



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0280

September 24, 2024

Hood Box Office

CLAIMANT

v.

Delondris Causey

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 **October 24, 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. More information is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

### Contact Information

In the “Respondent” section of the claim, you provide the same phone number, street address, and email address for the respondent that you list in the “Claimant” section for the claimant and its authorized representative. Those listings for the respondent appear incorrect, unless the claimant and respondent live together.

Your claim must include the respondent’s mailing address. 37 C.F.R. § 222.2(c)(6). If you file an amended claim, it must include a valid mailing address for the respondent. It cannot be the claimant’s address unless the amended claim states facts that explain why the parties have the same address. You may also provide an email address or phone number for the respondent in the claim form, but you must omit them from any amended claim unless you believe that they are accurate.

### Title

The claim must include the title of the allegedly infringed work. 37 C.F.R. § 222.2(c)(7)(ii)(A). You provide inconsistent information about the title of the work that you must clarify if you file an amended claim.

You list one work in the “Works infringed” section of the claim. You state the copyright has not been registered and you provide 1-14267158790 as the service request number of a Copyright Office application for registration. Where the claim form asks for the title, you state “motion picture audiovisual,” which seems to describe what type of work it is instead. In the “Describe the work” section, you state: “This video is an audiovisual recording created by me as part of the Hood Box Office content, titled ‘The Destruction of the Ladyboy Lover and His Personal Fluff Girls.’ It features original commentary, footage, and creative content.” However, that is simply a quote of the “Describe the work” section of one of your other pending claims against the same respondent (Claim No. 24-CCB-0275), so it is not clear that it describes the work at issue in this proceeding. Copyright Office records show that you listed the title of the work as “dopeman in the slums of cambodia” in the 1-14267158790 application.

If you file an amended claim, give the correct title of your work in the “Title of work” section.

### **Access**

Your claim does not provide facts that indicate how the respondent had access to your work. “Access” means a reasonable opportunity to view your work before the alleged infringement took place. You describe your work as an “Internet video,” but the claim does not specify anywhere that the video has been accessible to the respondent or the public at large.

To address this issue, you must add allegations that make access by the respondent a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include how your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the respondent; or (c) is so strikingly similar to the respondent’s work that they could not have been created independently. Alternatively, you can upload copies of your work and the allegedly infringing work if they demonstrate that the works are so strikingly similar that they could not have been created independently. If you include copies of the works as supplemental documents, they must be clearly labeled and identified so that they can be properly compared to each other.

### **Substantial Similarity**

Your copyright infringement claim does not include enough facts to indicate how the allegedly infringing work is substantially similar to original, expressive elements of your work that copyright protects. To address this issue, if you file an amended claim, you should include more information about your work, the allegedly infringing work, and how creative elements of the works are similar.

No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or how they may be identical or substantially similar. You state that “[t]he respondent uploaded a portion of a video I created, without my permission, to their YouTube channel,” but you do not state how much of your work, or which portions of your work, the respondent used, and you do not describe any elements of your work or the allegedly infringing work, or how they may be similar. In addition, you have not provided a copy of your work or the allegedly infringed work as supplemental documents. As a result, the claim does not provide

enough information to enable the respondent to understand the claim and respond to it.

If you submit an amended claim, it must include factual 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, or documents that are sufficient to show substantial similarity in material that copyright protects. For example, you may state the time stamps of the starting and ending points of the portion of your video that you allege the respondent uploaded to YouTube, and where that portion appears in the respondent's video. If you include copies of the works at issue as supplemental documents, then as discussed above, they must be clearly labeled and identified so they can be properly compared to each other.

### **Online Service Provider**

Under the CASE Act, when a claimant raises a copyright infringement claim against an online service provider (OSP) for storing, or referring or linking to, infringing material, the Board must find the claim noncompliant unless the claimant affirms that the claimant sent a takedown notice to the OSP as required by section 512 of the Copyright Act, and that the OSP failed to remove or disable access to the material expeditiously when it received the takedown notice. In this context, an OSP is a provider of online services to store (and make available), refer to, provide access to, or link to material that is available online and that was created by someone other than the OSP. OSPs include content-sharing websites and internet search engines, among other services. 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 section 512 of the Copyright Act requires for an infringement claim against an OSP.

In your responses to questions on the claim form, you allege that the respondent is an OSP; that you are bringing the claim against the respondent because he stored, referred, or linked to infringing material posted by others; and that you sent the respondent a takedown notice. However, you responded “No” to the question, “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?” Your claim is not compliant because you state that you are bringing the claim against the respondent based on his actions as an OSP, while you do not allege that the respondent failed to act promptly in response to a takedown notice. You can only bring an infringement claim against an OSP if the OSP failed to take down third-party material in response to a proper takedown notice.

Other factual allegations in your claim, however, suggest that the respondent did not act as an OSP in relation to infringing material posted by a third party. You allege: “The respondent uploaded a portion of a video I created, without my permission, to their YouTube channel.” That allegation indicate that the respondent personally posted the allegedly infringing material, while YouTube is the OSP that stored the material. If this is accurate, then you can make your claim compliant by answering “No” to the question of whether the respondent is an OSP.

To correct your noncompliant responses to the OSP questions in the claim form, you must provide different responses in an amended claim. If the respondent is not an OSP, as discussed above, then you must answer “No”

to the question “Are any of the respondents online service providers?” If the respondent is an OSP, and you seek to hold him directly liable for his own actions and not for failing to take down material posted by a third party, then you must answer “No” to the question “Are you bringing a claim against the online service provider due to their storage of or referral or linking to infringing material posted by others?” Finally, if you maintain that the respondent is an OSP, that you sent him a takedown notice, and that he did not promptly redress the third party’s infringement, then you must answer “Yes” to all four OSP questions, including “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?” and you must state facts supporting those allegations. Again, your current factual allegations do not portray the respondent as an OSP.

## Relief Sought

The “Description of harm suffered and relief sought” section of the claim includes inconsistent allegations about how many allegedly infringed works are at issue in this proceeding. You state that you have been harmed by the “unauthorized use of my photo and video by the respondent,” and that you are seeking “statutory damages for the unauthorized use of my works.” You have raised infringement claims against the same respondent in other proceedings, including Claim No. 24-CCB-0279, in which you allege infringement of a photograph. However, in this proceeding, a video is the only work listed in the “Works infringed” section. If this proceeding is only based on the alleged infringement of that video, then the “Description of harm suffered and relief sought” section of your amended claim must be clearly limited to seeking relief based on that work and no other works.

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](mailto: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.

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