



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0247

February 18, 2025

Simón Pardiñas López

CLAIMANT

v.

Benjamin Winters

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (Board) finds that your claim does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is amended.

If you wish to proceed with this claim, you must file an amended claim by **March 20, 2025**. If you do not, the Board must dismiss your claim without prejudice, although you may file again in the future before the Board or in federal court. If you file an amended claim and it is found compliant, you will be notified and directed to proceed with service. There is no additional filing fee for an amended claim. 17 U.S.C. § 1506(f)(1)(B).

To make your amended claim compliant, you must resolve the issues identified below. 37 C.F.R. § 224.1(c)(2). You may also choose to correct or edit any errors or other information in your claim before you file it again. You do not need to provide a legal argument in your claim – just a statement of facts and circumstances. Being specific in your description gives the other party and the Board more information about your claim. There is no character limit, so please be as detailed as possible.

Copyright Registration

The Board can only hear a copyright infringement claim if, *before* the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a). The claim must state specific information about each allegedly infringed work including its Copyright Office registration number or, if it is not registered, the service request number for a pending application for registration. 37 C.F.R. §§ 222.1.1(b) & 222.2(c)(7)(ii)(C)-(D).

In the “Works infringed” section of your claim, you identify the allegedly infringed works as motion pictures or audiovisual works titled “3D dental videos.” You state that the works were not registered when you filed this claim on August 23, 2024, and you provide service request number 1-14163683091 for your application for registration. Copyright Office records for that service request show that you applied to register a group of seventy-three published videos, but when the Copyright Office informed you that it could register only one of the videos based on that application, you authorized the registration of a work titled “Gingivectomy Treatment of Gummy Smile.” The Copyright Office closed the application and issued registration number PA 2-512-325 for that work on January

23, 2025, with an effective date of registration of August 23, 2024.

In the “Describe the infringement” section of the claim, you allege: “Part of my video was used without permission on a video published at TheBentist Youtube Channel.” You further allege that “Youtube removed the video due to our claim, but TheBentist channel made a counternotice.” However, your allegations do not clearly describe infringement of the “Gingivectomy Treatment of Gummy Smile” video that is covered by the PA 2-512-325 registration. Instead, documents filed with the claim show that the takedown notice and counter-notice sent to YouTube relate to a different video titled “COLMILLOS INCLUIDOS o retenidos – Qué hacer si no salen los CANINOS u otros dientes.” You allege that the respondent’s YouTube channel is using multiple videos of yours without authorization, but you do not specifically allege that the respondent infringed the “Gingivectomy Treatment of Gummy Smile” video, or any other video that is registered or subject to a pending application for registration filed before this claim.

If the respondent used “Gingivectomy Treatment of Gummy Smile” without authorization, then you must state that allegation in an amended claim, and in the “Works infringed” section, you must list that title and include the PA 2-512-325 registration number and its August 23, 2024 effective date of registration. However, if that was not one of the infringed works, then in the “Works infringed” section you must provide either a copyright registration number for the allegedly infringed work(s), or a service request number for an application to register the work(s) **that was filed before you filed this claim on August 23, 2024**, and that is still pending. Providing service request number 1-14163683091 would only be appropriate if the Copyright Office reopens that application.

You cannot successfully amend this claim to allege infringement of any work that, when you filed this claim on August 23, 2024, was not registered and was not subject to an open, pending application. Instead, you would need to apply to register the copyright for the allegedly infringed work before you could refile your claim as a new claim. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

Access

You allege that the respondent “is using our videos without authorization.” However, your claim does not provide facts that indicate how the respondent had access to your works in the first place. “Access” means a reasonable opportunity to see or copy your work before the alleged infringement took place. You state that your videos are “marketed to other dental clinics,” but you do not present enough facts to indicate how it is reasonably likely that your videos were available to the respondent.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include how each allegedly infringed work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently.

Alternatively, you can upload copies of your work(s) and the allegedly infringing work(s) if they demonstrate that the works are so strikingly similar that they could not have been created independently. If you include copies

of the works at issue as supplemental materials, they must be clearly labeled and identified so they can be properly compared to each other.

Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work(s) and the allegedly infringing work(s). If it is not readily apparent from supplemental documents submitted with the claim, you must provide specific allegations about how your work(s) and the allegedly infringing work(s) are substantially similar.

In the “Describe the infringement” section of your claim, you state that “[p]art of my video” was used on the respondent’s channel, but you do not indicate which part, how it was used, or how long it appeared in the respondent’s video. You also allege that videos on the respondent’s channel are “based on an original work of ours,” but it is not clear how they are based on your work, and which work. It is not clear if you mean that the respondent’s videos include material directly copied and reproduced from your video (and if so, which material from which video), or that they include material that is “based on” your video because, for example, it uses similar images or text derived from your video. You do not present enough information about your works and the allegedly infringing works to state or show how they are identical or substantially similar. In addition, you have not provided copies of any of your works or the respondent’s works as supplemental material. As a result, the claim does not provide enough information to enable the Board to understand the similarity of the works.

If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work(s) the respondent used, or documents that are sufficient to show the similarities. If you include copies of the works as supplemental material, then as discussed above, they must be clearly labeled and identified so they can be properly compared to each other.

To submit an amended claim, log into your eCCB account and take the following steps:

1. From your dashboard, click the “**Amend claim**” button and select your docket number from the dropdown list.
2. Your claim will unlock for editing. The information you originally entered will appear in the same order as in your original claim.
3. Make the necessary edits. If you have filed supplemental documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page. Please include only documents directly related to your claim, and label them clearly.
4. Once you have completed your edits, continue to click through the fillable claim form until you reach the “**Review**” page. The Review page includes all the information that you have provided in the claim up to this point. Carefully double-check the information on this page. If you have any corrections, you can select “**Edit**” to revise any entries necessary. Each section of information has an “**Edit**” button, which will take you back to that section so you can make changes. After you make changes, you can click “**Save & review**”

to return to the Review page. Please review your claim carefully. Once you submit your amended claim, you will be unable to edit the claim while it is in compliance review.

5. Once you have completed your review and any revisions, you must confirm that the information in your claim is accurate and truthful to the best of your knowledge. To complete the declaration, type your full name into the “**Digital signature**” box near the bottom of the “**Review filing**” page and click “**Agree & submit.**”

If you have questions, please contact asktheboard@ccb.gov. Include your docket number in the subject line. The Board is unable to provide legal advice. We can only provide legal information and assistance concerning Board procedures and requirements. If you would like to seek further guidance from a lawyer or a law student at reduced or no cost, please visit the [Pro Bono Assistance](#) page on ccb.gov. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Board