COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0060
June 26, 2025

Lauren S Chalas	*v.*	Laura Freeman
CLAIMANT		**RESPONDENT**

PROPOSED FINDINGS OF FACTS

Claimant Lauren Chalas ("Chalas" or "Claimant") submitted a position statement, an evidence list, and evidence on January 10, 2025. (Dkt. 28-39). Respondent Laura Freeman ("Respondent" or "Freeman") submitted a position statement, an evidence list, and evidence on December 10, 2024. (Dkt. 17-20). The parties appeared at a Merits Conference before the Copyright Claims Board ("Board") on January 23, 2025. At the Merits Conference, Chalas and Freeman testified. Chalas re-filed Exhibit I at the direction of the Board during the Merits Conference (Dkt. 43) and filed an amended witness statement on January 24, 2025. (Dkt. 44).

Based on the parties' submissions and the witness testimony at the conference, the Board finds the following facts as established.

1. Chalas, a Massachusetts-based visual artist and co-owner of The Roving House, Inc. ("Roving House"), sells enamel pins, stickers, and accessories featuring her nature-themed artwork on Shopify, Faire, and at various tradeshows. Claimant Position Statement at 1 (Dkt. 29); Merits Conference Testimony ("Conference Tr.") at 12:23-12:53.

2. Laura Freeman, a Washington-based visual "hobby artist" and sole member of Thruhalia, LLC, which was created at the beginning of 2022, sells pins, stickers, and keychains featuring animals such as slug and snail artwork on Etsy, Faire, and at local Washington retailers. Respondent Position Statement at 1 (Dkt. 18); Conference Tr. at 1:42:36-1:45:17.

3. Chalas is the author and owner of an image titled "The Roving House Snail," which was registered by the United States Copyright Office, effective as of January 13, 2022 (Reg. No. VA0002289642) (the "Work"). Claimant Exhibit A (Dkt. 34). The date of first publication of the Work is May 4, 2009. *Id.*

4. The Work was hand drawn by Chalas in 2009 and inspired by the backpacking travels of Chalas and her husband while following the band Cure. Conference Tr. at 16:10-16:18, 17:08-17:39.

5. The Work, as accurately described by Chalas, is a drawing of a left facing snail with non-anthropomorphized features including globular eyes, four tentacles (one of which cannot be seen), a flat foot, a globular shell with striations perpendicular to its curvature situated near the end of the foot, and a speckled body. The snail is carrying a bi-colored bindle, consisting of a cloth with patches and X marks, tied to the end of a long, wooden stick. *Id.* at 18:25-25:45; Claimant Exhibit A. The overall concept/idea of the Work is to depict a snail as a hobo. Claimant Exhibit A.

6. Chalas explained that her rendition of a snail was closer to a natural depiction of a real snail as opposed to a cartoonish rendition. Conference Tr. at 18:25-18:56, 21:50-22:19. Chalas was aware of other images of snails but not any with bindles. However, she was aware of depictions of other animals carrying bindles. *Id.* at 30:55-31:25.

7. In 2018, Chalas began using the Work as a logo for her business on enamel pins, stickers, tote bags and other merchandise. Claimant Position Statement at 1. In 2018, Chalas began selling stickers and pins featuring the Work on Shopify. Conference Tr. at 32:23-32:58.

8. Chalas sourced her pins from Alchemy Merch (formerly Pin Game Strong). She believes that Alchemy Merch works directly with "trustworthy" factories in China to manufacture her pin designs, manage the import process and tariffs, and handle quality control. *Id.* at 33:56-35:15.

9. In February 2024, Chalas became aware of Freeman's allegedly infringing work after it was posted by a third party on "Pin & Art Collector Marketplace," a private Facebook group for pin collectors and enthusiasts. *Id.* at 55:05-55:35; Claimant Exhibit H (Dkt. 36).

10. On February 22, 2024, Chalas sent a DMCA takedown notice to Etsy alleging that Freeman's pin was infringing the Work. Claimant Position Statement at 1; Claimant Exhibit C (Dkt. 37). On February 23, 2024, Freeman submitted a counternotice to Etsy. *Id.*

11. After receiving the counternotice, and sending Freeman a cease and desist letter on February 23, 2024, Chalas filed this claim on February 26, 2024. Claimant Position Statement at 1; Claim (Dkt. 1).

