



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0347  
October 25, 2023

Nicholas Sanchez

CLAIMANT

v.

YouTube

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 **November 24, 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.

### Substantial Similarity

You have brought a claim for copyright infringement, alleging that respondent YouTube infringed a work titled “Hueco Tanks State Park & Historic Site | Texas State Parks,” which you describe as a “YouTube video.” Your claim must make enough factual allegations to support each “element” of the claim. Information about the elements required to assert a copyright infringement claim is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook. 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, and
4. The allegedly infringing work is substantially similar to the original elements of expression in your work.

Your allegations do not provide enough clarity about 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 specific allegations about how expressive material in your work and the allegedly infringing work are substantially similar.

You allege that Sjoerd Vrolijk owns the Travel Boss channel on YouTube and “copied parts of my content and uploaded it to his channel.” You also allege that he has stated in emails that “he only used a few seconds of my video.” It is not apparent that the allegedly infringing video used a substantial amount of your work.

If you submit an amended claim, it must include clarifying information about how much of your work was used in the allegedly infringing work, and for how long. Your description should help the respondents and the Board understand the similarities you see between the respondent’s allegedly infringing work and your work. Include a clear statement regarding how many portions of your work were taken by the respondent in the allegedly infringing work, and their duration, 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. You indicated that hyperlinks included in your claim lead to the allegedly infringed and infringing videos. However, hyperlinks can lead to material that is no longer available online, and the Board will not take into account material that is solely referred to in a hyperlink and not uploaded as a supplemental document.

### **Online Service Provider**

It is not clear that YouTube is a proper respondent for your infringement claim. You assert that YouTube is an “online service provider” (OSP); that you are bringing the claim against YouTube due to its “storage of or referral or linking 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. However, other allegations in your claim indicate that YouTube complied with your takedown notice, removed the allegedly infringing video at your request, and reinstated the video only after receiving a counter-notice from the uploader. In the “Where the alleged infringing acts occurred” section of the claim, you allege:

- You sent YouTube a takedown notice on August 6, 2023, reporting the Travel Boss video as infringing;
- YouTube then “took the video down” and placed a “copyright strike” on the Travel Boss channel;
- Sjoerd Vrolijk emailed you on August 26, 2023, asking you to “remove the [copyright] strike”;
- You have asked him to remove the allegedly infringing content from his video and he has refused;
- On October 17, 2023, YouTube informed you that The Travel Boss had issued a counter-notice; and
- You filed this claim against YouTube the next day.

You can only bring an infringement claim against an OSP if it failed to take down third-party material in response to your takedown notice, not if it restored the video due to a counter-notice. Your allegations indicate that YouTube removed the video in response to your takedown request, as required by section 512, and then restored the video in response to a counter-notice, as section 512 also requires. Your infringement claim cannot proceed against YouTube based on its actions complying with section 512

Special rules apply to infringement claims brought against OSPs, which provide online services to store (and make available), refer to, provide access to, or link to material that is available online. OSPs include content-sharing websites and internet search engines, among other services. Section 512 of the Copyright Act provides “safe

harbors” that shield certain OSPs from paying damages for copyright infringement claims if, among other things, the OSP takes steps to quickly remove or disable access to infringing material when a copyright owner notifies them about the infringement through a proper takedown notice. An infringement claim against an OSP that is eligible for a section 512 safe harbor must indicate that the OSP “failed to remove or disable access to the material expeditiously upon the provision of such notice.” 17 U.S.C. § 1506(f)(1)(C)(i); 37 C.F.R. § 222.2(c)(7)(iii)(G)..

Your infringement claim cannot go forward unless you file an amended claim that states facts that would make the respondent liable, despite the Section 512 safe harbor. If you contend that YouTube is an OSP that did not “expeditiously comply” with your takedown notice, you must state facts in the amended claim that clarify when it “took the video down” from the Travel Boss channel. On the other hand, if you can truthfully allege that YouTube is not liable due to its “storage of or referral or linking to infringing material posted by others,” you must state facts that would make it liable for posting the work itself. Please review the [section 512 page](#) and pages 19-21 of the [Starting an Infringement Claim](#) chapter in the CCB Handbook for additional information about what is required for an infringement claim against an OSP protected by a section 512 safe harbor.

Alternatively, while you may not have a valid claim against YouTube, there may be a claim against the uploader (Sjoerd Vrolijk or the Travel Boss). However, there must be an address for the uploader, and the uploader must be a United States resident. The Board may not hear claims against anyone who is not a United States resident. 17 U.S.C. § 1504(d)(4). The claim must include the respondent’s address, if known. 37 C.F.R. § 222.2(c)(6). You should only amend your claim if you are raising it against an individual or entity residing in the United States for whom you can provide a valid mailing address.

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.

Copyright Claims Attorney