COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0049
January 14, 2026

Michael Russell	*v.*	JessTalk Speaking Services, LLC
CLAIMANT		**RESPONDENT**

FINAL DETERMINATION

This matter has been fully submitted by the parties. For the reasons that follow, the Copyright Claims Board ("Board") finds Respondent JessTalk Speaking Services, LLC ("JessTalk" or "Respondent") liable for copyright infringement and awards Claimant Michael Russell ("Russell" or "Claimant") $1,200 in statutory damages.

I. Procedural History

Russell filed this copyright infringement claim against JessTalk on February 20, 2024. Claim (Dkt. 1). Russell alleged that JessTalk infringed his copyright in a panoramic photograph of downtown Vancouver at night (the "Photograph") by copying it and displaying it in a video (the "Video") and as a static image linked to the video (the "Video") on Vimeo.com ("Vimeo"). *Id.* JessTalk filed a response to the Claim on July 12, 2024. Response (Dkt. 14). After discovery, the Board issued an order on September 20, 2024, directing the parties to file written testimony. (Dkt. 15). On October 29, 2024, Russell filed a Claimant's Statement (Dkt. 35), an evidence list (Dkt. 27), evidence (Dkt. 16-18, 20-26, 28-30, 32-34, 36-39), and witness statements from Russell ("Russell Decl.") (Dkt. 19) and his counsel Leslie Burns ("Burns Decl.") (Dkt. 31). On November 22, 2024, JessTalk filed only a party statement titled Respondent's Written Testimony in Defense of Fair Use ("Fair Use Statement") (Dkt. 41). On December 12, 2024, Russell filed a reply statement ("Claimant's Reply") (Dkt. 44), an additional evidence list (Dkt. 45), and rebuttal evidence (Dkt. 43, 46-47). The case is ripe for final determination.

II. Factual History

The facts relevant to this Final Determination are not in dispute, except as noted below. Russell is a professional photographer who photographs, among other things, various locations and landscapes. Russell Decl. ¶ 2). He created the Photograph on April 13, 2012, "trying to capture the Vancouver skyline dramatically." *Id.* ¶ 4.

On April 18, 2012, he posted it and offered it for licensing on his commercial, PhotoShelter-based website, where it still appears. *Id.* ¶¶ 5-6. He also posted it with a "©2012 Michael Russell" watermark on his blog on April 18, 2012, and on Flickr in 2013. *Id.* ¶¶ 7-8; *see* Claimant's Reply Ex. C at 1 (Dkt. 47). Russell testified that he offered the Photograph "for licensing," although he did not provide any license fees that he had received or that he had proposed to potential licensees. He has never licensed any of his works for the type of use allegedly made by JessTalk, although he has licensed his works—presumably for other uses—but he has not provided any actual or proposed license fees. Russell Decl. ¶¶ 18-19.

Russell obtained copyright registration for the Photograph as part of a group registration of published photographs, Reg. No. VA 1-904-419, with an effective date of registration of March 6, 2014. *Id.* ¶ 9; Claimant Ex. I (Dkt. 17). The registration certificate states that the Photograph's title is "vancouver-downtown-evening-panorama-22282" and its publication date is April 18, 2012. *See id.* Russell has not licensed the Photograph to JessTalk or to anyone associated with JessTalk. Russell Decl. ¶ 10; Claimant's Reply Ex. A, JessTalk Response to Document Request No. 9 ("I did not receive the right to use the work of Michael Russell.") (Dkt. 43).

Jesse Ferrell ("Ferrell") and his wife Lisa Ferrell are JessTalk's two managing members. Claimant Ex. H at 2 (Dkt. 29). JessTalk promotes Ferrell's services as a professional speaker and coach. *See* Claimant's Reply Ex. B (Dkt. 46) ("Inspirational Speaker & Master Success Coach"). Ferrell created the Video in or about 2018 by compiling "photos and videos" found online with footage from his "personal and speaking engagement videos." Claimant Ex. M, JessTalk Response to Interrogatory No. 5 (Dkt. 21). It is one hour, two minutes, and forty-eight seconds long. *Id.* The complete Video is in evidence in three parts: Claimant Ex. N part 1 (Dkt. 39), Claimant Ex. N part 2 (Dkt. 37), and Claimant Ex. N part 3 (Dkt. 38).

