COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0328
June 13, 2024

Florian Sommet	*v.*	Pleasure in Life LLC d/b/a Laser Facial Miami
CLAIMANT		**RESPONDENT**

ORDER TO SUBMIT ADDITIONAL EVIDENCE

The respondent has failed to appear or participate in this proceeding. On April 8, 2024, the Copyright Claims Board (Board) ordered Claimant to submit written direct testimony in support of a default determination. Dkt. 15; 37 C.F.R. § 227.2(a). On May 23, 2024, Claimant submitted written direct testimony, including a party statement, witness statements, and documentary evidence. Dkt. 16-19; 37 C.F.R. § 222.15(b).

This proceeding involves the alleged infringement of the copyright in an original beauty photograph of a woman with beauty tools being used on her face (the "Beauty Photograph"). While Claimant has submitted evidence showing that a copy of the photograph was publicly displayed on an Instagram account of "laserfacialmiami," there appears to be no evidence in the record connecting Respondent, Pleasure in Life LLC, to that account. Claimant is given until **July 8, 2024,** to submit any additional evidence or witness statements to show that Respondent Pleasure in Life LLC is responsible for that public display of the Beauty Photograph.

In addition, the Board requests additional information regarding the issue of damages. Claimant has requested statutory damages in this case. Claimant is reminded that while statutory damages are not entirely dependent on actual damages, they often have a relationship to actual damages. To date, Claimant has submitted two redacted invoices in an attempt to show amounts Claimant has been paid in the past for licenses for use of his photographs. *See* Witness Statement – Florian Sommet (Dkt. 16) ¶¶ 21-25; Exhibits E and F (Dkt. 19). However, these invoices and the description of what the invoices cover do not allow the Board to fully understand how relevant they are to a determination of what would be a reasonable fee for a license for Respondent to make the use it allegedly made of the Beauty Photograph. The best evidence of such fees would be evidence showing what claimant has charged for similar uses of these photographs or other similar preexisting (stock) photographs in the past. The information provided by Claimant in his declaration, and the information included in the redacted invoices, provide the Board with minimal if any information regarding the licensee, the nature of the licensees' business, the particular uses made by the licensees, and the market that the licensee was targeting in its use of the licensed photographs. The Board notes that it appears from the record that the allegedly infringing use was the use of the Beauty Photograph in an Instagram account for a Miami-based laser and facial spa which presumably was targeting an audience of residents of the Miami, Florida area. Claimant is therefore given until **July 8, 2024,** to submit any additional evidence or witness statements it wishes

to a) show the relevance of the invoices already submitted to Claimant's damages, or b) present additional licenses, including information regarding the subject matter and terms of those licenses, relevant to damages. For any information that was redacted from Exhibits E and F, and for any information that is redacted from any additional licenses submitted by Claimant, claimant shall explain why that information has been redacted and describe the nature of that information.