



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0418

January 25, 2024

Chicago Corner LLC, Jerry A. Vasilatos

CLAIMANTS

v.

Google LLC d/b/a YouTube,
Hard Lens Media, Inc.

RESPONDENTS

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **February 26, 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.

Online Service Provider — Clarity

In this context, an “online service provider” is a provider of online service to store (and make available), refer to, provide access to, or link to material that is available online. Online service providers include content-sharing websites and internet search engines, among other services. Your infringement claim asserts that one of the respondents, Google LLC d/b/a YouTube (Google), is an online service provider; that you are bringing the claim against the respondent “due to their 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 the respondent a takedown notice as required by section 512 of the Copyright Act.

“Safe harbors” in section 512 shield certain online service providers from paying damages for copyright infringement claims if, among other things, the online service providers take steps to quickly remove or disable access to infringing material when a copyright owner notifies them about the infringement through a proper takedown notice. To avoid liability, online service providers must follow procedures specified in section 512 when they receive takedown notices alleging infringement, and counter-notices seeking the re-posting of the allegedly infringing material. In an infringement claim against an online service provider that is eligible for a section 512 safe

harbor, the claimant must state facts that indicate that the respondent did not follow those procedures.

Your infringement claim does not clearly provide enough information about the respondent's activities to overcome the safe harbor provisions. You have attached numerous communications with Google as supplementary documents. One of the communications from Google states that your "[r]equest [was] declined," and noted concerns that "your copyright notification isn't valid for some or all videos identified in your notification." Another communication stated that "[w]e've removed some of the videos in your notification." Other communications state that "[t]he content listed below has been removed." Therefore, it is unclear if Google removed all of the allegedly infringing content. If it did, then your claim against Google cannot go forward.

Your amended claim should provide more specific information for each alleged infringement including when you sent the takedown notice, when Google responded, and what Google said in the response regarding whether it was removing or disabling access to the allegedly infringement material. It should also identify each notice and response by name. For example, if one of the responses from Google was the supplementary document that you have named "M4M4ALL_REMOVAL_MTZBKZVIZW3NAQCSG74P2D4ON4 YouTube Copyright Complaint," you should identify it by that name in the "Describe the infringement" section of the claim. Your infringement claim cannot proceed unless you file an amended claim that either:

1. removes Google as a respondent;
2. removes the allegations that Google is an online service provider to whom you sent a section 512 takedown notice and truthfully alleges facts that indicate that the Google/Youtube committed infringement directly, in other words, that the respondent did not just host the third-party material but directly reproduced, distributed, or publicly displayed the motion pictures; or
3. clearly states facts describing Google's failure to expeditiously remove or disable access to infringing material after you sent it a takedown notice as required by section 512 of the Copyright Act.

Please visit the [section 512 page](#) and the discussion at pages 18-19 of the chapter on [Starting an Infringement Claim](#) in the CCB Handbook for additional information about what is required for an infringement claim against an online service provider protected by a section 512 safe harbor.

Copyright Infringement — Elements

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each "element" of the claim. Information about the elements required to assert a claim of copyright infringement 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, meaning a reasonable opportunity to view or hear your work, and
4. The respondent's work is substantially similar to the original elements of expression in your work.

Your claim does not provide enough facts about if each claimant has copyright ownership in the works, how the respondent had access to the works, and how your works and the respondent's works are substantially similar. Please provide more details and background regarding this element in your amended claim.

Clarity

A claim can be unclear if it does not include enough detail. Your copyright infringement claim must provide enough information in the "Describe the infringement" section of the claim for the respondent to understand what their allegedly infringing acts were. Your amended claim must include facts in the claim form that more fully explain how the respondent infringed your work. 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

Legal or Beneficial Ownership

Your claim provides conflicting information about the status of claimant Jerry A. Vasilatos (Vasilatos) as a legal or beneficial owner of the allegedly infringed work. To bring a copyright infringement claim before the Board, the claimant must be "the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement." 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

The claim does not present facts that indicate that Vasilatos is a proper claimant. A Board search of Copyright Office Records shows Chicago Corner LLC, an entity, listed as author and copyright claimant in the registrations of the allegedly infringed works; however, Vasilatos, an individual, has also been named as claimant in the proceeding. Even though Vasilatos may have an ownership interest in Chicago Corner LLC, the law considers LLCs to be separate legal entities. As noted above, the copyright claimant listed on the registration certificate is not the entity named as claimant in the proceeding and you have not included any additional information about the ownership of the copyright rights, your claim may not proceed.

