

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Nicky Laatz, et al. v. Zazzle, Inc., et al.

Laatz · No. 5:22-cv-04844-BLF · Decided December 17, 2025

SUMMARY

The United States District Court for the Northern District of California denied Defendants’ motion requiring Plaintiff to post a bond under California Code of Civil Procedure section 1030. Although Defendants demonstrated a reasonable possibility of prevailing on the copyright claim, the court concluded that requiring a bond would not further the statute’s purpose because the copyright claim had already been disposed of and only the breach-of-contract claim remained for trial.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Beth Labson Freeman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	December 17, 2025
DOCKET	5:22-cv-04844-BLF
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved under California Code of Civil Procedure section 1030 for an order requiring Plaintiff to post a bond securing potential costs and attorney's fees. The motion was denied.
STANDARD OF REVIEW	The court applied the discretionary standard under California Code of Civil Procedure section 1030, requiring a showing that the plaintiff resides outside California and that there is a reasonable possibility the defendant will obtain judgment, followed by consideration of the statutory purpose and the Simulnet factors.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order

TOPICS

- costs
- attorney fees
- civil procedure
- copyright infringement
- breach of contract

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Defendants established the statutory prerequisites for a bond under California Code of Civil Procedure section 1030.
2. Whether, in the court's discretion, requiring Plaintiff to post a bond would further section 1030's purpose after the copyright claim had been disposed of and only a breach-of-contract claim remained.
3. Whether Defendants needed to show a likelihood of recovering attorney's fees under section 505 of the Copyright Act in addition to showing a reasonable possibility of prevailing on the underlying copyright claim.

HOLDINGS

1. Defendants satisfied the relatively low threshold of demonstrating a reasonable possibility of prevailing on Plaintiff's copyright claim because they had obtained summary judgment on copyright infringement.
2. Defendants were not required to separately demonstrate that they were likely to satisfy the fee-shifting conditions of section 505; the relevant inquiry is the likelihood of prevailing on the underlying claim, not on the fee-shifting statute.
3. The court declined to require a bond because ordering one at that late stage would not further the purpose of section 1030, particularly where the copyright claim had already been fully disposed of and only the contract claim remained shortly before trial.

KEY QUOTATIONS

"courts applying section 1030 have consistently held that the relevant inquiry is the likelihood of prevailing on the merits of the underlying claim, not the fee-shifting statute." (at 22-24)

"Plaintiff's copyright claim has already been fully disposed of, and the Court sees little point in ordering Plaintiff to post a bond just months before trial on her claim for breach of contract." (at 25-27)

"For the foregoing reasons, IT IS HEREBY ORDERED that the motion is DENIED." (at 8)

FACTUAL BACKGROUND

Plaintiff resides outside California. The court had disposed of Plaintiff's federal copyright-infringement claim after invalidating the relevant font-data registrations and reconsidering its prior summary-judgment ruling. Only a breach-of-contract claim remained, with trial expected within months. Defendants sought a bond for potential costs and attorney's fees based on the now-disposed copyright claim.

PROCEDURAL HISTORY

The court previously granted in part and denied in part Defendants' motion for summary judgment on Plaintiff's federal copyright-infringement claim, invalidating the font-data registrations but initially allowing the claim to proceed on disputed copyrightability issues. On reconsideration, the court disposed of the copyright claim,

leaving only Plaintiff's breach-of-contract claim. Defendants then moved for a section 1030 bond, which the court denied without oral argument.

DISPOSITION

other

CASES CITED

- Yao v. Superior Court, 104 Cal. App. 4th 327, 331 (2002)
- Alzheimer's Institute of America v. Eli Lilly & Co., 128 F. Supp. 3d 1249, 1256 (N.D. Cal. 2015), aff'd sub nom. AIA Am., Inc. v. Eli Lilly & Co., 695 F. App'x 573 (Fed. Cir. 2017)
- Fullove v. Fullove, No. 24-cv-02616-JSW, 2024 WL 4951248, at *2 (N.D. Cal. Dec. 2, 2024)
- Simulnet E. Associates v. Ramada Hotel Operating Co., 37 F.3d 573, 574 (9th Cir. 1994)
- GmbH v. Cloud Imperium Games Corp., No. 17-cv-08937-DMG, 2019 WL 4149337, at *2 (C.D. Cal. July 22, 2019)
- AF Holdings LLC v. Navasca, No. 12-cv-02396-EMC, 2013 WL 450383, at *1 (N.D. Cal. Feb. 5, 2013)

OPINION

Laatz

PER CURIAM.

