



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0243

December 5, 2024

Sean S. Remer

CLAIMANT

v.

Mark E. Wille

RESPONDENT

## ORDER DISMISSING CLAIM WITHOUT PREJUDICE

The Copyright Claims Board issued orders that notified the claimant on September 27, 2024 and October 25, 2024 that the claim and amended claim, respectively, did not comply with the applicable statutory and regulatory requirements for filings before the Board. On November 24, 2024, the claimant filed a second amended claim, which was the final opportunity to file a compliant claim. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

A Copyright Claims Attorney reviewed the second amended claim and determined that the claim is still noncompliant because it is barred by the statute of limitations. The Copyright Claims Attorney referred the claim to a Copyright Claims Officer to confirm that it does not comply with the applicable requirements and that this proceeding should, therefore, be dismissed without prejudice. 17 U.S.C. § 1506(f)(1)(B). The Copyright Claims Officer reviewed the second amended claim and concurs with the finding of noncompliance.

A claim before the Board must be filed “not later than 3 years after the claim accrued.” 17 U.S.C. § 1504(b)(1). “[A]n infringement is actionable within three years, and only three years, of its occurrence. And the infringer is insulated from liability for earlier infringements of the same work.” *Petrella v. Metro-Goldwyn-Mayer, Inc.*, 572 U.S. 663, 671 (2014). Infringement claims accrue when the infringing act occurs or when the claimant discovers, or reasonably should have discovered, the infringement. *Starz Entertainment LLC v. MGM Domestic TV Distrib., LLC*, 39 F.4th 1236, 1239-41 (9th Cir. 2022). As explained in the [second noncompliance order](#), the claimant alleged that he shared photographs with the respondent, who distributed them, without authorization, to a third-party website, where they are still displayed. In an email filed with the amended claim dated December 14, 2018, the claimant asked the respondent to have the photographs removed. The infringement claim accrued no later than that date, almost six years before the claimant commenced this proceeding. That email clearly contradicts the allegation, in the second amended claim, that the claimant discovered the allegedly infringing use in August 2024. See 37 C.F.R. § 224.1(f). The amended claim also alleged that the photographs were never removed from the website. The claimant does not allege that any new allegedly infringing act occurred in the last three years that could start a new three-year accrual period. See *Chicago Building Design, P.C. v. Mongolian House, Inc.*, 770 F.3d 610, 614-16 (7th Cir. 2014). The allegations clearly fail to state a claim upon which relief may be granted by the Board. 37 C.F.R. § 224.1(b)(3).

Accordingly, the Board dismisses the claim without prejudice and closes this case. Dismissal without prejudice means that any allegations that are not barred may be raised again by filing a new claim, if there is no agreement with the respondent to the contrary.

Copyright Claims Board