



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0061

United States Copyright Claims Board

Charlotte Salcedo

CLAIMANT

v.

Etsy

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims 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 **October 24, 2022**. 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 extra filing fee for an amended claim. 17 U.S.C. § 1506(f)(1)(B).

To make your amended claim compliant, you must resolve the issue 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.

Copyright Infringement Claim – 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). In your claim, you state that the works are not registered and you do not provide service request numbers for pending applications. To address this issue, please provide the registration numbers for the works or the service request numbers for the applications to register the works.

For each allegedly infringed work in your claim, either registrations must have been issued or applications must have been delivered to the Copyright Office before you filed your claim on July 19, 2022. If none of your works were either registered or subject to a pending application at that time, this claim cannot be successfully amended and cannot proceed. Instead, you would need to file applications for registration before you could refile your claim as a new proceeding. For more information on registration, please refer to the Copyright Office [Registration Portal](#). If some of your works were registered or subject to a pending application on July 19, 2022, you could choose instead to amend your claim to include just those works.

Copyright Infringement Claim – Online Service Provider

In your claim, you checked the box to state that respondent Etsy is *not* an online service provider. However, your allegations are entirely based on the respondent failing to take down infringing content that others posted on its website. For example, you state, “Etsy is continuously criminally culpable in allowing infringement to occur on their platform ... Etsy refuses to remove the offender and offending content from their platform even after receiving numerous complaints of copyright infringement from various sellers for the offender, Etsy is allowing this shop owner to sell not only my copyrighted works but others as well.” The claim also includes what appears to be the contents of a takedown notice that you directed to the respondent, and a screenshot of the respondent’s reply. Those allegations therefore contradict the assertion that the respondent is not an “online service provider.”

“Safe harbors” in section 512 of the Copyright Act shield certain online service providers from paying damages for copyright infringement claims if, among other things, the online service providers take steps to quickly remove or disable access to infringing material when a copyright owner notifies them about the infringement through a proper takedown notice. To avoid liability, online service providers must follow procedures specified in section 512 when they receive takedown notices alleging infringement, and counter-notices seeking the re-posting of the allegedly infringing material. An infringement claim against an online service provider that is eligible for a section 512 safe harbor must state facts that indicate that the respondent did not follow those procedures. If the respondent is operating as an online service provider, then under the CASE Act, the claim cannot be compliant unless you affirm that you sent the online service provider a section 512 notice of infringement, and that it “failed to remove or disable access to the material expeditiously upon the provision of such notice.” 17 U.S.C. § 1506(f)(1)(C)(i).

To address this issue in an amended or re-filed claim, you must state facts that either identify the respondent (1) engaging in infringing activity on its own, not on the basis of infringing material posted on its website by others (and so not in its capacity as an online service provider), or (2) failing to follow the safe harbor procedures for an online service provider. Please visit the [section 512 page](#) and the discussion at pages 18-19 of the chapter on [Starting an Infringement Claim](#) in the CCB Handbook for additional information about what is required for an infringement claim against an online service provider protected by a section 512 safe harbor.

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.

Because your copyright infringement claim does not appear to be based on works covered by a registration or pending application for registration, and because it appears to be raised against an online service provider without the affirmation that the CASE Act requires, we have not reviewed the remainder of your claim to determine whether it complies in other respects with the legal and formal requirements for a claim before the Board. If you submit an amended claim that resolves these issues, the Board will engage in a full compliance review, so you should review the [CCB Handbook](#) and make sure the rest of your amended claim is compliant.

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 any necessary edits. If your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page. Please include only documents that are directly related to your claim.
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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney

September 23, 2022