To correct this issue, you can either (1) remove the individual claimant or (2) provide additional information about how the copyright in the works were transferred from, or exclusively licensed by Chicago Corner LLC to Vasilatos. If Chicago Corner exclusively licensed or transferred the exclusive rights at issue to the Vasilatos, your amended claim must add additional information to the "Describe the infringement" section of the claim that explains how the Vasilatos (1) obtained ownership of the exclusive rights allegedly infringed, or (2) how the individual was the author or otherwise the legal or beneficial owner of the exclusive rights at the time of the

infringement. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Access

Your claim does not provide facts about how respondent Hard Lens Media, Inc. had access to your works. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. You have included “[INFRINGING VIDEO - Exposed - Chicago Corner & Jerry Vasilatos.mp4](#)” as a supplementary document the content in the video indicates that you may have a preexisting relationship with respondent Hard Lens Media. However, there is no information in the “Describe the infringement” section of the claim that states how the respondent had access to your works.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include how your works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or was available to the respondent; or (c) are so strikingly similar to the respondent’s work that the respondent could not have created it independently. Alternatively, you can upload copies of your works and the allegedly infringing works if they demonstrate that the works are so strikingly similar that they could not have been created independently. You filed several videos as supplementary documents and labeled them as “original work” and “infringing video.” However, you have not provided enough information describing what clips or sections of the “original works” were allegedly infringed in the “infringing video.” 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.

Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work and the respondent’s allegedly infringing work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar.

Your claim states that your works are “Video Livestream Broadcast[s].” You separately filed several videos as supplementary documents and labeled them as “original work” and “infringing video.” However, you have not provided enough information describing what clips or sections of the “original works” were allegedly infringed in the “infringing video.” No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. As a result, the claim does not provide enough information to enable the respondent to understand the claim and respond to it. When you submit an amended claim, it must include additional allegations that support the element of substantial similarity. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work were taken by the respondent in the allegedly infringing work, this information should give time stamps or other detailed information that informs the

Board and the respondents where in each of respondent's videos your works appear, including which work appears where. 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. More information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Improper Claims — Relief

The Board is only authorized to resolve certain types of copyright disputes. Three particular kinds of claims are permitted:

- claims of copyright infringement;

- claims seeking a declaration that activity is not infringement; and

- claims about misrepresentations in connection with a takedown notice or counter-notice under the Digital Millennium Copyright Act (DMCA).

17 U.S.C. § 1504(c)(1)-(3). In the relief claim you state that you are seeking “Unauthorized Usage, Misrepresentation, Defamation, Slander, Disclosure of Private Information, Devaluation of I.P. Owner's and Managing Operator's Branding and Reputation.” These allegations do not appear to be about any kind of claim that the Board could hear. The most that respondents can be ordered to pay in damages (actual or statutory) in a Board proceeding is \$30,000. 17 U.S.C. § 1504(e)(1)(D). However, the maximum amount of statutory damages available from the Board is \$15,000 for each work that was infringed. 17 U.S.C. § 1504(e)(1)(A)(ii)(I). In addition, for any of your works that were (1) unpublished and the copyright was registered after the infringement started, or (2) published and the copyright was registered both after the infringement started and more than three months after the publication of your work, the maximum statutory damages is \$7,500 per work. 17 U.S.C. § 1504(e)(1)(A)(ii)(II); 17 U.S.C. § 412(1).

Please amend the “Description of harm suffered and relief sought” section of your claim to describe the financial harm or loss you are seeking, and how it relates to the copyright infringement identified in your claim.

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