



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0279

September 26, 2024

Hood Box Office and Terrance S. Littlejohn

CLAIMANTS

v.

Delondris Causey

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 28, 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. More information is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

### Legal or Beneficial Ownership

The claim does not present facts that indicate how claimant Terrance S. Littlejohn (Littlejohn) is a proper claimant to bring this infringement claim. In the “Works infringed” section, you name claimant Hood Box Office as the author of the allegedly infringed work, a photograph titled “tom yung gooongs.” Copyright Office records identify Hood Box Office as the author and as the copyright owner. Those records indicate that Littlejohn certified Hood Box Office’s application for registration, but they do not list Littlejohn as an author or copyright owner of the photograph.

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 a 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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

If information in the claim identifying the claimant or the author of “tom yung gooongs” is inaccurate, you may correct that information in an amended claim. For example, if Hood Box Office is the sole owner of the work, the amended claim should name only Hood Box Office as the claimant, not Littlejohn.

However, if Littlejohn personally is a copyright owner, the amended claim must include specific allegations about how he owns, or has an exclusive license to use, the exclusive rights at issue in either work. You can do this either by adding facts to the “Describe the infringement” section explaining how Littlejohn owned exclusive rights in the work at the time of the infringement, or by submitting supplemental documents. For example, you may describe his relationship with Hood Box Office and state how he became a *legal* owner or co-owner of copyright, such as by assignment or exclusive license; or how he remained a *beneficial* owner after transferring legal ownership, such as by retaining a right to receive royalties from use of the work. Alternatively, you may include supplemental documents, such as an assignment or exclusive license, demonstrating Littlejohn’s legal or beneficial ownership.

### **Allegedly Infringed Work**

You provide inconsistent information about the allegedly infringed work or works at issue in this proceeding. The “Works infringed” section of the claim lists only one work, the photograph titled “tom yung gooongs.” That is also the title of the work for which you have submitted a copyright registration application under service request number 1-14267158731, as indicated in the same section of your claim. The “Describe the infringement” section also describes infringement of a photograph. However, the “Where the alleged infringing acts occurred” section includes “Describe the work allegedly infringed: My video,” and states that the title of the video is “Tom Yum Lechon.” In addition, the “Description of harm suffered and relief sought” section alleges “unauthorized use of my photo *and video* by the respondent” and distribution of “my image *and creations*,” and states that the claim seeks “statutory damages for the unauthorized use of my *works*,”—that is, for use of more than one work. (Emphases added.)

If you file an amended claim, it must clarify which work or works are at issue. If the photograph is the only allegedly infringed work, remove any references to other allegedly infringed works, or add allegations that state how those works relate to this claim. If other works allegedly infringed are also at issue, list each of the works separately in the “Works infringed” section, providing the information required in the claim form about each work.

### **Substantial Similarity**

Your copyright infringement claim does not include enough facts to indicate how the allegedly infringing work is substantially similar to original, expressive elements of your work that copyright protects. To address this issue, if you file an amended claim, you should include more information about your work, the allegedly infringing work, and how creative elements of the works are similar.

In the “Works infringed” section, you describe your allegedly infringed work as “an original photo of myself that i own, which was used without my permission in the respondent’s Youtube thumbnail.” In the “Describe the infringement” section, you state: “The respondent used a photo of me, which I own, without my permission in a YouTube thumbnail to promote their video.” However, no allegations describe how your work and the allegedly infringing work may be 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 statement regarding how the respondent used your photo and whether the allegedly infringed work took your entire photograph or only a portion (and if so, which portions), or documents that are sufficient to show substantial similarity in material that copyright protects. If you include copies of the works at issue as supplemental documents, then as discussed above, they must be clearly labeled and identified so they can be properly compared to each other.

### **Online Service Provider**

Under the CASE Act, when a claimant raises a copyright infringement claim against an online service provider (OSP) for storing, or referring or linking to, infringing material, the Board must find the claim noncompliant unless the claimant affirms that the claimant sent a takedown notice to the OSP as required by section 512 of the Copyright Act, and that the OSP failed to remove or disable access to the material expeditiously when it received the takedown notice. In this context, an OSP is a provider of online services to store (and make available), refer to, provide access to, or link to material that is available online and that was created by someone other than the OSP. OSPs include content-sharing websites and internet search engines, among other services. 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 section 512 of the Copyright Act requires for an infringement claim against an OSP.

In your responses to questions on the claim form, you allege that the respondent is an OSP; that you are bringing the claim against the respondent because he stored, referred, or linked to infringing material posted by others; and that you sent the respondent a takedown notice. However, you responded “No” to the question, “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?” Your claim is not compliant because you state that you are bringing the claim against the respondent based on his actions as an OSP, while you do not allege that the respondent failed to act promptly in response to a takedown notice. You can only bring an infringement claim against an OSP if the OSP failed to take down third-party material in response to a proper takedown notice.

Other factual allegations in your claim, however, suggest that the respondent did not act as an OSP in relation to infringing material posted by a third party. You allege: “The respondent uploaded a portion of a video I created,

without my permission, to their YouTube channel.” That allegation appears to indicate that the respondent personally posted the allegedly infringing material, while YouTube is the OSP that stored the material. If this is accurate, then you can make your claim compliant by answering “No” to the question of whether the respondent is an OSP.

To correct your noncompliant responses to the OSP questions in the claim form, you must provide different responses in an amended claim. If the respondent is not an OSP, as discussed above, then you must answer “No” to the question “Are any of the respondents online service providers?” If the respondent is an OSP, and you seek to hold him directly liable for his own actions and not for failing to take down material posted by a third party, then you must answer “No” to the question “Are you bringing a claim against the online service provider due to their storage of or referral or linking to infringing material posted by others?” Finally, if you maintain that the respondent is an OSP, that you sent him a takedown notice, and that he did not promptly redress the third party’s infringement, then you must answer “Yes” to all four OSP questions, including “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?” and you must state facts supporting those allegations. Again, your current factual allegations do not portray the respondent as an OSP.

## Relief Sought

As stated above, the “Description of harm suffered and relief sought” section of the claim includes inconsistent allegations about how many allegedly infringed works are at issue in this proceeding. You state that you have been harmed by the “unauthorized use of my photo and video by the respondent,” and that you are seeking “statutory damages for the unauthorized use of my works.” You have raised infringement claims against the same respondent in other proceedings, including Claim No. 24-CCB-0280, in which you allege infringement of a video. However, in this proceeding, a photograph is the only work listed in the “Works infringed” section. If this proceeding is only based on the alleged infringement of that photograph, then the “Description of harm suffered and relief sought” section of your amended claim must be clearly limited to seeking relief based on that work and no other works.

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](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.

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