submitted a joint request to dismiss this proceeding, in which they requested that the final determination include certain settlement terms. It states in full:

While Respondents deny all claims of infringement and other wrongful activities, the Parties desire an amicable resolution of the Action and their dispute without further litigation or expense, and Respondents therefore agree as provided in the Agreement:

- a. not to reproduce, distribute, perform, publicly display, or make into derivative works any of the creative works comprising the “Coming to America” franchise (“Copyrighted Works”), or any other copyrighted works owned by Claimant or its affiliates except as provided for in the Agreement;
- b. not to aid, abet, assist in, request, or induce the engagement in any of the foregoing acts by any third party except as provided for in the Agreement; and
- c. to take all reasonable steps to remove all content related to the Copyrighted Works and the character designs, character names, and artworks from the Copyrighted Works from their websites and social media accounts as provided for in the Agreement.

Legal Standards

A determination rendered by the Board shall be reached by a majority of the Board; be in writing, and include an explanation of its factual and legal basis; to the extent requested, set forth the terms of any settlement agreed to; and include a clear statement of all damages and other relief awarded. 17 U.S.C. § 1506(t)(1)(A)-(B), (D)-(E). “Upon receipt of a joint request to dismiss claims due to settlement, the Board shall dismiss the claims or counterclaims contemplated by the agreement with prejudice, unless the parties have included in their request that the claims or counterclaims shall be dismissed without prejudice. If the parties have requested that the Board adopt some or all of the terms of the settlement in its final determination, the Board may issue a final determination incorporating such terms unless the Board finds them clearly unconscionable.” 37 C.F.R. § 222.18(h).

Final Determination

Based on the records in this proceeding, the Board finds that the parties’ request for dismissal is appropriate and the Board grants the request. The parties’ request to adopt certain terms of their settlement agreement, set forth above, is also appropriate. The terms requested are not unconscionable. The Board therefore adopts the terms set forth above in this determination. 17 U.S.C. §§ 1506(r)(2) & (t)(1)(D); 37 C.F.R. § 222.18(h). The remainder of the settlement terms have not been provided to the Board. This determination constitutes the full and final relief provided on this claim. The Board therefore dismisses the claim with prejudice and closes this case.