COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0273
August 5, 2025

Lahna Turner	*v.*	Michael Bloom and Solaris Entertainment
CLAIMANT		**RESPONDENTS**

ORDER DENYING REQUEST FOR RECONSIDERATION

Claimant Lahna Turner (Turner) initiated this claim on December 23, 2022, alleging copyright infringement of a motion picture titled *Just Correct* (the Work). (Dkt. 1). On January 6, 2025, the Copyright Claims Board (Board) issued the Final Determination in this proceeding, finding that Respondent Michael Bloom (Bloom) is a joint author of the Work, and dismissed the claim with prejudice. (Dkt. 55). Turner filed a request for reconsideration on February 5, 2025 ("Request") (Dkt. 57). Bloom submitted a response to the request on March 5, 2025. (Dkt. 59).

A request for reconsideration of a final determination must identify a clear error of law or fact that was material to the outcome, or a technical mistake. 17 U.S.C. § 1506(w); 37 C.F.R. §§ 230.1-230.2. The Request identifies no technical mistake or clear error.

I. The post-testimony order requesting additional evidence was not clearly erroneous.

Turner contends that after she submitted her reply testimony, the Board erred on October 8, 2024, by soliciting further evidence on certain matters, including Bloom's role in creating the Work, his ownership interest in the Work, and any agreements relevant to his rights, without also permitting further testimony or argument. Request at 1-3; Order Requesting Additional Evidence (Dkt. 53) ("No further party statements or witness statements may be filed."). Once written testimony is complete, the record can only be supplemented at the Board's request or with the Board's leave. 37 C.F.R. § 222.15(f). It was not clearly erroneous for the Board to request supplemental submissions, or to limit those submissions to discrete documentary evidence solely bearing on Bloom's ownership.

Turner's assertion that this was a "new issue" is incorrect. Request at 2. Ownership of the Work was a central issue in dispute before and throughout the proceeding. *See, e.g.*, Claimant Party Statement at 1, 5, 9 (Dkt. 28) (noting each party's claims of ownership). Bloom directed the Work, and his theory was that he, having made significant copyrightable contributions to the work, had an ownership interest in the work, and that, even if Bloom had an arrangement with Melee, any rights of Bloom's that were initially licensed to Melee Entertainment (Melee) reverted to him when Melee's rights expired. *See* Exhibit O at LT-00105 (Dkt. 29); Claim Response (Dkt. 21). As Turner acknowledges, "Bloom argued that [the] . . . rights 'returned' to him by agreement with Melee." Request at 2. However, inherent in Bloom's theory of reversion was the premise that he had an ownership interest at the outset as an original author, as he repeatedly indicated. *See generally* Exhibit M at Items 5(b) ("I created the video special"), 6 ("my reclaiming the material"), and 9 ("I was responsible completely for all things relating to the creation of the

finished program you see now titled 'Just Correct.'") (Dkt. 29). Regardless of whether any rights reverted to him from Melee or whether the Melee agreement was only between May and Melee—as the Board found—such that no rights were transferred to Melee to begin with, the evidence was clear that Bloom had an ownership interest by virtue of being a joint author of the Work.

No evidence or argument in Turner's written testimony undermined the evidence that supports Bloom's underlying claim to original authorship. Nothing precluded Turner from submitting such evidence and argument in her case in chief or in reply, especially since it was clear that Bloom's ownership interest was a core issue in this proceeding. Turner cited Melee's agreement with Turner's late husband Ralphie May and Melee's assignment of its rights to Turner as a basis of her claim of ownership, and to counter Bloom's claim of ownership. Direct Party Statement at 2-4, 6-7 (Dkt. 28) & Reply Party Statement ("Reply") at 2-3 (Dkt. 47) (both citing Exhibits C & D (Dkt. 29)). But Bloom was not a party to those agreements, they did not determine his rights, and Turner never produced an agreement that Bloom signed giving up his rights.