Ferrell published the Video with the title *JessTalk Mastering the Art of Living* on his Vimeo page, displaying the Photograph within the Video and as the static "cover image" that links to the Video both in his menu of Vimeo videos and on a separate Vimeo page specific to the Video. Claimant Ex. L (Dkt. 24); Claimant Ex. M, JessTalk Response to Interrogatory No. 5; Claimant Ex. N part 1; Claimant Ex. O (Dkt. 33). He contends that the Vimeo account is "private." Fair Use Statement at 2.

JessTalk characterizes the Video as including "highlights from a number of speaking engagements, university basketball highlights and personal and family vacations." Response; *see* Claimant Ex. N. It included several photographs of Vancouver. *See* Claimant Ex. N, part 1 at 1:25-1:28. Immediately before the Photograph appeared, the Video displayed a fisheye lens photograph of Vancouver for four seconds, with the scrolling text "*My favorite city in the world* …" superimposed over the cityscape. *Id.* at 2:57-3:01. The next shot displayed Russell's Photograph for eight seconds, slowly tracking from right to left to present the entire panoramic image, while text reading "*Vancouver, Canada*" scrolled into view mid-screen with sparkle effects. *Id.* at 3:01-3:09. Following that was a shot that appears to be a clip from a JessTalk speaking engagement, captioned "Lotus Broadcasting Mastering Relationships Summit," which Claimant asserts was shot in Vancouver. *Id.* at 3:10-3:40; Claimant's Statement at 4-5.

In mid-2022, Russell discovered Ferrell's use of the Photograph on Vimeo, both in the Video and as a static image for the Video, by doing "a reverse image search using Google Images or a similar tool." Russell Decl. ¶¶ 11-12. Russell also states his discovery of the use shows the Video was not private as JessTalk claims. Claimant's Reply, at 2. He asserts and Respondent admits that the alleged infringement commenced in 2018. Claim (alleging infringement dates from 2018 through October 2023); Response ("This unfortunate infringement occurred more than six years ago"). The Video was removed from Vimeo in late October 2023, soon after Respondent received a letter from Claimant's counsel demanding that it cease any further use of the Photograph. Claimant's Statement at 2; Claimant Ex. B (Dkt. 34); Claimant Ex. D (Dkt. 32); Burns Decl. ¶¶ 8-11.

In discovery, Ferrell produced a document in which he stated that the Video "was deleted upon request" and that "[t]he last count was only nine views from that Video." Claimant Reply Ex. C at 3; *see* Claimant's Reply at 1 (identifying Reply Ex. C). JessTalk states that it earned no revenues from the use of the Photograph. Claimant Reply Ex. A, JessTalk Response to Document Request No. 16. It states that the Video was "never used for business promotion" and never "publicized or distributed with a commercial intent." Fair Use Statement at 1.

III. Legal Analysis

a. Copyright Infringement

To succeed on a claim for copyright infringement, a claimant must establish: "(1) ownership of a valid copyright; and (2) copying of constituent elements of the work that are original." *Feist Publications, Inc. v. Rural Telephone Serv. Co., Inc.*, 499 U.S. 340, 361 (1991). The Photograph was registered by Claimant in a group registration of published photographs with an effective date of March 6, 2014. Claimant Ex. I. Because the Certificate of Registration was effective within five years of the first authorized publication of the Work, it is prima facie evidence of the validity of the copyright and of the facts stated in the certificate including Claimant's ownership. *Id.*; 17 U.S.C. §§ 410(c), 1505(c).

Respondent admits its use of the Photograph by reproducing, distributing, and publicly displaying the Photograph on Vimeo. Response. Respondent also admits that it did so without Claimant's authorization. *Id.* Without a valid defense, those actions constitute a violation of Claimant's exclusive rights.

b. Fair Use

The only defense argued is fair use.[1] Indeed, JessTalk's party statement is titled "Respondent's Written Testimony in Defense of Fair Use." Fair Use Statement at 1. As the proponent of the affirmative defense of fair use, JessTalk has the burden of proof on this issue. *See Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569, 590 (1994).

Four non-exclusive factors are considered when analyzing a fair use defense: (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and, (4) the effect of the use upon the potential market for or value of the copyrighted work. 17 U.S.C. § 107; *Monge v. Maya Magazines, Inc.*, 688 F.3d 1164, 1171 (9th Cir. 2012).

