



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0135

September 1, 2023

Michelle Shocked

CLAIMANT

v.

Jincheng Zhang and YouTube (Google LLC)

RESPONDENTS

ORDER DISMISSING CLAIM WITHOUT PREJUDICE

The Copyright Claims Board issued orders that notified the claimant on May 2, 2023 and June 26, 2023 that the claim and amended claim, respectively, did not comply with the applicable statutory and regulatory requirements for filings before the Board. On July 26, 2023, 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). On August 7, 2023, the claimant filed a request for leave to amend her second amended claim.

A Copyright Claims Attorney reviewed the second amended claim and the request to amend and determined that the claim is still noncompliant such that the proposed amendment would not cure all of the noncompliance issues. 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 the request to amend and concurs with the finding of noncompliance.

In both the second amended claim and its proposed amendment, the copyright infringement claim does not sufficiently plead the element of substantial similarity. Copies of the works were not attached to either the second amended claim or the request to amend, and the conclusory allegations of similarity between the allegedly infringed and infringing works do not identify any expressive elements that the works have in common beyond their titles, which copyright does not protect. 37 C.F.R. § 202.1(a). “Similarity only as to unprotected aspects of a work does not result in liability for copyright infringement.” *Corbello v. Valli*, 974 F.3d 965, 974 (9th Cir. 2020).

The allegations also raise impermissible claims against the respondents. The second amended claim and the proposed amendment allege that Jincheng Zhang circumvented a copyright protection system in violation of 17 U.S.C. § 1201, and the proposed amendment alleges that YouTube (Google LLC) refused to comply with a subpoena under 17 U.S.C. § 512(h). Those allegations do not state claims upon which relief may be granted by the Board. 37 C.F.R. § 224.1(b)(3); 17 U.S.C. § 1504(d)(1).

Accordingly, the Board dismisses the claim without prejudice, denies the request for leave to amend the second amended claim, and closes this case. Dismissal without prejudice means that the claimant may raise the allegations again by filing a new claim, if there is no agreement with the respondents to the contrary.