



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0277  
February 6, 2023

## United States Copyright Claims Board

Catalina Maria Jaramillo

CLAIMANT

v.

YouTube and Sebastian xibille

RESPONDENTS

### 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 **March 8, 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.

#### Respondent Address

Your claim lists two respondents in a single entry, YouTube and Sebastian xibille, but you are not permitted to combine them into one entry. When filing a claim against more than one respondent, you must add each respondent separately in the online claim form. You also do not provide Mr. Xibille's address. A claim must include each respondent's mailing address, unless the Board gives you permission to file it without the address after you certify that the address is unknown and that you have a good-faith belief that the statute of limitations is likely to expire within 30 days. [37 C.F.R. § 222.2\(c\)\(6\)](#). You have not been given permission to file a claim against Mr. Xibille without including his address. If you amend your claim, it must include a mailing address for each respondent. Mr. Xibille's address must be a United States address, as the Board may not hear claims against persons who reside outside the United States. 17 U.S.C. § 1504(d)(4). If you cannot provide a United States residence address for Mr. Xibille, you must not list him as a respondent in the amended claim.

## Copyright Infringement – Infringing Activity

You have brought a copyright infringement claim against two respondents. Your claim does not present enough factual allegations about either respondent's activities to support holding them liable for infringement.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, and to make a “derivative work,” which is a work based on the original work. Someone who takes part in one of those activities without the copyright owner's permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

You describe your allegedly infringed work as a video of an interview that you conducted, and had filmed, for purposes of your Ph. D. thesis. In the “Describe the infringement” section of the claim you allege that “the shooting team has illegally transferred the working materials” of the video to “third parties,” who edited the video and posted it on YouTube and Google without your permission. However, your claim does not clearly describe what wrongful activity you accuse either respondent of doing, whether either respondent is part of the shooting team, or if the respondents are the “third parties.”

Your claim does not show a basis for raising a claim against Mr. Xibille because it does not clearly state any allegations about him or his activities. In [a document](#) filed along with the claim, you appear to describe Mr. Xibille as the videographer who recorded the work. However, your claim does not state that Mr. Xibille conveyed the video materials to third parties, modified or posted the video without permission, or engaged in any other allegedly infringing activity.

## Copyright Infringement Claim – Online Service Provider

Your claim also does not show a basis for raising a claim against YouTube for acts infringing your copyright. Your allegations describe infringing activity by “third parties,” not listed as respondents to the claim, who used YouTube to post the modified video. By contrast, you do not describe any activity where YouTube used your work in a way that would violate any of your exclusive rights. Instead, you allege, “the infringement occurred when illegally modified video has been published [by third parties] on different channels online by means of the online service provider (YouTube and Google).” Contentions that third parties used YouTube to commit infringement, without more, would not make YouTube liable for infringement.

Other allegations in your claim indicate that YouTube cannot be liable for damages for the alleged third-party infringements because it complied with the “safe harbor” requirements in section 512 of the Copyright Act. Those “safe harbors” shield certain online service providers (“OSPs”) from paying damages for copyright infringement claims if, among other things, they take steps to quickly remove or disable access to infringing material when a copyright owner notifies them about infringement through a proper takedown notice. An infringement claim against an OSP eligible for a section 512 safe harbor cannot be compliant unless you affirm that you sent the OSP a section 512 notice of infringement, and that it “failed to remove or disable access to the material expeditiously upon the provision of such notice.” 17 U.S.C. § 1506(f)(1)(C)(i), [37 C.F.R. § 222.2\(c\)\(7\)\(iii\)\(G\)](#).

Your claim identified YouTube as an OSP and affirmed that you are bringing the claim “due to [YouTube’s] storage of or referral or linking to infringing material posted by others.” 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 YouTube based on its actions as an OSP, while you do not allege that it failed to act promptly in response to a takedown notice. You can only bring an infringement claim against an OSP if it failed to take down third-party material in response to a proper takedown notice. 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 is required for an infringement claim against an OSP protected by a section 512 safe harbor.

If you file an amended infringement claim against either respondent, you must include clear allegations that describe what their infringing acts were and specify how they engaged in the infringing activity. To proceed against Mr. Xibille, your amended claim must provide a United States address for him, and describe how he copied, distributed, or performed your work, or made a derivative work based on your work. To proceed against YouTube, your amended claim must describe how it actually engaged in infringing activities, or state facts supporting allegations that would make YouTube liable as an OSP despite the Section 512 safe harbor because of a failure to expeditiously remove or disable access to the infringing material after you sent a takedown notice.

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 supplementary 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 Attorney