



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0035

February 15, 2023

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Michael Flores

CLAIMANT

v.

Michael Mitrakos

RESPONDENT

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## 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) and 37 C.F.R. § 222.18(h). Accordingly, the Board dismisses this proceeding and closes this case, on the terms stated herein.

### Procedural History

Claimant Michael Flores filed the claim on June 28, 2022, asserting a claim for misrepresentation under 17 U.S.C. § 512(f). He alleged that on June 27, 2022, respondent Michael Mitrakos filed a knowingly false takedown notice that caused Google to remove materials from its Chrome Web Store. On August 3, 2022, the Board found the claim complied with the CASE Act and the Board's regulations. Mr. Mitrakos waived service and did not opt out of the proceeding. The Board issued a scheduling order on October 26, 2022, requiring Mr. Mitrakos' response by December 27, 2022 and setting the initial conference for January 23, 2023.

Mr. Mitrakos did not timely respond to the claim, and on January 11, 2023, the Board issued a default notice, warning Mr. Mitrakos of the possibility of a default finding if he did not respond by February 10, 2023. On January 17, 2023, Mr. Mitrakos filed his response, which declared, "I'd like to concede to the claimant's claim." At the initial conference on January 23, 2023, the parties stated that they had reached a settlement and wished to dismiss the claim.

On February 3, 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:

The parties jointly request that the Board issue the following settlement terms within a final determination:

1. That the respondent concedes, and therefore the Board finds, that the respondent submitted false information in a takedown notice to the online service provider Google.
2. That the respondent concedes, and therefore the Board finds, that the false information in the takedown notice resulted in the claimant's material wrongfully being taken down from Google's pages, specifically the Google Chrome Web Store item with listing ID "khlbfckhcbjmoobnlpidfbgncpcpjh".
3. That the respondent agrees that he will not file any future false takedown notices or counter-notices related to the claimant.
4. That, to the extent not already done, the respondent shall inform Google that he rescinds the takedown notice at issue in this claim by February 15, 2023.

## **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). The parties did not include in their request for dismissal that the claim be dismissed without prejudice.

## **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).

Damages are neither sought nor awarded. This determination constitutes the full and final relief on this claim.

The Board therefore dismisses the claim with prejudice and closes this case.

Copyright Claims Board