



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0243

October 25, 2024

Sean S. Remer

CLAIMANT

v.

Cabintek, LLC and Mark E. Willie

RESPONDENTS

## SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **November 25, 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

To make your second 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. For example, supplemental documents filed with your amended claim indicate that the individual respondent is named Mark Wille, not Mark Willie; you may correct that information in a second amended claim.

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.

### Statute of Limitations

Your copyright infringement claim cannot proceed based on allegations that show that you knew about all of the alleged infringing activities more than three years ago. Your amended claim appears to be based on allegations of infringement that you discovered more than five years ago. If you do not allege any infringing act that occurred or was discovered in the last three years, the claim will be barred by the statute of limitations.

A “statute of limitations” is a time limit set by law for starting a claim. The statute of limitations period for copyright claims, both in federal court and the Board, is three years after the claim “accrues.” 17 U.S.C. §§ 507(b) & 1504(b)(1). A claim for copyright infringement accrues when the infringing act occurs, or when the claimant discovers, or reasonably should have discovered, the infringement. *Starz Entertainment LLC v. MGM Domestic TV Distrib., LLC*, 39 F.4th 1236, 1239-41 (9th Cir. 2022); *Motorola Solutions, Inc. v. Hytera Communications Corp., Ltd.*, 108

F.4th 458, 479 (7th Cir. 2024). A proceeding before the Board cannot be commenced more than three years after the claim accrued. 17 U.S.C. § 1504(b)(1).

You allege that the respondents are infringing your copyright in two photographs that they received from you by email, and that their infringement began in 2017 and has continued to the present. Supplemental documents filed with your amended claim indicate that you exchanged emails with Mark Wille in 2018 and 2019, beginning at the latest on December 14, 2018, in which you asserted infringement of your photographs on the website tinylogcabin.com. As a result, your claims accrued no later than that date.

Based on those facts, it appears that you were aware of the respondents' allegedly infringing use of your photographs more than five years ago. You filed the original claim in this proceeding on August 21, 2024. Therefore, it appears that only allegedly infringing acts that took place on or after August 21, 2021, three years before the day that you filed the claim with the Board, would fall within the statute of limitations period.

Because it appears that you had known about the alleged infringing acts for more than three years, they cannot be the subject of this infringement claim unless you can show in a second amended claim that your allegations are based on new actions taken by the respondents within three years of your filing your original claim. A new infringing act would open a new three-year window for raising a claim, because the statute of limitations period "runs separately for each successive incident of infringement." *Starz*, 39 F.4th at 1241.

In your amended claim, you have not alleged any new infringing acts that took place or were discovered in the three years before you filed your claim. If you file a second amended claim, it must include facts about some infringing use of your work that occurred during, or that you did not discover (and reasonably should not have discovered) until, the three-year period before you filed the claim on August 21, 2024. Your second amended claim should only include an alleged infringer as a respondent if you state facts about such an infringing act by that respondent.

## Final Amendment

Your amended claim resolves the issues raised in the September 27, 2024 Order to Amend Noncompliant Claim. However, it raises additional compliance issues discussed in this order that must be resolved for the claim to move forward. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

To submit a second 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.

Copyright Claims Board