1 2

3 UNITED STATES DISTRICT COURT

4 NORTHERN DISTRICT OF CALIFORNIA

5 SAN JOSE DIVISION

6 7 NICKY LAATZ, et al., Case No. 5:22-cv-04844-BLF 8 Plaintiffs,

ORDER DENYING DEFENDANT'S

9 v. MOTION FOR POSTING OF A BOND

PURSUANT TO CALIOFNIRA CODE

10 ZAZZLE, INC., et al., OF CIVIL PROCEDURE SECTION

1030 11 Defendants. [Re: ECF No. 489] 12 13 Before the Court is Defendants' motion for bond pursuant to California Code of Civil 14 Procedure section 1030. ECF No. 489 ("Mot."); see also ECF No. 504 ("Reply"). Plaintiff 15 opposes the motion. See ECF No. 497 ("Opp."). The matter is suitable for adjudication without 16 oral argument; the hearing set for March 5, 2026, is VACATED. See Civ. L.R. 7-11(b). 17 The motion is DENIED.

18 I. BACKGROUND

19 The parties are familiar with the facts giving rise to this lawsuit, which need not be 20 repeated in full here. 21 On May 9, 2025, the Court granted-in-part and denied-in-part Defendants' motion for 22 summary judgment as to Plaintiffs' claim for federal copyright infringement based on the font data 23 registrations received for the Blooming Elegant fonts. ECF No. 414. The Court

invalidated the 24 registrations issued for font data for lack of human authorship but allowed the claim to proceed on 25 disputed facts as to whether the fonts are copyrightable as a computer program. See *id.* at 30–37. 26 Defendants moved for reconsideration, arguing that Plaintiff no longer held a valid registration as 27 required by 17 U.S.C. § 411(a). ECF No. 430. 1 that Plaintiff failed to meet the statutory requirements to bring a federal copyright claim because 2 she possesses neither a registration nor a refusal of registration. ECF No. 443 at 6. In 3 reconsidering its prior order denying-in-part Defendants’ motion with respect to Plaintiffs’ 4 copyright claim, the Court explained that it had overlooked Defendants’ argument that once the 5 copyright registrations for font data were found invalid it became irrelevant whether BE was 6 copyrightable as computer programs. 7 After the Court’s reconsideration order, the only claim left in this action is Plaintiff’s 8 breach-of-contract claim. Defendants now request an order requiring Plaintiff to post bond as to 9 her copyright claim.

