



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0105

April 9, 2024

James Colwell

CLAIMANT

v.

Brandon Ahring

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 9, 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.

Misrepresentation – Clarity

This proceeding raises a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). That kind of misrepresentation has a very specific meaning under copyright law, which involves false statements made to an online service provider (OSP) related to a copyright-protected work posted online.

Your claim must make enough factual allegations to support each “element” of the claim. The elements of a section 512(f) misrepresentation claim are:

1. The respondent sent an OSP either
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying infringement and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the OSP’s decision to take down or repost the content,
5. The OSP relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). The claim must include the words in the takedown notice or counter-notice that you allege were a misrepresentation and an explanation of the alleged misrepresentation. 37 C.F.R. §§ 222.2(c)(9)(vi)-(vii). A counter-notice only violates section 512(f) if the respondent misrepresents that the allegedly infringing “material or activity was removed or disabled by mistake or misidentification,” 17 U.S.C. § 512(f), for example, if the respondent falsely claims ownership of, or a license to use, the claimant’s work.

Your claim does not provide enough information to show that the respondent made a false or incorrect statement of fact about a copyright. You allege that you sent X Corp a [takedown notice](#) on March 30, 2024, providing a link to your original work on YouTube, and stating that the respondent’s tweet included “a copy of my Armored Core 6 Youtube video posted without my permission.” You also allege that the respondent sent X Corp a [counter-notice](#) on April 1, 2024, in which he denied your claim of infringement by stating: “The provided YouTube link to where the video I had attached to my tweet was allegedly stolen from does not contain the material I uploaded.” However, your claim does not include information that indicates why that statement was false or incorrect.

In the “Words that made up the misrepresentation and explanation of the misrepresentation” section of the claim, you offer several reasons to consider that statement false or incorrect, but your explanations do not provide enough information to indicate that the counter-notice violated section 512(f). In particular:

- You allege that the respondent mentioned you in the allegedly infringing tweet, and that he posted the same content using a second Twitter account and in a Google document. Those allegations might support an infringement claim, but they do not support a claim of section 512(f) misrepresentation.
- You state that the respondent falsely “invoked fair use” and that the counter-notice “asserts his use of my content.” However, the counter-notice did not mention fair use at all, and instead denied that his tweet included your YouTube video.
- You allege that the respondent “asserts the rights to this content” and “is lying about his ownership of said content.” The counter-notice did not assert that he owned the video attached to his tweet.
- You state that the respondent “made a false claim” in the counter-notice by showing that “he was able to view my tweets,” despite you blocking him on X and elsewhere. Whether true or false, a statement about viewing your tweets or other content is not an allegation that would support a misrepresentation claim under section 512(f).
- You state that the respondent “fails to state the said content was removed” from the respondent’s other Twitter account, and exhibits show your correspondence with Twitter Support about that [takedown notice](#) and [removal](#) on March 26, 2024. However, a removal of the same content from a different tweet does not make the respondent’s counter-notice false.

If you submit an amended claim, you must show or explain why a statement in the counter-notice was false or incorrect, and how it was false or incorrect. For example, the statement in the counter-notice that the “YouTube link to where the video I had attached to my tweet was allegedly stolen from does not contain the material I

uploaded” would be false if your original video was on YouTube at the link you gave in the takedown notice, and the respondent’s tweet actually contained material from that video. If that is the case, then you may include such allegations in your amended claim.

More information about starting a claim before the Board is available in the [Starting a Misrepresentation Claim](#) and [Starting an Infringement Claim](#) chapters of the CCB Handbook.

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. 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