Regarding the first factor, the "central purpose" is to determine "whether and to what extent the new work is

[1] In its Response, Respondent also asserted the defense of laches. Response ("I truly believe this situation is a clear case to apply the laches defense."). However, Respondent's written testimony did not address that defense and the Board sees no reason to consider it in light of the Supreme Court's ruling in *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663 (2014) that laches cannot be invoked to preclude adjudication of a claim for damages for copyright infringement brought within the Copyright Act's three-year statute of limitations.

'transformative.'" *Dr. Seuss Enterprises, L.P. v. ComicMix LLC,* 983 F.3d 443, 452 (9th Cir. 2020) (*quoting Campbell v. Acuff-Rose Music, Inc.,* 510 U.S. 569, 579 (1994)). JessTalk characterizes its use as "transformative" because it placed the Photograph in a "video focused on self-motivation and personal reflection." Fair Use Statement at 3. According to JessTalk, its use "adds a new context and meaning to the image, aligning it with themes of self-reflection rather than its original purpose as a landscape photograph." *Id.* at 4. "A use that has a further purpose or different character [than the original] is said to be 'transformative.'" *Andy Warhol Found. for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508, 510 (2023). However, assuming for the sake of argument that the purpose of JessTalk's *Video* was one of "self-reflection," JessTalk offers no explanation of how the use of the *Photograph* was for such a purpose. The Board concludes that the purpose of using the Photograph was the same as Russell's purpose: to depict Vancouver, nothing more. The Video demonstrated that purpose with a scrolling caption that declared Vancouver "[m]y favorite city." Such a use was not at all transformative. *See Philpot v. Independent Journal Review,* 92 F.4th 252, 260 (4th Cir. 2024) ("Philpot took the Photo to identify [Ted] Nugent. IJR used the Photo for precisely the same reason: to depict 'The Nuge.'").

JessTalk's only other arguments regarding the first factor focus on its assertion that the Video was "private,"[2] that is, uploaded to Ferrell's "private Vimeo account," and that it had an "entirely personal, non-commercial narrative" that Ferrell "created as a reflective, motivational piece to inspire and enhance [his] personal growth as a speaker." Fair Use Statement at 1. JessTalk also alleged that "it was not shared on any commercial platforms or ever publicized or distributed with a commercial intent." *Id.* If true, that might lend support to a conclusion that its use of the Photograph was not "of a commercial nature," which is also relevant in an evaluation of the purpose and character of the use. JessTalk argues that the Video appeared on Ferrell's personal Vimeo page, not on JessTalk's website or social media pages, that it was "not readily accessible to the public or prospective clients," and that there is no evidence that JessTalk ever used the Video "as a marketing tool" or in any other commercial manner. *Id.*

[2] While characterizing the Video as "private," JessTalk does not set forth any facts supporting a conclusion that the video was not available to the public on the Vimeo site. As discussed below, the evidence in the record supports the conclusion that the Video *was* available to the public.

Russell argues that the Video is "clearly a long advertisement for Respondent's business." Claimant's Statement at 4. Since it "contains highlights from [JessTalk] speaking engagements," and is one of more than 400 videos posted on the same Vimeo account, Russell asserts that JessTalk's "claim that videos on Vimeo are personal and not in promotion of its business is simply not credible," *id.*, and that "it is clearly self-promotional." Claimant's Reply Statement at 2. Moreover, contrary to JessTalk's assertion that the Video was "not readily accessible to the public," Russell notes that he was able to view his Photograph, both as a "static image" on Ferrell's Vimeo menu and in the video itself, without a password or subscription. *Id.*; Russell Decl. ¶¶ 11-12.

Based on its review of the evidence, the Board concludes that Respondent's use of the Video (and therefore the Photograph) can more accurately be characterized as commercial than noncommercial. A screenshot of a portion of Ferrell's Vimeo menu page shows (in whole or in part) image links to six videos, at least some of which appear clearly commercial in nature. Claimant Ex. O. Most or all of them appear related to JessTalk workshops or other Ferrell workshops. One of the image links is for the Video, and the image displayed is the Photograph. That menu page and the subject Video, which Russell was able to view, were made available to the public.

