



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0297
April 23, 2024

VideoHat LLC

CLAIMANT

v.

Google LLC

RESPONDENT

ORDER DISMISSING CLAIM

The Copyright Claims Board (Board) issued orders that notified claimant VideoHat LLC (VideoHat) on January 22, 2024 and March 8, 2024 that the claim and amended claim, respectively, did not comply with the applicable statutory and regulatory requirements for filings before the Board. On April 8, 2024, VideoHat filed a second amended claim, which was the final opportunity to file a compliant claim. 17 U.S.C. § 1506(f)(1)(B). A Copyright Claims Attorney reviewed the second amended claim for compliance and referred it to a Copyright Claims Officer, who determined that it does not comply with the applicable requirements and that this proceeding should, therefore, be dismissed without prejudice. *Id.*

Respondent Google LLC's (Google) YouTube platform hosts user-uploaded videos. This is VideoHat's third proceeding alleging that videos on YouTube infringed works published on the album *Best of Al Hadra Band*. See *VideoHat LLC v. YouTube LLC*, No. 23-CCB-0185 (Claim 0185); *VideoHat LLC v. Nour El Din Nageh Ali*, No. 23-CCB-0216 (Claim 0216). However, VideoHat's allegations indicate that Google, by complying with section 512 of the Copyright Act, qualified for a "safe harbor" that protects it from paying any damages the Board might award.

Online service providers (OSPs) qualify for section 512 safe harbors if, among other things, they take steps to quickly remove or disable access to allegedly infringing material when the copyright owner sends them a proper takedown notice; and if they restore that material ten to fourteen business days after the uploader (the "subscriber") sends them a proper counter-notice seeking reinstatement—unless the copyright owner first notifies the OSP that the copyright owner has filed "an action seeking a court order to restrain the subscriber from engaging in infringing activity" related to that material. 17 U.S.C. § 512(g)(2)(A)-(C). An infringement claim before the Board against a subscriber qualifies as such an action if it alleges infringement of material identified in a takedown notice and the claimant notifies the OSP of the claim before the OSP reinstates that material. 17 U.S.C. § 1507(d)(1)-(2).

VideoHat contends that it submitted takedown notices to YouTube concerning the videos on May 26, 2023; and that YouTube, after removing the videos on May 27, 2023, told VideoHat it had received a counter-notice from the uploader and might reinstate the videos unless VideoHat replied, within ten business days, with evidence that it had taken legal action against the uploader to keep the content from being restored. VideoHat filed Claim 0185 on May 28, 2023, and notified YouTube, but states that YouTube nevertheless reinstated the videos on June 23, 2023. However, Claim 0185 was filed against YouTube LLC, so it was not a legal action seeking to restrain *the uploader*

from infringing. VideoHat filed Claim 0216 against the alleged uploader on June 26, 2023, and again notified YouTube; VideoHat later amended that claim on July 26, 2023 to instead name YouTube as the respondent. However, because the videos had already been reinstated, notice of Claim 0216 could not affect the Section 512 safe harbor. Restoring the videos under these circumstances does not subject Google to liability.

Accordingly, the Board dismisses the claim without prejudice and closes this case. Dismissal without prejudice means that the allegations may be raised again by filing a new claim, if there is no agreement with the respondent to the contrary.

Copyright Claims Board