10 II. LEGAL STANDARD

11 Section 1030 of the California Code of Civil Procedure provides in relevant part as
12 follows: (a) When the plaintiff in an action or special proceeding resides out 13 of the state, or is a foreign corporation, the defendant may at any time apply to the court by noticed motion for an order requiring the 14 plaintiff to file an undertaking to secure an award of costs and attorney’s fees which may be awarded in the action or special 15 proceeding. For the purposes of this section, ‘attorney’s fees’ means reasonable attorney’s fees a party may be authorized to recover by a 16 statute apart from this section or by contract. (b) The motion shall be made on the grounds that the plaintiff resides 17 out of the state or is a foreign corporation and that there is a reasonable possibility that the moving defendant will obtain judgment in the 18 action or special proceeding. The motion shall be accompanied by an affidavit in support of the grounds for the motion and by a 19 memorandum of points and authorities. The affidavit shall set forth the nature and amount of the costs and attorney’s fees the defendant 20 has incurred and expects to incur by the conclusion of the action or special proceeding. 21 (c) If the court, after hearing, determines that the grounds for the motion have been established, the court shall order that the plaintiff 22 file the undertaking in an amount specified in the court’s order as security for costs and attorney’s fees. 23 Cal. Civ. Code § 1030(a)–(c). “The purpose of [Section 1030] is to enable a California resident 24 sued by an out-of-state resident to secure costs in light of the difficulty of enforcing a judgment for 25 costs against a person who is not within the court’s jurisdiction.” *Yao v. Superior Court*, 26 104 Cal. App. 4th 327, 331 (2002). In federal question cases, application of the rule is 27 discretionary. *Alzheimer’s Inst. of Am. v. Eli Lilly & Co.*, 128 F. Supp. 3d 1249, 1256 (N.D. Cal. 1 2015), *aff’d sub nom.*, *AIA Am., Inc. v. Eli Lilly & Co.*, 695 F. App’x 573 (Fed. Cir. 2017). 2 To establish applicability of section 1030, the defendant must show that “[i] the plaintiff 3 resides out of state or is a foreign corporation and that [ii] there is a reasonable possibility that the 4 moving defendant will obtain judgment in the action.” *Fullove v. Fullove*, No. 24-cv-02616-JSW, 5 2024 WL 4951248, at *2 (N.D. Cal. Dec. 2, 2024) (alterations in original) (quoting Cal. Civ. Code 6 §

1030(b)). Upon such a showing, the court may exercise its discretion to require the plaintiff to post a bond after considering “(i) the degree of probability/improbability of success on the merits, 8 and the background and purpose of the suit; (ii) the reasonable extent of the security to be posted, 9 if any, viewed from the defendant’s perspective; and (iii) the reasonable extent of the security to 10 be posted, if any, viewed from the nondomiciliary plaintiff’s perspective.” *Simulnet E. Assocs. 11 v. Ramada Hotel Operating Co.*, 37 F.3d 573, 574 (9th Cir. 1994). 12 III. DISCUSSION. 13 There is no dispute that Plaintiff resides outside of California, so section 1030 authorizes 14 the Court to require Plaintiff to post a security if Defendants demonstrate that it is “reasonably 15 possible” that they will prevail on Plaintiff’s copyright claim. The Court agrees with Defendants 16 that, by obtaining summary judgment on copyright infringement, Defendants have cleared the 17 “relatively low” hurdle of demonstrating a reasonable possibility of prevailing on this claim. 18 *GmbH v. Cloud Imperium Games Corp.*, No. 17-cv-08937-DMG, 2019 WL 4149337, at *2 19 (C.D. Cal. July 22, 2019). To the extent that Plaintiff argues that Defendants must additionally 20 demonstrate that they are likely to satisfy the conditions set forth by section 505 of the Copyright 21 Act, see *Opp.* at 2, she is mistaken. To the contrary, courts applying section 1030 have 22 consistently held that the relevant inquiry is the likelihood of prevailing on the merits of the 23 underlying claim, not the fee-shifting statute. See, e.g., *AF Holdings LLC v. Navasca*, No. 12-cv- 24 02396-EMC, 2013 WL 450383, at *1 (N.D. Cal. Feb. 5, 2013). 25 The analysis does not end there, however. “If the Court finds that the purpose of the 26 statute is not furthered, it will not require a bond.” *Fullove*, 2024 WL 4951248, at *2. The Court 27 agrees with Plaintiff that “at this late stage in the litigation, there appears to be little point in the 1 at 1256. Plaintiff’s copyright claim has already been fully disposed of, and the Court sees little 2 || point in ordering Plaintiff to post a bond just months before trial on her claim for breach of 3 contract. The Court concludes that the background and nature of the suit, as well as the 4 || reasonableness of the security from Plaintiff’s perspective, moderately weigh against Defendants. 5 Given the absence of any other showing that ordering a bond would further the purpose of 6 section 1030, the Court concludes that ordering a bond would be inappropriate.

7 || IV. ORDER

8 For the foregoing reasons, IT IS HEREBY ORDERED that the motion is DENIED. 9 10 Dated: December 17, 2025

BETH LABSON FREEMAN

%L United States District Judge 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28