12. Sometime before January 2021, Freeman created a hobo snail design ("Respondent Design") using Procreate, a digital art program, after being inspired by the slugs and snails in her yard in

Washington. Conference Tr. at 1:45:18-1:45:25, 1:52:04-1:52:34. Prior to that, 80% of her designs were created digitally with the remainder designed in hand drawings. *Id.* at 1:48:01-1:48:08. Freeman was also aware that bugs, slugs and snails were popular themes used in consumer merchandise. *Id.* at 2:23:28-2:23:37.

13. Before her creation of the Respondent Design, Freeman had created slug designs such as a slug wearing a cowboy hat, another wearing a babushka, and another with a sunflower hat. *Id.* at 1:48:26-1:49:00, 1:56:58-1:57:48, 2:00:55-2:01:08. Freeman created five different animal designs for enamel pins – three slug designs, one snail design and one raccoon design. *Id.* at 2:38:51-2:39:01.

14. The Respondent Design was a "natural outgrowth" of Freeman's prior slug designs. *Id.* at 1:53:26-1:53:29. In particular, Freeman attested used one of her slug designs to create the snail design by first adding a shell that she created in a separate file to make it look like a snail. She used Getty images and other photographs of slugs and snails as reference material when creating the image and added an archetypal American hobo bindle imagery to the design because she thought it was funny. *Id.* at 2:05:22-2:06:17, 2:06:56-2:07:05, 2:09:06-2:09:08. Freeman submitted evidence showing various images depicting snails holding bindles, including the popular character "Gary the Snail" from the iconic SpongeBob SquarePants (Respondent Exhibit H (Dkt. 20)) as well as images of other animals carrying bindles compiled from the U.S. Patent & Trademark website to show that the depiction of animals as a hobo is a common concept. Respondent Exhibit I (Dkt. 20). She was inspired to use a red and white polka dot material on the bindle because she wanted to use a "classic design" which was reminiscent of old Hummel figurines she had seen. Conference Tr. at 2:09:06-2:10:10. Respondent's testimony and evidence on this point is credible.

15. Chalas believes that Freeman had access to her work via the Instagram page of Alchemy Merch, which Freeman follows. *Id.* at 1:00:15-1:02:43. She further testified that Alchemy Merch regularly features her art, including the Work, on their Instagram and website. Claimant Position Statement at 1; Claimant Exhibit B (Dkt. 31). However, Freeman started following Alchemy Merch in November of 2021, after she created the Respondent Design. Respondent Position Statement at 3; Conference Tr. at 2:17:55-2:18:06. Freeman followed Alchemy Merch because she was interested in producing washi tape, another product Alchemy manufactures. Conference Tr. at 2:17:11-2:18:49.

16. While Chalas provided evidence and testimony about the extent of her sales, distribution and customers of the Work as well as Roving House's promotion of the Work on social media and otherwise (*see, e.g., Id.* at 36:33-37:41, 37:49-38:11, 39:39-39:51, 41:34-44:59, 45:09-45:13, 47:27-47:35, 48:32-50:17, 50:29-52:44; Claimant Exhibit I (Dkt. 43)), Freeman has never followed or been aware of Roving House on any social media platforms and was unaware of Chalas or Roving House until receiving the DMCA takedown notice from Etsy. Respondent Position Statement at 4; Conference Tr. at 2:23:59-2:24:06.

17. Based upon all of the evidence and testimony submitted, Chalas has not sustained her burden of proving Respondent's access to the Work.

18. On January 25, 2021, Freeman placed an order for 100 pins featuring the Respondent Design from her enamel pin manufacturer, Stadri Emblems. Conference Tr. at 1:52:09-1:52:22, 2:19:39-2:19:44. Between 2021 and 2023, Freeman placed several orders for stickers embodying the Respondent Design from her sticker manufacturer Sticker Mule. *Id.* at 2:45:08-2:45:18; Respondent Exhibit K (Dkt. 20).

