UNITED STATES COPYRIGHT CLAIMS BOARD

Docket No. 26-CCB-0161

DEREK FORD, JR.,
Claimant,

v.

LORLIR LLC d/b/a INTIMALY,
Respondent.

RESPONDENT'S DRAFT RESPONSE TO CLAIM

Respondent Lorlir LLC d/b/a Intimaly ("Respondent" or "Lorlir") submits this Response to the copyright infringement claim filed by Derek Ford, Jr. ("Claimant") concerning two photographs identified in Claimant's filing as "Carter Wear At Home," Registration No. VA0002491852.

I. SUMMARY OF POSITION

Respondent does not dispute that the photographs appeared on the Intimaly product listing. Respondent disputes that Intimaly is responsible for that appearance under Section 106 of the Copyright Act. Respondent further disputes Claimant's entitlement to the amount of statutory damages sought and submits that, if the Board determines that infringement occurred, the circumstances support an award at or near the minimum permitted by law.

The photographs were not obtained by Respondent from Claimant's website, social-media accounts, or another public source. They were submitted directly to Intimaly by an independent creator as part of that creator's onboarding materials for the creator's own product listing.

The creator relationship, submission of the photographs, and creation of the listing originated before Lorlir acquired the Intimaly business on January 7, 2026. Lorlir inherited the existing listing via a transfer of assets from the prior operator of Intimaly without knowledge or indication that the creator-submitted photographs allegedly belonged to a third party.

The listing generated no sales to independent customers. The only transaction associated with the product was a purchase made by Claimant himself. Accordingly, Respondent generated no product-sale profit from any independent customer attributable to the photographs. The photographs were not used by Lorlir in paid advertising or any broader marketing campaign.

Upon receiving notice of Claimant's objection, the photographs were removed and have not been republished.

Respondent therefore submits that these circumstances, including Respondent's lack of knowledge or independent commission of an infringing act, the manner in which the

photographs were supplied, the absence of commercial benefit, and Respondent's prompt remedial action, should substantially limit any statutory damages awarded.

II. RELEVANT FACTS

A. Creator Submission

Intimaly's business involves collaborations with independent creators who submit content for use in connection with their individual product listings.

The creator associated with the listing at issue executed an Independent Contractor Agreement on December 16, 2025. The photographs at issue were submitted directly by that creator through Intimaly's onboarding process.

Under Section 8.1 of the creator agreement, the creator retains rights to the creator's submitted content and grants Intimaly a non-exclusive, worldwide, royalty-free license to use that content for marketing and selling products.

Neither Lorlir nor its current management downloaded the photographs from Carter Wear's website, social-media accounts, or another public source.

B. Acquisition of Intimaly

Lorlir acquired the Intimaly business on January 7, 2026. At the time of the acquisition, the creator relationship and listing already existed. Lorlir only acquired the assets comprising the Intimaly shop and did not acquire the entity operating the shop prior to the acquisition date.

Lorlir had no knowledge or indication that the creator-submitted photographs were allegedly owned by Claimant or another third party.

C. Display Period

Accordingly, the listing was initially published before Lorlir acquired Intimaly and remained online following the acquisition until Respondent received notice of Claimant's copyright objection. Lorlir did not take any action to reproduce, distribute, adapt, or publicly display Claimant’s photographs at any time during which it operated Intimaly.

D. Removal and Non-Republication

Upon receiving notice of Claimant's objection, Respondent removed the photographs from the Intimaly storefront.

Respondent has not republished the photographs and has verified that no active uses or derivative uses remain across channels controlled by Respondent.

E. Commercial Impact

Shopify records show that the only transaction associated with the product was made by Claimant himself.

Respondent generated no product-sale profit from any independent customer attributable to the photographs. Respondent did not conduct a paid advertising campaign using the photographs and did not deploy them in a broader marketing campaign.

Respondent is not aware of any lost licensing transaction, lost customer, or other measurable economic loss suffered by Claimant as a result of the listing.

F. Copyright Registration

Claimant's filing also alleges that the display began on December 30, 2025, before the effective registration date.