JessTalk suggests that the one-hour length of the Video is inconsistent with a promotional purpose. *See* Fair Use Statement at 2-3, 5. However, anyone who has viewed a television infomercial will recognize that commercial and promotional videos can easily run for an hour. Moreover, a review of the Video reveals that it could easily be characterized as promoting JessTalk's business. It has a soundtrack featuring commercial sound recordings, appears to be professionally made, and consists mostly of photos of Ferrell with celebrity clients and business associates, photos and video clips from workshops featuring Ferrell, and video clips of workshop participants giving testimonials about workshops in which they had participated. *See* Claimant Ex. N. In addition, the Video contains other indicia of commercial audiovisual works including the display of website addresses and logos for JessTalk and LisaListen, which is labeled as a subdivision, at the beginning and the end of the Video; a list of JessTalk's clients at the end of the Video; and a phone number for JessTalk in the Video. *Id.* While the video may well contain "reflective" and "motivational" aspects intended to "inspire and enhance [Ferrell's] personal growth as a speaker," Fair Use Statement at 1, it also clearly promoted JessTalk's workshops featuring Ferrell as a motivational speaker.

Moreover, using a screenshot consisting solely of the Photograph on the Vimeo menu page as a visual link to the Video connected the promotional use directly to the act of infringement. Finally, contrary to JessTalk's assertion, the Video was shared on a commercial platform, Vimeo.

Because JessTalk's use of the Photograph was not at all transformative and was commercial in nature, the first factor weighs against a finding of fair use.

The second fair use factor focuses on how creative the work is. The Photograph is a creative work, which weighs against fair use. "Photos are generally viewed as creative, aesthetic expressions of a scene or image." *Monge*, 688 F.3d at 1177. The Video's slow tracking shot highlighted the artful detail in which Russell captured the cityscape. This factor weighs against fair use.

The third factor concerns the extent of the taking. It also weighs against fair use because the tracking shot in the Video captured the entire length of the Photograph. Moreover, almost the entire Photograph was used as the static image link on Ferrell's Vimeo page and the separate Vimeo page specific to the Video (because the Photograph is a panorama, not all of it could fit on the standard-format video screen at one time). *See* Claimant Ex. B at 1-2.

The fourth factor is the effect of the use upon the potential market for or value of the copyrighted work. "[W]here the allegedly infringing use is both commercial and non-transformative, a presumption of market harm arises." *De Fontbrune v. Wofsy,* 39 F.4th 1214, 1226 (9th Cir. 2022). JessTalk asserts that "the video was not monetized, advertised, or used in any way that could detract from the photograph's licensing potential." Fair Use Statement at 5. However, JessTalk fails to take into account that its infringing use of the Photograph deprived Russell of a potential license fee for its very use—a use that ordinarily would be expected to be licensed. Although Russell gives little detail about his licensing of his photographs, he is a professional photographer who is in the business of licensing his photographs to others. Claimant's Statement at 5; Russell Decl. ¶¶ 19-22. He offers the Photograph for licensing on his commercial website. Russell Decl. ¶¶ 5-6. While he has never licensed a photograph for a use similar to Respondent's use, *id.* ¶ 18, the fourth factor relates not only to a copyright owner's existing markets but also to "the effect of the use upon the *potential* market for or value of the copyrighted work."

17 U.S.C. §107(4) (emphasis added). And while "not every effect on potential licensing revenues enters the analysis under the fourth factor," courts consider "traditional, reasonable, or likely to be developed markets when examining and assessing a secondary use's 'effect upon the potential market for or value of the copyrighted work.'" *American Geophysical Union v. Texaco Inc.,* 60 F.3d 913, 929-30 (2d Cir. 1994); *accord Seltzer v. Green Day, Inc.*, 725 F.3d 1170, 1179 (9th Cir. 2013). Uses of photographs in videos and other audiovisual works fall comfortably within the class of "traditional, reasonable, or likely to be developed markets." Thus, the fourth fair use factor also weighs against fair use.

The Board concludes that JessTalk has failed to carry its burden of proving that its use of the Photograph was a fair use. Because JessTalk has presented no other defense, the Board finds that JessTalk is liable for copyright infringement.

IV. Damages

Russell elects statutory damages and requests $15,000. Claimant's Statement at 6, 12. This is the maximum amount of statutory damages possible for infringement of the Work given that it was registered before the infringement took place. 17 U.S.C. § 1504(e)(1)(A)(ii)(I).

