



SMALL CLAIMS TRIBUNAL

(EUROPEAN SMALL CLAIMS PROCEDURE)

ADJUDICATOR ADV. DR. Leontine Calleja LL.D

Sitting of Wednesday, 15th January 2025

Claim Number: 10/ 2023

Sunfinidade Unipessoal Ltd

VERSUS

GJI Limited

The Tribunal,

Having seen the Claim Form (Form A) filed by the claimants on the 11th. December, 2023 whereby the same, in line with EC Regulation no. 861/2007, requested the Tribunal to condemn defendant to pay them the sum of four thousand six hundred and sixty euros (€4,660) for having used photographs taken by Nico Trinkhaus, without the consent of the plaintiff company. These photographs are a work of art and their use is in violation of the exclusive rights of the plaintiff company which use thereof may only be made after having obtained a licence, where the price is €2330 for 12 to 36 months and an additional 100% surcharges for omitting reference to the author. These photographs appeared on the website of getjet.com which is operated by the defendant company.

Having seen the contracts giving exclusive right to the plaintiff company to use the photographs, two letters sent to the defendant company with an extract of the photograph property of plaintiff company, that was used for advertising by defendant company and the conditions for the purchase of such licences.

Having seen the response filed by defendant on the 21st March 2024 whereby they were contesting the claim, since the defendant company is not the proper defendant and they did not publish the photo in question so all claims should be denied. The Tribunal proceeded to appoint the case for an oral hearing which was held on the 3rd July 2024. Documents were submitted which form part of the acts which is an extract from the facebook page and the confidentiality policy and other documents that was downloaded from getjet.com and an extract from MBR Malta. These documents were confirmed by Nico Trinkhaus during the sitting of the 15th July 2024, and he confirmed that they were downloaded by his lawyer in his presence. On cross examination he

confirmed that the facebook page links to the domain getjet.com so GJI limited are ultimately responsible.

Having seen the affidavit of Roberto Michele Giulio Hlaca whereby he states that he is the sole director of GJI Limited since 7th May 2022 which is a separate and distinct company from Get Jet Limited, also registered in Malta. The Facebook page referred to by the claimant company belongs to Get Jet LLC, a separate entity incorporated in Moscow with no affiliation to GJI Limited who used another website getjettravel.com. Prior to the war in Russia ,Alexander Koninseky, the getjet founder held shares in Get Jet Limited, GJI Limited and Get Jet LLC however he transferred his shares on the 6th April 2022. The Facebook page getjet.com is in Russian and clearly targets the Russian market, thus proceedings should have been instituted against the Russian company Getjet LLC . On cross examination he confirmed that there is co-operation between the two companies however the companies are run as separate entities and he was never involved with Getjet LLC in Moscow in any way and never held any position with the Russian company. Before everything fell under getjet.com so there was one website, but following the war they split the websites and getjettravel was the website used by the defendant company. He confirmed that in July 2024 the website was still showing that he was a director of getjet.com on the website as it had not yet been removed and the English version had not been updated.

Having taken cognizance of all the acts and documents relating to the case and after having hear the testimonies of Niko Trinkhaus and Roberto Michele Giulio Hlaca.

The Tribunal considers:

That from the attached documentation, it results that a photo which belonged exclusively to the plaintiff company was posted on a website getjet.com without the consent of the plaintiff company. The website listed the defendant company as the marketing director of the company however the Maltese company was never involved in the Russian Company Get Jet LLC, that was the owner of the website. Although the director of the Russian company was also a director and shareholder of the Maltese company this was no longer the case since the war broke out, as can be seen from MBR registry documentation showing changes in April/May 2022. That the Tribunal holds that irrespective of who is a director/shareholder in JTI ltd and Get Jet LLC, these are separate and distinct companies and the connection between the website where the advert appeared and the defendant company has not been sufficiently proven to justify the claim for payment of €4660 euro from defendant company.

For the above reasons the claim against the defendant is being denied. The costs of proceedings are to be borne by the plaintiff company. Finally, the Tribunal orders that a copy of this judgment is served upon the parties in terms of Article 13 of EC Regulation no. 861/2007.

Avukat, Leontine Calleja LL.D.

Adjudicator