



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0154
July 28, 2023

Juan F. Garrido Sanchez Toledo,
COPYTRACK GmbH

CLAIMANT

v.

The Health Mania Inc.

RESPONDENT

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

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

If you wish to proceed with this claim, you must file a second amended claim by **August 28, 2023**. 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); [37 C.F.R. § 224.1\(d\)](#).

To make your second 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 amended 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.

On May 31, 2023, the Board issued an Order to Amend Noncomplaint Claim. The sole ground for noncompliance was set forth in the following discussion:

Legal or Beneficial Ownership

Your amended claim does not provide enough information about the status of one of the claimants as a legal or beneficial owner of the allegedly infringed work. To bring a copyright infringement claim before the Board, the claimant must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

The amended claim does not present facts that indicate that COPYTRACK GmbH is a proper claimant. A Board search of Copyright Office records shows that the registration application included with your claim (“SR12304378821”) lists only Juan Francisco Garrido Sanchez Toledo as the author and copyright claimant in

the registration of the allegedly infringed work. COPYTRACK GmbH is not listed in the application as an author or owner of the copyright. There are no additional facts that indicate that COPYTRACK GmbH has legal or beneficial ownership of the allegedly infringing works. Thus, COPYTRACK GmbH cannot assert infringement of the photograph unless COPYTRACK GmbH is a legal or beneficial owner of the works, or has an exclusive license to use the exclusive rights at issue in the claim.

To correct this issue, your amended claim must include specific allegations about how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining how the COPYTRACK GmbH was the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents that show how it was the owner of the rights. For example, you may describe the relationship between the COPYTRACK GmbH and Juan Francisco Garrido Sanchez Toledo or state how COPYTRACK GmbH obtained legal or beneficial ownership of copyright. If you include supplemental documents with your amended claim, they must be clearly labeled and identified. In addition, if the information in the claim identifying the claimant or the authors of the work is inaccurate, you may correct that information in an amended claim. For example, you may remove COPYTRACK GmbH if you are unable to amend the claim as described above. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook

On June 26, 2023, you filed an amended claim that was identical to the original claim that had been filed on April 28, 2023. Like the original claim, the amended claim included COPYTRACK GmbH as one of the two claimants. The amended claim is noncompliant for the reasons stated in the May 31 noncompliance order.

Final Amendment

Your amended claim did not resolve of the compliance issues raised in the May 31, 2023, Order to Amend Noncompliant Claim. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

To submit a second 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