



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0065  
April 3, 2023

Shenzhiyishoumaoyishenzhenyouxiangongsi and Gan Shu

CLAIMANTS

v.

guang zhou shi bo qing bo mao yi you xian gong si

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 **May 3, 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.

### Foreign Respondent

The Board cannot hear a claim asserted against a person or entity residing outside the United States. 17 U.S.C. § 1504(d)(4). Your claim includes conflicting information about the respondent's address. In the claim form you entered an "Industry, CA" address for the respondent. However, other information in your claim appears to contradict that address. First, the address you provided is the same address you provided in another proceeding before the Board for a different respondent (*Gan Shu et al. v. jinbuashixichunzhiqipinyouxiangongsi*, No. 23-CCB-0040). Second, the claim alleges that the infringing acts occurred online on Amazon, and includes a link to the respondent's Amazon seller profile page. The "Detailed Seller Information" section on that page lists the respondent's business address in Guangdong, China. This indicates that the Board may not be able hear the claim.

To address this issue, if you file an amended claim, please include additional information in the "Describe the infringement" section of the claim detailing why you believe that the respondent is a United States resident and that the address you supplied is correct. If the address that you provided in the claim form is incorrect and the respondent resides in the United States, then you should also correct the address in the "Respondent" section. However, if the respondent resides in China, the Board cannot hear the claim and you should withdraw your claim.

## Copyright Infringement Claim – Online Service Provider

In your responses to questions on the claim form, you allege that the respondent is an online service provider (“OSP”) and that you sent the respondent a takedown notice to take down third-party material. OSPs include content-sharing websites and internet search engines, among other services. However, the allegations in your claim suggest that the respondent did not act as an OSP in relation to infringing material posted by a third party. As further detailed below, if you file an amended claim, you can address this issue by answering “No” to the claim form question, “Are any of the respondents online service providers?”

Under the CASE Act, when a copyright infringement claim is raised against an OSP for storing, or referring or linking to, infringing material, the Board must find the claim noncompliant unless the claimant affirms that:

1. the claimant sent a takedown notice to the OSP as required by section 512 of the Copyright Act, and
2. the OSP failed to remove or disable access to the material expeditiously when it received the takedown notice.

17 U.S.C. § 1506(f)(1)(C)(i); 37 C.F.R. § 222.2(c)(7)(iii)(G). 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. 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 they 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 their 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 allegations in your claim suggest that the respondent committed infringement directly, not by acting as an OSP in relation to infringing material posted by a third party. For example, you allege that

- the respondent reproduced and distributed copies of your work;
- many products on the market imitate your work, and “[t]he respondent is one of the imitators”;
- a product sold through the respondent’s Amazon marketplace “plagiarized our product pattern design ideas”; and,
- you complained to Amazon about the respondent’s product, and Amazon has “removed the respondent’s link.”

These allegations indicate that you contend that the respondent directly posted the allegedly infringing material, while Amazon is the OSP that stored the material. If that is the case, then as mentioned above, to address this issue

in an amended claim, you must provide different responses to the questions about OSPs in the claim form. If you seek to hold the respondent directly liable for displaying and reproducing the construction element paper plates on Amazon, then you must answer “No” to the question: “Are any of the respondents online service providers?”

If, in the alternative, you maintain that the respondent is acting as an OSP, that you sent the respondent a takedown notice about infringement by a *third party*, and that the respondent did not promptly redress the infringement you identified, then you must answer “Yes” to the question, “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.

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.