COPYRIGHT CLAIMS BOARD

**Docket number:** 24-CCB-0160
June 9, 2026

| PerfectPinz LLC | *v.* | K9 KING, LLC |
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| **CLAIMANT** | | **RESPONDENT** |

## ORDER TO SHOW CAUSE REGARDING BAD-FAITH CONDUCT

Claimant PerfectPinz LLC (Claimant) brought and pursued this copyright infringement claim before the Copyright Claims Board (Board) through its attorney and co-owner Cory Lapin (Lapin). They alleged that Respondent K9 King, LLC (Respondent) infringed Claimant's copyrights in four illustrations. But the works have a common source; Claimant's illustrations and Respondent's allegedly infringing illustrations all appear to be unlicensed derivative works that extremely closely depict scenes from the movie *Happy Gilmore*. Claimant and Lapin misrepresented that fact in discovery and in submissions to the Board, disingenuously acting as if their material was original and dismissing the idea that the works at issue came from material they obviously copied. They maintained this claim long after Respondent explained, and demonstrated in discovery, that its works were independently created in that, from a copyrightable expression standpoint, they were based solely on *Happy Gilmore* and not on Claimant's works.

The Board therefore orders Claimant and Lapin to show cause why their actions in this proceeding do not constitute bad-faith conduct under 37 C.F.R. § 232.3.

### I. The allegedly infringed works are derivative works.

Lapin and Elliott Brafman (Brafman) are Claimant's co-owners and its two authorized members. Dkt. 43, at 4 (Claimant Response to Interrogatory No. 1); Dkt. 53. Claimant alleges infringement of four illustrations (Works) that depict scenes from the 1996 movie *Happy Gilmore*. *See* Dkt. 46 at 4-8. Claimant's four Works, and corresponding stills from the movie, are below.

"Go Home, Ball"
Reg. No. VA0002370887






"Tap It In"
Reg. No. VA0002352325





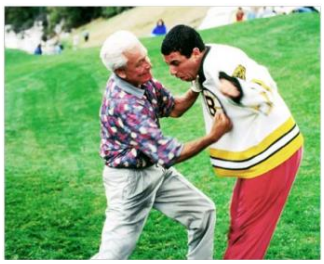

"All In The Hips"
Reg. No. VA0002352323






"Price Is Wrong"
Reg. No. VA0002352322



Each Work closely mirrors the composition and content of a *Happy Gilmore* scene. The titles of the Works, and the only text they display, are direct quotes from dialogue spoken in those scenes. All four Works show Adam Sandler in his role as the title character Happy Gilmore in the same position and dressed in the same outfit. Each Work's content is therefore taken primarily or exclusively from the movie. They are obviously "derivative works" under the Copyright Act, 17 U.S.C. § 101.

## II. Claimant and Lapin repeatedly mischaracterized the allegedly infringed works.

A copyright registration does not cover any copyrightable material not owned by the copyright claimant, such as material owned by a third party. 17 U.S.C. § 103(b); U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices, Third Edition* ("*Compendium*") §§ 503.5, 507.2, 621.7. The copyright in a derivative work does not extend to material in the work used "unlawfully," such as infringing material. 17 U.S.C. § 103(a); *Compendium* § 313.6(B). While the Board does not find at this point that the *Happy Gilmore* material was used unlawfully, it is clear that Claimant has no license to use the *Happy Gilmore* material that is all or virtually all of the Works' content, and that material was "unclaimable" when Claimant applied to register the copyrights. *Compendium* § 507.2. "Generally, if the third party material is protected by copyright, the applicant must exclude that material from the claim," and "[i]f it becomes clear that preexisting material was used unlawfully, the registration specialist will refuse to register the claim." *Id.* § 907.2. Nevertheless, Lapin obtained registrations for Claimant by submitting applications on false pretenses, failing to disclose and disclaim the Works' extensive use of unlicensed, third-party material.

In this proceeding, Claimant and Lapin repeatedly denied that the Works are derivative works, failed to disclose the extent of material taken from the movie, and falsely claimed that the Works are wholly independent and original.

The Claim and Amended Claim did not mention the Works' unlicensed source *Happy Gilmore* at all. Dkt. 1, 3. At the pre-discovery conference, when the presiding Officer asked if the PerfectPinz Works were "based upon scenes from *Happy Gilmore*," Lapin replied, "unquestionably, unquestionably." Oct. 16, 2024 Conference Transcript at 22:50-25:06. However, Lapin and Claimant were far less forthcoming in discovery and in their written testimony.

In an interrogatory response signed by Brafman and filed by Lapin as part of Claimant's written testimony, they conceded only that the Works were "inspired" by the movie while contending they are "entirely independent and original":

> Complainant's works were inspired by the Happy Gilmore movie, but its works are not "derivative" per se and are instead **entirely independent and original**. Indeed, the Complainant's works include **non-descript/generic cartoon characters** (blank faces) playing golf next to **text that are not substantially similar to the detailed Happy Gilmore movie** and its characters. For example, one of the works is a **non-descript golfer** putting a golf ball next to the yellow text "Just Tap It In". This 2D artwork is not copyrighted by the creator of the Happy Gilmore movie and only by Complainant.

