



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0004

January 25, 2024

Kathryn C Robey

CLAIMANT

v.

Rose Mary

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 **February 26, 2024**. 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.

Respondent Information — Clarity

To assert a claim before the Board you must include each respondent’s mailing address. 37 C.F.R. § 222.2(c)(6). In your claim, you state that the “respondent sent counter notification with false identity (False legal name, address and phone number which was confirmed by NM law enforcement).” This indicates that you may not have provided the correct name and contact information for the respondent. A misrepresentation claim must allege a misrepresentation made by the respondent. Your amended claim must include the correct name and mailing address for the individual that made the misrepresentation. The address must be a United States address of the respondent as the CCB may not hear claims against persons who reside outside the United States. 17 U.S.C. § 1504(d)(4).

Misrepresentation — Clarity

You are bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). That kind of misrepresentation has a very specific meaning under copyright law, which involves false statements made to an online service provider related to a copyright-protected work posted online. Your claim must make enough factual allegations to support each “element” of the claim. The elements of a misrepresentation

claim are that:

1. The respondent sent an online service provider either
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying infringement and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the online service provider's decision to take down or repost the content,
5. The online service provider relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). Your claim does not describe a copyright takedown notice or counternotice and does not state a specific misrepresentation in the counternotice.

Takedown Notice

To support your claim of misrepresentation, you must provide additional facts about your takedown notice. A copyright owner can provide a takedown notice to an online service provider, notifying them that someone posted infringing content on the service provider's system or network and demanding it be taken down. In your claim, you describe your takedown notice as "Removal plagiarized content ultimately leading the termination of the Youtube channel." Your description of the content of the takedown does not describe the content that was removed but instead describes the action that was taken. Please note that "plagiarism" is not, by itself, copyright infringement although an act of plagiarism will often be an act of infringement. To correct this issue, you must describe the content of your takedown notice(s) including the allegedly infringing content that you requested be removed (including identification of your work that was infringed and how the respondent's material infringed your copyright) and include the date the takedown notice(s) were sent.

Counternotice

Your claim also does not provide enough facts about the counternotice you received. Once the content is taken down by an online service provider, the person or company that posted the content may get it reposted by sending a counter-notice to the online service provider. Typically, the counter-notice states that the content was removed or disabled by mistake or misidentification and asks that the content be reposted. To violate section 512(f), a statement must misrepresent "that material or activity is infringing, or . . . that material or activity was removed or disabled by mistake or misidentification." 17 U.S.C. § 512(f)(1)-(2).

In your claim, you describe the content of the counternotice as "[t]o provide proof that legal action was being taken" and state that the misrepresentation by the respondent was "false identity (False legal name, address and

phone number which was confirmed by NM law enforcement) claiming that I am not the copyright owner, but I am, the respondent had no basis to believe I am not the copywrite owner.” Your description of the content of the counternotice does not describe the complete content of the notice but instead describes the action that was taken. Further, your allegations about the misrepresentation include an allegation regarding “false statements” unrelated to copyright.

To support your claim of misrepresentation, you must provide additional allegations to show that the counter-notice included a false or incorrect statement of fact “that material or activity is infringing” or “that material or activity was removed by mistake or misidentification,” and that shows or explains why the statement was false or incorrect. If you submit an amended claim, you must state allegations in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by the respondent that would violate section 512(f), and indicating what words were false or incorrect and how they were false or incorrect.

You must also allege that the online service provider relied on a misrepresentation in the takedown notice and that you were harmed as a result. Typically, the harm suffered due to a representation in a takedown notice would occur because the online service provider has removed access to your material. See the CCB Handbook chapter on [Starting a Misrepresentation Claim](#) at p. 4 (“To win a misrepresentation claim, you must show that the misrepresentation was material enough to have caused the online service provider to remove or repost the work. A misrepresentation isn’t important or significant if the service provider wouldn’t have relied on it or used it as the basis to remove or repost the content in question.”). You have not alleged that YouTube removed access to your video; nor have you alleged any harm resulting from such a removal of access.

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 Attorney