



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0029

March 10, 2023

World Media Alliance Label inc

CLAIMANT

v.

YouTube, LLC

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 **April 10, 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. 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 Infringement – Elements

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. The elements of a copyright infringement claim are:

1. You own a valid copyright in the work, or have been given an exclusive license to the copyright rights at issue in the work,
2. The respondent used one of your exclusive rights in the work without permission,
3. The respondent had access to your work, meaning a reasonable opportunity to view or hear your work, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

Information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook. Your claim does not present enough facts to support any of the elements of a copyright infringement claim, as discussed further below.

### Copyright Infringement – Legal or Beneficial Ownership

Your claim provides unclear information about your status as a legal or beneficial owner of the allegedly infringed works. 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.

Your claim does not specify how you are the legal or beneficial owner of the allegedly infringed work, and information in the application for copyright registration identified in your claim appears inconsistent with your ownership status. The application, which the Copyright Office assigned Service Request number 1-12123693129, does not list World Media Alliance Label inc as an author or copyright claimant of the allegedly infringed work. Instead, the application lists Oleg Barbu as the author and Natalya Grozovskaya as the copyright claimant.

If you submit an amended claim, you must include specific allegations about how you own, or have 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 you owned exclusive rights in the work at the time of the infringement, or by submitting supplemental documents. For example, you may describe your relationship with Oleg Barbu or Natalya Grozovskaya, and state how you obtained legal or beneficial ownership of copyright such as by assignment or exclusive license. If you include copies of an assignment or license as a supplemental document, it must be clearly labeled and identified.

Moreover, if the information in the claim identifying the claimant or the author of the work is inaccurate, you may correct that information in an amended claim. For example, while the claim lists Natalya Grozovskaya as the author of the work, Copyright Office records list her as the copyright claimant, and Oleg Barbu as the author. If you file an amended claim, it must provide the correct information. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

## **Copyright Infringement – Infringing Activity**

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook. As detailed further below, your claim does not provide enough information to support allegations of infringement against the respondent YouTube, LLC (YouTube).

Your claim asserts that YouTube is an “online service provider” (OSP); that you are bringing the claim against YouTube “due to their storage of or referral to infringing material posted by others”; and that it failed to expeditiously remove or disable access to infringing material after you sent a takedown notice to YouTube as

required by section 512 of the Copyright Act. Your claim does not provide enough information to support those allegations or to show that YouTube committed any infringing act.

“Safe harbors” in section 512 shield certain OSPs from being responsible for damages, if any, resulting from copyright infringement claims provided, among other things, the OSPs 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, OSPs 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. In an infringement claim against an OSP that is eligible for a section 512 safe harbor, the claimant must state facts that indicate that the respondent did not follow those procedures.

Your infringement claim does not provide enough information about YouTube’s activities to overcome the section 512 safe harbors. Specifically, you do not provide information supporting your allegations that you sent a takedown notice to YouTube, and that it failed to expeditiously remove or disable access to infringing material upon receiving notice of infringement. Without more specifics, those bare allegations do not provide sufficient details for the respondent to understand what its allegedly infringing acts were.

Alternatively, to the extent that you want to allege that YouTube directly infringed your copyright, your claim does not describe any infringing activity by YouTube. While you allege that the work was infringed by an “illegal publication” on a particular YouTube page, your claim does not present facts that clearly state how YouTube, rather than a third-party user, engaged in that infringing activity. You do not describe how YouTube used the work in a way that would violate any of your exclusive rights.

If you file an amended infringement claim, it must include more information about how YouTube engaged in infringing activity. If your claim is based upon its alleged activity as an OSP—storing, making available, referring to, providing access to, or linking to material posted by other persons that is available online—you will have to state facts in support of that allegation that would make YouTube liable as an OSP, despite the section 512 safe harbor provisions, because of a failure to expeditiously remove or disable access to the infringing material after you sent a takedown notice, as well as details related to the underlying alleged infringement. 17 U.S.C. § 1506(f)(1)(C). Please visit the [section 512 page](#) at copyright.gov 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 to bring an infringement claim against an OSP under section 512.

If, on the other hand, your amended claim is not based on YouTube acting as an OSP, you must state facts that identify how YouTube engaged in infringing activity (such as copying, distributing, or performing your work) on its own, rather than on the basis of infringing material posted on its website by other YouTube users.

### **Copyright Infringement – Access**

Your claim does not provide facts about how the person or entity that uploaded the allegedly infringing work to YouTube had access to your work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. You describe the allegedly infringed work as a music video, and you allege that the

artist has an “official original YouTube Channel.” However, you do not allege that the music video appeared on that channel, or identify any place where it was available before the alleged infringing use.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. If you are alleging that YouTube itself engaged in direct infringing activity, acceptable allegations of access may include that your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. If you are alleging that YouTube is liable for failing to expeditiously take down infringing material subject to a valid takedown notice, you must make similar access allegations related to the person or entity that uploaded the allegedly infringing work.

### **Copyright Infringement – Substantial Similarity**

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

You allege that the music video was illegally published on YouTube, and you provide a link to the page on YouTube where the alleged infringing acts occurred. You do not provide any information describing or showing your work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of your work or the allegedly infringed work as supplemental documents. As a result, the claim does not provide enough information to enable the respondent to understand the claim and respond to it.

If you submit an amended claim, it must include 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 were taken by the respondent in the allegedly infringing work, or documents that are sufficient to show the similarities. If you include copies of the works at issue as supplemental documents, 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 supplementary 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](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. 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