

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

OPINION

Laatz

PER CURIAM.

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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 CALIFORNIA 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 7 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