Dkt. 43, at 9 (Claimant Response to Interrogatory No. 7) (emphasis added).

Claimant's contentions that the Works are "not 'derivative' per se" and are "entirely independent and original" are false and appear to have been made in bad faith. Its claim that the *Happy Gilmore* characters in the Works are "non-descript/generic cartoon characters (blank faces) playing golf that are not substantially similar to the detailed Happy Gilmore movie and its characters" is false and apparently made in bad faith. The golfer in the "Tap It In" Work is not "non-descript"; it is distinctly Happy Gilmore, wearing a Boston Bruins jersey instead of the collared shirts customary on golf courses, gripping a club with hands spread apart as if preparing a hockey shot instead of a golf putt. The other character in "Price Is Wrong" is unmistakably Bob Barker from the scene where Happy and Barker fight. The characters' faces are blank in three of the Works but all four Works undeniably depict the same characters, in the same clothes, in the same position, and from the same perspective seen in *Happy Gilmore*. Claimant's attempt to further distinguish the Works from *Happy Gilmore* because they display quotes from the movie is facetious and apparently made in bad faith.

In response to another interrogatory that asked if Claimant "own[s] all the copyright rights in the entire work," Claimant correctly answered "No," but neglected to mention *Happy Gilmore*. Instead it stated: "PerfectPinz does not own the Boston Bruins logo on the jersey of the golfer in three of the works." Dkt. 43, at 8 (Claimant Response to Interrogatory No. 8(c)). Claimant's position that its copyright in the Works is limited only by the logo on Happy Gilmore's jersey is not tenable and appears to have been asserted in bad faith. Any copyright that Claimant holds in the Works cannot extend to the unlicensed preexisting material derived from *Happy Gilmore*. 17 U.S.C. § 103(a).

In its Party Statement, Claimant continued to obfuscate its use of *Happy Gilmore* as nothing but "inspiration."

> Respondent's contention that PerfectPinz's copyrights are invalid as purported "rip-offs" of the film Happy Gilmore is baseless and ignores fundamental principles of copyright law. . . . PerfectPinz's designs, while thematically inspired by golf-related humor akin to elements in popular culture, including films like Happy Gilmore, incorporate original artistic renderings, stylized illustrations, unique text placements, and creative compositions that are protectable.

Dkt. 42, at 3; *see also id.* at 4 ("mere inspiration does not trigger derivative disclosure requirements where, as here, the

works are independently created illustrations, not direct adaptations"). Claimant's arguments ignore the significance of the originality requirement, which has been called "the bedrock principle of copyright" and "the very 'premise of copyright law.'" *Feist Publications, Inc. v. Rural Telephone Serv. Co., Inc.*, 499 U.S. 340, 347 (1991). "Originality does not signify novelty; a work may be original even though it closely resembles other works so long as the similarity is fortuitous, *not the result of copying*." *Id.* at 345 (emphasis added).

> To qualify for copyright protection, a work must be original to the author. . . . Original, as the term is used in copyright, means only that the work was independently created by the author (as opposed to copied from other works), and that it possesses at least some minimal degree of creativity.

*Id.* (citations omitted). The Works are not original in that sense. Their similarity to *Happy Gilmore* is the result of diligent copying, not mere happenstance. In an apparent act of bad faith, Claimant's Party Statement includes a misleading quote of the above definition of "original" from which Claimant excised the requirement that the author did not copy the work from other works. According to the misleading quote, the Supreme Court's "holding" in *Feist* was "that copyright protection extends to works possessing 'at least some minimal degree of creativity.'" Party Statement, at 3 (*partially quoting Feist*, 499 U.S. at 345). However, Claimant omits the additional requirement of independent creation, and the Supreme Court's explanation that its definition of the term "original" excludes copied works like the Works.

The Party Statement goes on to describe the Works as "original pictorial expressions" and includes detailed descriptions of each Work that studiously avoid mentioning *Happy Gilmore*, again arguably crossing the line into bad faith. *Id.*, at 2-3. *See also id.* at 5, 7-8, 10 (additional detailed descriptions of the Works that do not mention *Happy Gilmore*). Applying the Supreme Court's definition, the Works are not original but derivative works.

The above being said, this Order to Show Cause is not based on semantics. As described below, the Claimant's Works are so directly taken from *Happy Gilmore* that Claimant sued Respondent *solely because Respondent* ***also*** *duplicated Happy Gilmore*, with the only similarities between Claimant's and Respondent's works being the direct depiction of the movie.

