



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0024

## United States Copyright Claims Board

OTTO Archive LLC

Butter Lutz Interiors, LLC

CLAIMANT

v.

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 **September 26, 2022**. If you do not, the Board must dismiss your claim without prejudice, although you may file again in the future before the CCB 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 extra 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.

#### Copyright Infringement Claim – Legal or Beneficial Ownership

Your claim includes unclear statements about the claimant's status as a legal or beneficial owner. 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 for which the claimant seeks damages, if any [.]" 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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

A claimant asserting an infringement claim who is not an author or named copyright owner in the registration of the allegedly infringed work must support the claimant's appropriate ownership of the copyright. If it is not readily apparent from supplemental materials submitted with the claim, you must provide some specific allegations about how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

When the claim was submitted, you certified that the claimant was the legal or beneficial owner of rights in the work identified in the infringement claim. However, when you listed the works allegedly infringed, you listed Björn Wallander as the author on each work. Björn Wallander is also the owner listed on the copyright registrations, with claimant simply listed as a contact for rights and permissions. In the "Describe the infringement" section of the claim, you further state that the respondent used the work without permission of the author (Björn Wallander). The claim further details in the "Description of harm suffered and relief sought" section that "the harm suffered is a loss of licensing fees to which the *author* was entitled" (emphasis added). You do state that "the author, Björn Wallander, is *represented* exclusively by Claimant, OTTO Archive, LLC, for the licensing of his photographs" (emphasis added), but you do not describe anywhere how claimant is the legal or beneficial owner of the copyright rights at issue in this claim.

To correct this issue, you must add facts to the "Describe the infringement" section of the claim that (1) explain the relationship between OTTO Archive, LLC and Björn Wallander and (2) detail how the OTTO Archive, LLC, obtained legal or beneficial ownership of each of the exclusive rights allegedly infringed in the "Wrongful activities" section of the claim, as opposed to simply being Björn Wallander's "representative."

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. 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.
4. 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 CCB is unable to provide legal advice. We can only provide legal information and assistance concerning CCB procedures and requirements. You may also refer to the [Compliance Review](#) chapter of the Copyright Claims Board Handbook for more assistance.

Copyright Claims Attorney

August 26, 2022

