



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0220
July 28, 2023

TheForexReview

CLAIMANT

v.

Cyber Intelligence Services LLC

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 **August 28, 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.

Noninfringement – Claim Clarity

A claim for a declaration of noninfringement asks the Board to find that your actions do not amount to an infringement of the respondent's copyrighted work. 17 U.S.C. § 1504(c)(2). If someone has accused you of infringing their copyright, a noninfringement claim requests an official declaration that you did not infringe. Your claim must identify:

- 1) the party that accused you of infringement,
- 2) the reasons why you believe there is a genuine dispute between you and the respondent,
- 3) a description of your allegedly infringing activity, and
- 4) the reasons why you believe no infringement occurred or will occur.

37 C.F.R. §§ 222.2(c)(8)(i) & (iii)-(v). Your noninfringement claim does not clearly state facts that meet those requirements. Your amended claim will need to address the issues identified below. You must provide enough information in your claim for the respondent to understand the claim and respond to it.

Respondent Clarity

In a noninfringement claim, you need to identify a respondent that has accused you of infringing your

copyright. In your claim, you name Cyber Intelligence Services LLC as the respondent. However, in the “Work(s) respondent says you have infringed” section of the claim, you list Werner Boehm as the party asserting infringement. The supplementary documents included with the claim appear to indicate that Werner Boehm may be the CEO of Cyber Intelligence Services LLC, but it is unclear which party has accused you of infringement. To correct this issue your amended claim must clarify the individual or entity that has accused you of infringement. If Werner Boehm made the accusation on behalf of respondent Cyber Intelligence Services LLC, you should make that clear in the description of the dispute.

Genuine Dispute

In a noninfringement claim, you need to prove there is a genuine dispute between you and the respondent about whether your activity is infringing. In your claim, you state, “[t]he complaint we copied - website tags (and is this a copyright breach?) - 2 website page content - 3 images;” however, you do not provide any information about a genuine dispute between you and the respondent. No facts in your claim explicitly state that the respondent has accused you of copyright infringement. You can show a genuine dispute exists if the respondent told you that you have committed copyright infringement of their work or if the respondent made accusations that have interfered with how you’re using their work or plan to use their work. To correct this issue, your amended claim must specifically describe an actual dispute between you and the respondent over whether your activities infringed the respondent’s copyright.

Allegedly Infringing Works and Activities

Your claim must also identify and detail what copyrightable works the respondent alleged you infringed and how the respondent has accused you of using them.

In your claim, you have listed several works in the “Work(s) respondent says you have infringed” section of the claim, but it is unclear whether the listed works and URLs identified in the claim are your works or the respondent’s works. It also appears that a number of the “works” listed may not be copyright protected works at all, as the titles identify the works as “tags” and the provided link goes to a series of blog posts that have been “tagged” with the same subject matter. In a declaration of noninfringement claim, this section of the claim should identify the copyright protected works the respondent says you have infringed. To correct this issue, please ensure that the respondent’s works are listed.

Further, you have not included any facts or details about how the respondent has accused you of violating one or more of their exclusive rights under copyright law. Exclusive rights are the rights given to the copyright owner by the law. These include the right to make copies, distribute, publicly perform or display, or make a “derivative work,” which is a work based on the original work. It is not clear whether the allegedly infringing activity takes place on fintelegam.com, and if so, how you were involved in creating and posting the material.

Based on a review of the supplementary documentation uploaded with the claim, it appears that on behalf of Cyber Intelligence Services LLC, Mr. Boehm may have submitted a counter notification to a takedown notice submitted under section 512 of the Copyright Act, 17 U.S.C. § 512 in order to prevent the removal of content

described in a takedown notice. The language in the supplementary documentation does not appear to accuse you of copyright infringement. Rather, it appears to assert that respondent has not engaged in copyright infringement.

To correct this issue, please include additional facts to the “Describe the allegedly infringing activity” section of the claim that specifically details what infringing activities the respondent has accused you of doing. More information is available in the [Starting a Noninfringement](#) chapter of the CCB Handbook.

Reasons Why No Infringement Occurred

Lastly, your claim must include a short description of why you believe copyright infringement did not occur. To address this issue, you must include specific about the facts that lead you to believe your activities did not infringe the respondent’s copyright. For example, you might state that no infringement occurred if (1) you have a valid defense to the respondent’s accusations of infringement, (2) you had permission to use the respondent’s work, or (3) the parts of respondent’s work you used are not protected by copyright law. More examples are available in the [Responding to an Infringement Claim](#) chapter of the CCB Handbook.

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