PolMedia

Polmedia Polish Pottery <support@polmedia.com>

Cost Breakdown: Sumfinidade Unipessoal LDA / Polmedia, Inc. (1-11955)

2 messages

robert.fechner@fechner.legal <robert.fechner@fechner.legal> Fri, Nov 3, 2023 at 9:17 AM
To: support@polmedia.com

Case: 1-11955

Via E-Mail to: support@polmedia.com

Cost Breakdown: Sumfinidade Unipessoal LDA / Polmedia, Inc. (1-11955)

– Without Prejudice –

To Whom It May Concern,

In the case Sumfinidade Unipessoal LDA / Polmedia, Inc., I refer to the previous correspondence. In my last writing, I made you aware of your infringement of my client's exclusive right of use. This infringement of my client's exclusive right of use obliges you to pay compensation in pursuance of section 97 UrhG.

I.

To provide transparency, the damages are calculated according to the usual licensing fee, which you can find under the following link: https://sumfinity.com/exclusive-licensing/

Online Use, 03.03.2023 - 16.06.2023 1,465.00 EUR

Subtotal **1,465.00 EUR**

Lack of indication of source 100% 1,465.00 EUR

Total **2,930.00 EUR**

Interest **81.03 EUR**

Total + interest **3,011.03 EUR**

Since you should have paid my client the due licensing fee already from the date on which you have started to use his photograph, based on the **Bürgerliches Gesetzbuch (BGB) § 288 (1)** you are requested to cover as well the interest fee **in the amount of 5% above the basic interest rate** published in the German Federal Gazette by the German Central Bank.

The total damage is therefore set to the amount of **3,011.03 EUR.**

Please be informed that my Client has registered the subject of infringement at the US Copyright office. You will find his portfolio through the following link. This should be sufficient proof of his copyright ownership: - https://cocatalog.loc.gov/cgi-bin/Pwebrecon.cgi?Search_Arg=Trinkhaus%2C+Nico&Search_Code=NALL&PID=6ZJc_9cJVsx3REbD7g3rDw-dyPrI&SEQ=20200626133032&CNT=25

Should we not be able to settle this case amicably, I am instructed to pass this case on to my American partner and statutory damages will be claimed. - Bear in mind that those damages might be significantly higher that the German equivalent. In the United States, statutory damages are set out in 17 U.S.C. § 504 of the U.S. Code and can reach up to 150.000 USD per copyright Infringement.

II.

According to the law you also have to reimburse my client for the costs incurred by my involvement in this matter through the reimbursement of the business fee pursuant to no. 2300 of the remuneration schedule (VV) appended to the Lawyers' Remuneration Act (RVG), as follows:

Value in dispute 14,930.00 EUR

Value in dispute 12,000.00 EUR (Order to Cease and Desist) and Value in dispute 2,930.00 EUR (Damage)

Business fee, Sections 2, 13, RVG, no. 2300 VV RVG (sentence 1.5) 1,077.00 EUR

Flat rate expenses no. 7002 VV RVG 20.00 EUR

Total legal costs 1,097.00 EUR

III.

Further, you have to pay for the cost of the documentation of the infringement, which is an amount of 95 EUR. Our client has ordered the documentation service RightsPilot UG to secure evidence usable in court. The documentation costs adequately represent a causal and unavoidable loss for my client and therefore you must reimburse this sum. -

Regarding the eligibility of copyright documentation costs, see those representative examples of the following judgments:

AG Hamburg, Entscheidung vom 13.03.2012, Az. 26a C 84/12, AG Hamburg, Entscheidung vom 14.06.2012, Az. 35a C 40/12, AG Hamburg, Urteil vom 17.10.2011, Az. 36A C 368/10, AG Berlin-Charlottenburg, Urteil vom 29.11.2012, Az. 210 C 63/12, AG Stuttgart, Urteil vom 26.09.2012, Az. 50 C 4382/11, AG Berlin-Charlottenburg, Urteil vom 20.11.2012, Az. 225 C 196/12, AG Berlin-Charlottenburg, Urteil vom 02.09.2014, Az. 225 C 34/14, AG Berlin-Charlottenburg, Urteil vom 05.02.2009, Az. 239 C 282/08, AG Berlin-Charlottenburg, Urteil vom 08.08.2013, Az. 210 C 6/13, AG Stuttgart, Urteil vom 10.7.2012, Az. 2 C 3327/11, AG München, Entscheidung vom 31.03.2010, Az. 161 C 15642/09, AG Charlottenburg, Entscheidung vom 29.11.2012, Az. 201 C 273/12, LG Hamburg, Entscheidung vom 17.04.2009, Az. 308 O 612/08.

You are therefore required to make a total payment of:

Damages 3,011.03 EUR

Documentation 95 EUR

Legal fees 1,097.00 EUR

Grand total net 4,203.03 EUR

Sales tax not applicable 0.00 EUR

***Grand total* 4,203.03 EUR**

We expect receipt of this amount no later than **20.11.2023** to the bank account below:

Rechtsanwalt Robert Fechner

Sparkasse Oder-Spree

IBAN: DE10 1705 5050 1101 7211 69

BIC: WELADED1LOS

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Furthermore, I must remind you to issue a cease and desist declaration to effectively rule out the risk of any recurrence of copyright infringement. In my initial letter you will find a pre-formulated declaration, which you are at liberty to use.

Should you fail to make the above-mentioned payment by the specified deadline, my client instructed me to take further legal action.

Yours faithfully,

Rechtsanwalt Robert Fechner
Fechner Legal
Friedrichstraße 95
10117 Berlin

phone: + 49 30 600 33 700
Dienstags, 14:00 - 16:00
fax: +49 30 377 19 601

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VAT-ID: 34/284/00293

1-11955-RF Cost Breakdown.pdf
195K

Polmedia Polish Pottery <support@polmedia.com> Fri, Nov 3, 2023 at 9:21 AM
To: Marcin Papiez <marcin@polmedia.com>

spam i think? but sending just in case
[Quoted text hidden]
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FREE shipping on all orders of $99 or more - RETAIL - FedEx shipments, all states except AK & HI Clearance SALE:
http://www.artisanimports.com/clearance ,
Free Tips: http://blog.artisanimports.com/
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