19. Freeman sold pins and stickers on Etsy, Faire, and through a Washington store that features the work of local artists. She earned a total profit of $411.40 on items bearing the Respondent Design. Respondent Position Statement at 7; Respondent Exhibit K (Dkt. 20).

20. Chalas attempted to say that the works at issue are substantially similar by testifying that:

> "In both cases, the snail is non-anthropomorphic. Their tentacles are realistically depicted as stalks with round, pupilless, non-human eyes, in the accurate number and placement...Unlike many depictions of snails in media and art, both works have no human-like mouths, smiles, or other human features. Both snails are viewed straight on from their side, with their shell whorls visible, and are looking forward rather than at the viewer. Both snails feature speckled or textured bodies. The ends of both snail's bodies stretch only slightly behind the shell, and each snail's foot is flat on the ground. Both snails have two-toned, teardrop-shaped bindle bags tied over the end of their stick with two ends of the fabric pointing upwards. Both snails have flat-coiled shells (round, tightly coiled, and largely flat across the coil) as opposed to the many other kinds of snail shells found in nature (discoidal, turreted, globular, pupiform, slipper-shaped, or other forms). Both snails also feature striations perpendicular to the movement of the spiral. In both shells, the first whorl dips slightly below the mouth of the shell, over the snail's body. The spiral in both snails takes exactly four turns."

Claimant Position Statement at 3. While this seems like a lengthy description, most of the description is of basic positioning and features of snail found in nature and not much in terms of specific creative expression that goes beyond the idea of a snail as a hobo.

21. Chalas admitted the following differences in the two designs. In the Respondent Design:

- the stick looks more like a branch and has a leaf attached to it;
- the body of the snail is partially off the ground;
- the shell is coiled differently;
- all four tentacles are visible;
- the scallop design on the edge of the snail body is visible; and
- the fabric used in the bundle the snail is carrying has polka dots.

Conference Tr. at 1:09:48-1:13:17.

22. Freeman testified, and the Board agrees, that while there are a few similarities between the works, the overall style of each is different:

> "Besides for the idea of a snail holding a bindle, there are few similarities between these two works…The Copyrighted Work is a minimalistic, black-and-white sketch of a snail with a thin-line drawing technique and the Chalas' house mark "THE ROVING HOUSE." Respondent's design is bright, colorful artwork that uses a cartoon-style technique and does not employ the Chalas's house mark. Overall, the Copyrighted Work is aimed toward a more realistic, simplistic design of a snail, whereas Respondent's work has a cartoon-like aura to it."

Respondent Position Statement at 5-6.

23. In addition to describing the stylistic differences between the two designs, Freeman described the specific differences between the two designs and submitted a chart detailing the differences. *Id.* Based on the record, the Respondent Design displays at least the following differences:

- faces the right;
- has four visible antennas with no stippling, which are darkened at the end;
- has a visible mouth;
- its bindle has no patches, tears or blemishes but has polka dots;
- its bindle has a large visible knot tied around a naturalistic branch, which has a detailed leaf protruding from it, and the lower end of the branch is visible;
- the snail is in an upright, "standing" position;
- the body of the snail is visible and has fringe in a "u" shape throughout it;
- the underside of the snail is scalloped; and
- its shell is thick with fully formed segmented components separated by black lines where the end of the spiral is located near the middle of the shell.

Id; Conference Tr. at 2:26:41-2:27:53.

24. Based on the foregoing testimony and the Board's observation of both works, the Board finds that although there is a common theme of an animal (here a snail) as a hobo in both works, the creative expression is such that the works are not substantially similar.

The parties have until **July 17, 2025**, to file submissions with which detail which factual findings, if any, they disagree. If a party disagrees with the Board's factual finding(s), they must be specific both as to which factual finding(s) they disagree with and the evidence or testimony that contradicts that factual finding(s).

Any filing which disagrees with these factual findings must follow the procedures set forth in **§ 220.5(b)** and be limited to five pages. Nothing should be attached to, or filed with the response, as a party may only rely on evidence or testimony already submitted, unless the presiding officer grants leave to do so. More information is available on page 9 of the **Smaller Claims Chapter** of the CCB Handbook.

Copyright Claims Board