Respondent does not presently have sufficient information concerning the first-publication date of each photograph or whether the registration satisfies the timing requirements applicable to the higher CCB statutory-damages limits.

Respondent therefore reserves its position concerning the applicable statutory-damages ceiling pending production of the registration application, deposit materials, first-publication information, and other relevant registration records.

III. DEFENSES AND DAMAGES CONSIDERATIONS

A. Lack of Infringing Conduct

Claimant alleges that his photographs were uploaded to Intimaly prior to Respondent acquiring Intimaly. Respondent did not acquire the entity previously operating Intimaly and did not assume responsibility for any prior acts committed by that entity. Respondent has not reproduced, distributed, adapted, or publicly displayed Claimant's photographs, which remained static on Intimaly’s website due to an upload predating Respondent’s acquisition of Intimaly. Accordingly, Respondent did not commit an act of infringement, as the continued presence of a copyrighted work on a website does not by itself give rise to a new wrong under the Copyright Act sufficient to trigger liability no matter how recently third parties may have accessed the infringing work.

B. Registration Timing and Applicable Statutory-Damages Limits

The amount of statutory damages available before the CCB depends upon the timing of copyright registration.

Where a work was registered within three months of first publication or before infringement began, the CCB statutory ceiling is $15,000 per work. Where registration occurred more than three months after publication and after infringement began, the ceiling is reduced to $7,500 per work and $15,000 for the proceeding.

Because Claimant alleges infringement beginning before the February 16, 2026 effective registration date, Respondent requests evidence establishing the first-publication date of each photograph and the applicable registration timing.

Respondent further reserves the issue of whether the two photographs constitute two separately compensable "works" for statutory-damages purposes.

C. Innocent Infringement and Mitigation

Respondent had no knowledge and no reason to believe that the creator-submitted photographs allegedly infringed Claimant's copyright.

The photographs were directly supplied by the creator for use with that creator's own product listing. Lorlir did not obtain them from Claimant, did not independently source them from the internet, and inherited the existing creator relationship and listing when it acquired Intimaly.

Upon receiving notice, Respondent promptly removed the photographs and has not republished them.

The CCB may award as little as $200 per work where a respondent establishes that it was unaware and had no reason to believe its conduct constituted infringement. The ordinary statutory floor is $750 per work.

Respondent submits that the circumstances support innocent-infringer treatment or, alternatively, an award at or near the minimum permitted by the CCB.

D. Absence of Actual Damages or Attributable Profits

Claimant has elected statutory damages. Nevertheless, evidence concerning actual damages and infringer profits is relevant when determining an appropriate statutory award.

Here, Respondent generated no sales to independent customers and no identifiable product-sale profit from any independent customer attributable to the photographs.

The sole transaction was Claimant's own purchase.

There was no paid advertising campaign or broader marketing deployment using the photographs.

Respondent therefore submits that the commercial record supports an award at or near the statutory minimum if the Board determines that infringement occurred.

E. Remedial Action

Respondent removed the photographs after receiving notice and has committed not to republish them.

Respondent requests that its prompt removal and continued non-use be considered in determining any award.

IV. REQUESTED RELIEF

Respondent respectfully requests that the Board find that Respondent did not infringe Claimant's work and is thus not liable for any damages owed to Claimant. Absent such a finding, Respondent respectfully requests that the Board:

1. Determine the applicable statutory-damages limits based upon the registration and first-publication evidence;
2. Consider Respondent's lack of knowledge and the creator's direct submission of the photographs in determining whether innocent-infringer treatment applies;
3. Consider the absence of independent customer sales, attributable profits, paid advertising, broader marketing use, or demonstrated economic loss;
4. Consider Respondent's prompt removal and commitment not to republish the photographs; and
5. If liability is found, award statutory damages at or near the minimum amount permitted under the circumstances.

Respondent reserves the right to supplement its position based upon information obtained during discovery.

Respectfully submitted,

LORLIR LLC d/b/a INTIMALY

By its authorized representative



Adir Aharony