Courts have wide discretion to award statutory damages as long as they fall in the statutory range. *See F.W. Woolworth Co. v. Contemporary Arts, Inc.*, 344 U.S. 228, 231-32 (1952); *Peer Int'l Corp. v. Pausa Records, Inc.*, 909 F.2d 1332, 1336 (9th Cir. 1990). "[T]he court's conception of what is just in the particular case, considering the nature of the copyright, the circumstances of the infringement and the like, is made the measure of the damages to be paid. . . . Within [the statutory] limitations the court's discretion and sense of justice are controlling[.]" *L.A. Westermann Co. v. Dispatch Printing Co.*, 249 U.S. 100, 106 (1919).

In deciding the appropriate amount of statutory damages to award, courts generally seek to establish a relationship between statutory damages and actual damages. *See, e.g., Atari Interactive, Inc. v. Redbubble, Inc.*, 546 F. Supp. 3d 883, 888 (N.D. Cal. 2021) ("A statutory damages award 'must bear a plausible relationship to Plaintiff's actual damages'") (citation omitted); *Fitzgerald Publishing Co. v. Baylor Publishing Co.*, 670 F. Supp. 1133, 1140 (E.D.N.Y. 1987) ("Undoubtedly these [statutory] damages should bear some relation to the actual damages suffered[.]"); *Seoul Broad. Sys.*

Int'l v. Young Min Ro, No. 9-cv-433, 2011 WL 3207024, at *8 (E.D. Va. July 27, 2011) ("After all, 'when awarded, statutory damages should bear some relation to the actual damages suffered.'") (citation omitted); *Aberle v. GP Clubs, LLC*, No. 19-cv-1066-RP, 2020 WL 4035074, at *4 (W.D. Tex. July 17, 2020) ("while there 'need not be a direct correlation between statutory damages and actual damages,' it has generally been held that 'the statutory award should bear some relation to actual damages suffered'") (citation omitted); *Bly v. Banbury Books, Inc.*, 638 F. Supp. 983, 987 (E.D. Pa. 1986) ("numerous courts have held that asserted statutory damages should bear some relation to the actual damages suffered") (citations omitted). Actual damages are primarily measured by "the extent to which the market value of the copyrighted work at the time of the infringement has been injured or destroyed by the infringement." *Fitzgerald Publishing Co. v. Baylor Publishing Co.*, 807 F.2d 1110, 1118 (2d Cir. 1986). To secure actual damages, a claimant typically establishes impairment of market value by demonstrating lost sales or other lost profits that would have been obtained from the sale or license of the infringed work but for the respondent's infringement. *See Stevens Linen Associates v. Mastercraft Corp.*, 656 F.2d 11, 15 (2d Cir. 1981); *Baker v. Urban Outfitters, Inc.*, 254 F. Supp. 2d 346, 356 (S.D.N.Y. 2003). Such amounts should be based on a "factual basis" and not "undue speculation." *On Davis v. The Gap, Inc.*, 246 F.3d 152, 165 (2d Cir. 2001).

Based on the record before the Board, there is no basis to ascertain the market value of the Photograph for use in an online video, or for any other use. There is no evidence whatsoever regarding any lost sales or other profits that would have been obtained from a license of the Photograph but for the infringement. Claimant's Statement admits that "he has never licensed a work for use in a promotional video, such as the one Respondent made. . . . Thus, he does not have invoices to show his precise actual damages." Claimant's Statement at 8 (*citing* Russell Decl. ¶ 18). Russell has not offered any evidence of revenues he has received from licenses for other uses of any of his works or of any revenues whatsoever that he has received for sales or other uses of his photographs.

Russell instead notes only that he has many years of experience and has "developed his pricing method of using FotoQuote and Masterfile's online calculator." *Id.* He states that "[a]ccording to Masterfile's online pricing tool, a license for Respondent's use would be $880.00 [and] [a]ccording to FotoQuote, that license would be $925.00." *Id.* at 8-9; Russell Decl. ¶¶ 19-21. He asserts that based on his experience and the license fees quoted by FotoQuote and

Masterfile, he would have asked JessTalk for a license fee of no less than $900. Russell Decl. ¶ 22.

