



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0086

## United States Copyright Claims Board

April A Phillips

CLAIMANT

*v.*

Amazon Legal Department

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 **November 21, 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 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.

#### Infringement – Respondent Information

You have listed “Amazon Legal Department” as the respondent for your claim. However, the allegations included in your claim implicate Amazon.com Services LLC, not the entity’s legal department. If you choose to file an amended claim, you must make your claim against a proper respondent entity.

Furthermore, Amazon.com Services LLC has designated a service agent, listed in the [CCB Designated Service Agent Directory](#), to accept service of claims brought before the Board. If you file an amended claim listing Amazon.com Services LLC as the respondent, you must put [the address listed for the service agent](#) in the directory into the claim form for the respondent’s address. 17 U.S.C. § 1506(g)(5)(A). If the CCB finds your amended claim compliant and authorizes service, you will need to have the claim served on the service agent, using the service method specified in the directory. [37 C.F.R. § 222.5\(b\)\(2\)](#).

#### Infringement – Online Service Provider

In this context, an “online service provider” is a provider of online service to store (and make available), refer to, provide access to, or link to material that is available online. Online service providers include content-sharing websites and internet search engines, among other services.

“Safe harbors” in section 512 of the Digital Millennium Copyright Act shield certain online service providers from paying damages for copyright infringement claims if, among other things, they 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).

Your claim cannot move forward based on your current allegations that Amazon engaged in activity related to storing, referring, or linking to material posted by others, and that you have not sent Amazon a section 512 takedown notice.

The section 512 safe harbors, however, do not protect infringing activity outside the scope of section 512. Your infringement claim cannot proceed unless you file an amended claim that either (1) removes the allegations that the respondent is an online service provider to whom you have not sent a section 512 takedown notice, or (2) states facts supporting allegations that would make the respondent liable outside the scope of Section 512. If you are not bringing a claim against Amazon for their activities as an online service provider, in addition to clarifying the facts and circumstances of the respondent’s allegedly infringing activity, when amending your claim, you must answer “no” to the question “[a]re you bringing a claim against the online service provider due to their storage of or referral or linking to infringing material posted by others?”

You assert that “Amazon . . . has been selling my book . . . and sending the money elsewhere.” You also completed the portion of the claim form regarding online service providers, affirming that your claim is brought due to the storage, referral, or linking to infringing material

posted by others, but that you did not send a takedown notice under section 512, which is required under the law before you can bring a claim against an entity operating as an online service provider. You also state that you did not submit a takedown notice because “I do not wish to have the book removed, I would rather have the account transferred under my name and royalties paid.” It is not clear from your claim whether your infringement claim against Amazon is actually related to storing, referring, or linking to material posted by others, in its capacity as an online service provider, or whether you are claiming that Amazon was not acting as an online service provider, but rather infringing your work directly. Since special rules apply to infringement claims brought against respondents acting as online service providers, you will need to clarify whether you are suing Amazon as an online service provider. If so, you will need to show that you sent a takedown notice to Amazon and Amazon did not respond appropriately. If you are suing Amazon not as an online service provider, but as a direct infringer, you will need to clearly identify the infringing activities that you allege Amazon engaged in.

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.

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 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](mailto: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

October 21, 2022