



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0113

April 18, 2023

Alisa Baron

CLAIMANT

v.

Samuel Boateng

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 18, 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.

Copyright Infringement Claim – Deposit

The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

In the “Works infringed” section of your infringement claim, you describe the allegedly infringed works as “[p]otos of myself,” you state that the Copyright Office has not registered the allegedly infringed works, and you provide a service request number (1-12358864968) for a pending registration application for the works. However, a Board search of Copyright Office records for that application found that the Copyright Office has not yet received a deposit copy of the allegedly infringed works. The term “deposit” refers to the copy or copies of a work that must be submitted to the Copyright Office with an application for registration. Information about the deposit requirement for registration is available in [Chapter 1500](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*. Because the deposit was not delivered to the Copyright Office before the claim was filed, the Board cannot hear your infringement claim. Instead, you would need to submit a deposit to support your pending application to

register the copyright before you can refile your infringement claim as a new claim. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

While you cannot proceed with an infringement claim in this proceeding, you may be able to maintain the misrepresentation claim if you submit an amended claim that resolves the issues identified below. Alternatively, you can withdraw your entire claim and file your infringement and misrepresentation claims in a new claim once you have submitted a complete application for copyright in the work you allege was infringed. If you choose that course of action, you will still need to correct the misrepresentation issues below in your new claim.

Misrepresentation Claim – Clarity

You are bringing 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 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 misrepresentation claim are that:

1. The respondent sent an online service provider 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 online service provider’s decision to take down or repost the content,
5. The online service provider relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). You allege that you sent a takedown notice to YouTube and that the respondent sent YouTube a counter-notice. However, you, perhaps by accident, state that the misrepresentation occurred in your takedown notice, rather than in the respondent’s counter-notice. If you file an amended claim, you must clarify the allegation by identifying a misrepresentation made by the respondent in the counter-notice.

In addition, to violate section 512(f), a statement must misrepresent “that material or activity is infringing, or . . . that material or activity was removed or disabled by mistake or misidentification.” 17 U.S.C. § 512(f)(1)-(2). To support your claim of misrepresentation, you must provide additional facts to show that the counter-notice included a statement of fact that asserted “that material or activity was removed by mistake or misidentification,” and you must show or explain why that statement was false or incorrect. Your description and explanation of the words that made up the alleged misrepresentation, “promot[ing] a false narrative against myself,” appears to describe false statements unrelated to copyright. Those allegations do not identify the sort of misrepresentation that could violate

section 512(f) because they do not concern false statements that were made in a takedown notice or counter-notice about copyright-protected work. While you describe your takedown notice as a “copyright notice,” your allegations do not identify a false statement related to copyright or the takedown of copyright-protected material in the respondent’s counter-notice. If you submit an amended claim, you must state facts in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by the respondent that would violate section 512(f), indicating what words were false or incorrect and how they were false or incorrect.

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