The Board has rejected such evidence in the past, and it rejects it here as well. In the absence of any evidence that Russell (or anybody else) has licensed the use of any of his photographs for the amounts generated by the FotoQuote and Masterfile calculators, the record provides no basis to calculate the value of a license. Even taking at face value Russell's statement that he would have asked JessTalk for a license fee of no less than $900, such evidence tells us nothing about what a reasonable license fee would have been. "[I]n situations where the infringer could have bargained with the copyright owner to purchase the right to use the work, actual damages are what a willing buyer would have been reasonably required to pay to a willing seller for plaintiffs' work." *Jarvis v. K2 Inc.*, 486 F.3d 526, 533 (9th Cir. 2007) (internal quotations and citations omitted). "The question is not what the owner would have charged, but rather what is the fair market value." *Id.* The fees generated by FotoQuote and Masterfile are, at best, evidence of the price that Russell would have offered to JessTalk. They tell the Board nothing about whether any willing buyer has agreed or would agree to that price. *See Bell v. Taylor*, 827 F.3d 699, 709 (7th Cir. 2016) (concluding that "the price that Bell listed on his website is not sufficiently concrete to show the fair market value of his photo").

If Russell had presented evidence that he had ever entered into licensing agreements for the use of his photographs in which the license fees were the fees generated by Masterfile or FotoQuote, the Board might have taken those licenses into account. Russell comes somewhat close to presenting such evidence when he says: "When I am asked to quote a rate for a license, I base that number on the extent of the usage and rely on my personal experience as a professional photographer as well as using tools like the Masterfile's online rights-managed quote generator and the FotoQuote pricing tool to formulate the license fee." Russell Decl. ¶ 19. If he had gone one step further and stated the actual fees that were agreed upon and paid by any of his licensees, the Board might have actual evidence of what a reasonable license fee would have been. Or, he could have submitted evidence of licenses issued by colleagues for the use of similar photographs if he had no licensing history whatsoever. But instead, he chose to avoid presenting any evidence of actual license fees.

Moreover, Russell provides no evidence regarding how the Masterfile and FotoQuote calculators work or the nature and reliability of the data that they use to perform their calculations. The Board finds no basis to rely on those

calculators. *See Oppenheimer v. Griffin*, No. 1:18-cv-00272-MR-WCM, 2019 WL 7373784, at *6 (W.D.N.C. Dec. 31, 2019) (rejecting FotoQuote calculation because it "is not reflective of the Plaintiff's lost revenue here" and "does not accurately reflect the price that the Defendants would have paid to license the Work"); *Fey v. Panacea Management Group LLC,* 261 F. Supp. 3d 1297, 1305 (N.D. Ga. 2017) (rejecting expert testimony based on online price calculators including FotoQuote and Masterfile because the expert did "not know how the price calculators work or what data they rely on, and she has not shown the calculators are reasonably relied on by experts in establishing licensing fees"). The Board has reviewed the cases cited by Russell and none of them justify an award based on either no evidence, on license fee calculators such as those relied on by Russell, or on his opinion of what his license fee should be.

Russell also argues that the fact that JessTalk receives five-figure speaking fees but "refused to supply virtually any financial information related to the infringement or its own fees" justifies a higher award. Claimant's Statement at 10-11. The Board has reviewed JessTalk's responses to the standard interrogatories and requests to produce documents pertaining to damages, *see* Claimant Ex. M at 3-5 and Claimant's Reply Ex. A at 2, and sees nothing inappropriate in those responses. Nor does it understand how the speaking fees received by JessTalk might be evidence relevant to damages for the infringement of the Photograph by using it in the Video.

As Claimant noted when commenting on the case made by Respondent: "Although the Board does not follow the Federal Rules of Evidence, it *does* require a party to support its claims or defenses with evidence. Here, there is none." Claimant's Reply at 5. Based on its review of the record and the lack of any evidence to provide a clue as to what a reasonable license fee would be, the Board must conclude that an award near the bottom of the permissible range of statutory damages is appropriate. Accordingly, and taking into account the commercial nature of JessTalk's use, the Board awards $1,200 in statutory damages.

V. Conclusion

The Board finds the respondent, JessTalk Speaking Services, LLC, liable for infringement, and awards the claimant, Michael Russell, $1,200 in statutory damages.

Copyright Claims Board