



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0022

February 6, 2024

SKY TT CDs LLC, Malik j Haider

CLAIMANTS

v.

YouTube LLC

RESPONDENT

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 **March 7, 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—Respondent 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). Your claim is not compliant because it provides conflicting information about which entity or individual made a misrepresentation in a takedown notice or counter-notice to an online service provider. A misrepresentation claim must allege a misrepresentation made by the respondent. In your claim, you name YouTube LLC as the respondent; however, when asked to identify the sender of the counternotice you name “Naveed Afzal.”

If you believe that the named respondent (YouTube LLC) was responsible for *sending* the counter-notice, you may file an amended claim that includes factual allegations that explain in what way the named respondent made a misrepresentation.

If a different person, such as Naveed Afzal, made the misrepresentation, then YouTube LLC would not be a proper respondent. Additionally, the information in the claim indicates that you may not be able to assert a claim against Naveed Afzal, the individual who you allege sent the counternotice. In your claim, you give an address in Pakistan in the “Who sent the counter notice” field of the claim and attach a [counternotice](#) from YouTube that lists an address in Pakistan. The Board cannot hear a claim asserted against a person or entity residing outside the United States. 17 U.S.C. § 1504(d)(4). To correct this issue, you must remove YouTube LLC as a respondent and assert an amended misrepresentation claim against the proper respondent when you submit an amended claim. You should only amend your claim if the sender of the counternotice is an individual or entity residing in the United States. More information about the elements required to assert a claim of misrepresentation is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook.

Misrepresentation — Counternotice

Your claim also does not provide enough facts about the counternotice you received. Once the content is taken down by an online service provider, the person or company that posted the content may get it reposted by sending a counter-notice to the online service provider. Typically, the counter-notice states that the content was removed or disabled by mistake or misidentification and asks that the content be reposted. 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).

In your claim, you describe the content of the counternotice as “a dance performance video which we (SKYTTCDS LLC) Own, we (SKYTTCDS LLC) Owns exclusive rights to this content.” Your description of the content of the counternotice does not describe the complete content of the notice but instead describes the content of the video that was subject to the counternotice. If you file an amended claim, you should revise your response to the question in the claim form directing you to “Describe the content of the counter notice” by describing what the takedown notice said.

To support your claim of misrepresentation, you must provide additional allegations to show that the counternotice included a false or incorrect statement of fact “that material or activity is infringing” or “that material or activity was removed by mistake or misidentification,” and that shows or explains why the statement was false or incorrect. If you submit an amended claim, you must state allegations 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), and indicating what words were false or incorrect and how they were false or incorrect. If you file an amended claim, you should revise your response to the question in the claim form asking for the “Words that made up the misrepresentation and explanation of the misrepresentation” by actually stating what the misrepresentation in the counter notice was and explaining why it was a misrepresentation. You must also allege that the online service provided relied on a misrepresentation in the takedown notice and that you were harmed as a result. Typically, the harm suffered due to a representation in a takedown notice would occur because the online service provider has removed access to your material. See the CCB Handbook chapter on [Starting a Misrepresentation Claim](#) at p. 4 (“To win a misrepresentation claim, you must show that the misrepresentation was material enough to have caused the online service provider to remove or repost the work. A misrepresentation isn’t important or significant if the service provider wouldn’t have relied on it or used it as the basis to remove or repost the content in question.”)

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