The list of other evidence and arguments that "Turner could have submitted," Reply at 3, comes too late. Turner may not rely on this new evidence unless she demonstrates, by clear and convincing evidence, that it was unavailable to her—despite exercising reasonable diligence—before she submitted her written testimony. 37 C.F.R. § 230.4. Turner does not attempt to meet that standard and does not contend that any item on her list would have changed the Board's analysis. Also, Turner had the opportunity to request a hearing on any issue in her direct or reply testimony but chose not to do so. 37 C.F.R. § 222.15(e). Her interest in improving her case with hindsight does not present an error by the Board. Furthermore, Turner misconstrues one of the central purposes of the Board: to have an even and level playing field between represented and unrepresented parties (or even two unrepresented parties) by appointing Officers with significant copyright expertise so that the parties can present the facts and the Board can apply the law regardless of whether a party is inartful in their presentation of how the law applies to those facts.

II. The finding of joint authorship in the final determination was not clearly erroneous.

Turner contends that the Board applied the wrong legal standards in finding that Bloom and Melee were joint authors of the Work. Request at 4-6. The argument mangles the standard that governs Board determinations. Turner "submits that it was a clear material error to limit the analysis to the statute and legislative history rather than applying the federal courts' test for co-authorship. The Board must render its determinations, *inter alia*, 'on the basis of . . . judicial precedent.' 17 U.S.C. § 1503(b)(1)." *Id.* at 4. But that statute does not quite state, and, at least as importantly, *the Board did not do*, what Turner claims. Without elision, the statute provides:

> The Copyright Claims Board shall render the determinations of the Board in individual proceedings independently *on the basis of the records* in the proceedings before it and *in accordance with the provisions of this title*, judicial precedent, and applicable regulations of the Register of Copyrights.

17 U.S.C. § 1503(b)(1) (emphasis added). The joint authorship finding was properly based on a thorough review of the record evidence. *See* Final Determination at 8-9. The Board did not err by quoting two sections of the Copyright Act, *see id.* at 7 (17 U.S.C. §§ 101 & 201(a)), grounding its analysis on copyright law in Title 17 of the

United States Code (which Section 1503(b)(1) calls "this title"). Moreover, the Board did not "limit its analysis to the statute and legislative history" as Turner claims; it duly applied judicial precedent.

Turner contends that the Board erred by finding joint authorship without requiring that each author had made an independently copyrightable contribution to the work – a test articulated in *Childress v. Taylor*, 945 F.2d 500, 507 (2d Cir. 1991). Request at 4-5. That test, articulated by the Second Circuit (in which the Board notes neither of the parties reside) cannot be fairly described as "the federal courts' test for co-authorship." *Id.* at 4. "Most Courts of Appeals have declined to endorse, or at least declined to comment upon, *Childress*' reading of the Copyright Act's joint authorship intent standard." *Beard v. Helman*, 722 F. Supp. 3d 521, 550 (M.D. Pa. 2024) (collecting cases).

In any case, the Board's ruling does indeed go through the copyrightable contribution made by Bloom, and does so in detail. It shows that Bloom would have a joint authorship interest regardless of the test used because of his significant contributions reflected in the record. Moreover, "the Copyright Claims Board shall follow the law of the Federal jurisdiction in which the action could have been brought if filed in a district court of the United States, or, if the action could have been brought in more than 1 such jurisdiction, the jurisdiction that the Copyright Claims Board determines has the most significant ties to the parties and conduct at issue." 17 U.S.C. § 1506(a)(2). Turner, quoting only the first twenty words of that sixty-four-word provision and ignoring the rest, asserts that the claim "could have been brought" in the Ninth Circuit, and that a different test set forth in *Aalmuhammed v. Lee*, 202 F.3d 1227 (9th Cir. 2000), "controls here." Request at 6, 6 n. 4. However, the Board did not use a different test. It specifically considered *Aalmuhammed*, and in fact, quoted it in the final determination (at 9) as it supported Bloom's joint authorship. The Board notes that it is also somewhat more likely that the law of the Fourth Circuit would apply, as both respondents reside in South Carolina (*see, e.g.*, Exhibit N at LT-00119 (Dkt. 29)), and no evidence indicates that their conduct had more significant ties elsewhere. The Fourth Circuit has not decided the exact formulation of the law professed by Turner, but there is no basis to find that it would follow any test Turner prefers.

The Board's application of the law, supported by the facts, the Copyright Act, and substantial judicial precedent, was not clearly erroneous. The Request does not identify any legal or factual error that would justify reconsideration of the Final Determination. Therefore, the Board denies the Request. This case remains closed.

Copyright Claims Board