## III. Claimant and Lapin maintained this claim despite evidence that Respondent's works were created independently.

Claimant raised a discovery dispute, contending that Respondent's production was incomplete, stating among other things: "Respondent should also be required to supply its communications with its Chinese *supplier* showing its design of its works. It likely will reveal that Respondent provided the Claimant's works as examples." Dkt. 18 (emphasis added). The Board ordered Respondent to produce those communications. Dkt. 19. Respondent produced evidence showing the exact opposite of what Claimant claimed was likely: Respondent provided *Happy Gilmore* still shots to the Fiverr artist who designed Respondent's works, not images of Claimant's Works. *See* Dkt. 49 at 3, 8, 28, 32, 40-41, 60, 68, 71. That should have settled the matter. It showed that the artist who created and supplied Respondent's allegedly infringing *Happy Gilmore* derivative artworks had no access to Claimant's *Happy Gilmore* derivative merchandise, but was doing his best to duplicate scenes from the movie. Therefore, it also showed that the Respondent's works could not have been copied from the Works and could not have infringed

Claimant's copyrights. Instead, as Respondent correctly explained, the "Fivver communications between Respondent and its supplier evidence works-inspiration from the same source as Claimant – Happy Gilmore." Dkt. 46 at 13.

Yet Claimant and Lapin escalated the discovery dispute, changing gears to complain that it had not been provided Respondent's communications with its *manufacturer*. Dkt. 21, 22, 32. Those communications could not have helped establish infringement because the Fiverr communications foreclosed it. The Fiverr artist's images indisputably appear on all of Respondent's allegedly infringing products (*see* Dkt. 44), so the manufacturer must have been sent those images before it manufactured those products for Respondent. Prolonging this infringement claim after receiving dispositive evidence in discovery is an apparent act of bad faith.

**IV. Claimant and Lapin must show cause why their actions do not constitute bad-faith conduct.**

Whenever a party or attorney submits materials or advocates a position before the Board, they certify to the best of their "knowledge, information, and belief, formed after a reasonable inquiry under the circumstances," that:

(a) It is not being presented for any improper purpose;

(b) Any legal contentions are made in good faith based on the [claimant's] reasonable understanding of existing law;

(c) Any factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(d) Any denials of factual contentions have evidentiary support or, if specifically so identified, are reasonably based on belief or a lack of information.

37 C.F.R. §§ 232.2(b), 232.1(a). All participants, again including attorneys, are further required to "behave ethically and truthfully in connection with all submissions and appearances before the Copyright Claims Board." *Id.* § 232.1(b).

Attorneys have additional duties "of candor and impartiality toward the Board, and a duty of fairness toward opposing parties." *Id.* § 232.5(d). To assess whether Lapin breached those latter duties, the Board shall consider the rules of professional conduct of the District of Columbia and of Florida, the state where Lapin is admitted to practice. *Id.* If the Board finds that Lapin violated the regulations related to proceeding before the Board, or his duties or behaved unethically or inappropriately, he may be banned from representing parties in Board proceedings for a period of 12 months. *Id.* § 232.5(e).

The Board may require a party or attorney who has engaged in bad-faith conduct in pursuing a claim or defense, for a harassing or other improper purpose, or without a reasonable basis in law or fact, to pay the other party's reasonable costs and attorney's fees. 17 U.S.C. § 1506(y)(2). The award is limited to $5,000 absent extraordinary circumstances. *Id.*; 37 C.F.R. § 232.3(d).

The Board orders Claimant and Lapin to file a response to this order, jointly or separately, by **June 23, 2026**. The response(s) shall explain why the acts itemized in this order do not constitute bad-faith conduct as defined in *each* of the Board's regulations referred to above. The response(s) should be filed on eCCB and may not exceed

10,000 characters in length, not including any relevant documents filed as attachments in support of the response. 37 C.F.R. § 220.5(a)(2)(xii).

To submit the response, log into your eCCB account and take the following steps:

1. From your dashboard, you will see this claim under "Ongoing copyright proceedings."
2. Click the "File in existing case" button and select this proceeding from the drop-down menu of active proceedings.
3. Select "Response to Order to Show Cause" from the dropdown menu.
4. You may type your response in the text box.
5. You may also upload, as an attachment, any additional documentation you would like the Board to consider with your response.

Respondent is directed to file a statement, by **June 23, 2026**, itemizing its reasonable attorneys' fees and costs incurred in this proceeding. The statement shall clearly identify the time spent on this case, and for what activities, as well as the costs and fees for those activities. Respondent should also specify the fees and costs incurred after it produced its communications with its Fiverr artist to Claimant.

The Board will hold a conference by Zoom concerning the issues raised in this order on **June 30, 2026 at 12:00 PM**. Claimant and Lapin are directed to attend in order to explain why the conduct described in this order does not constitute bad-faith conduct under 37 C.F.R. § 232.3(c). A Zoom link will be sent to the parties and Lapin before that date.

If there are questions, please contact **asktheboard@ccb.gov**. Include the docket number in the subject line. The Board is unable to provide legal advice. We can provide only legal information and assistance concerning Board procedures and requirements.

Copyright Claims Board