



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0157
June 12, 2024

Sunghee Park

CLAIMANT

v.

Amazon.com Inc.

RESPONDENT

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 amended.

If you wish to proceed with this claim, you must file a second amended claim by **July 12, 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. 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.

Online Service Provider

Your infringement claim identifies the respondent Amazon.com Inc. (“Amazon”) as an online service provider (“OSP”) and asserts that you are bringing the claim against Amazon “due to their storage of or referral or linking to infringing material posted by others.” If the respondent is operating as an OSP, then under the CASE Act, the claim cannot be compliant unless you affirm that you sent the OSP a takedown notice and 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).

You do not provide that affirmation. Instead, in response to the question “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?” in the claim form, you answered “No.” In addition, in the “Describe the infringement” section of the amended claim, you state that on May 21, 2024, you discovered an Amazon seller listing that used your artwork without your permission and you sent a takedown notice to Amazon, which promptly removed the listing that same day. Your amended claim further

states that the seller sent a counter-notice to Amazon on May 24, 2024, and that the allegedly infringing “listing is back in public.” Your allegations about Amazon’s activities as an OSP do not overcome the “safe harbor” provisions in section 512 of the Copyright Act discussed in the June 3, 2024 noncompliance order. An OSP that removes allegedly infringing material in response to a takedown notice can still qualify for safe harbor under section 512 if it restores that material, within 10 to 14 business days after receiving a counter-notice. More information is available on the Copyright Office’s [section 512](#) page.

Amazon would not be protected by a section 512 safe harbor, and could be liable for infringement, if it restored the allegedly infringing listing after you gave it notice that you had filed this proceeding. However, you have not presented enough facts to indicate that that happened. You initiated this proceeding on May 24, 2024, which you state was the day that the seller sent Amazon the counter-notice, but your amended claim does not indicate that you informed Amazon about this proceeding, or when you did. In addition, although you state that the seller’s listing “is back in public,” it is not clear that Amazon restored it. Documents filed with your amended claim indicate that the Amazon Standard Identification Number (“ASIN”) for that listing was B0D2W3JPXB, while another document labeled [6_ScreencapAmazonListing.jpg](#), which appears to show a screenshot of an allegedly infringing Amazon page, shows an ASIN of B0D2W37G7D. These different ASINs indicate that there may have been more than one allegedly infringing listing. Your amended claim does not make clear if Amazon restored the listing or, for example, if the seller listed it again, or had several listings at once.

To address these issues in a second amended claim, you must state facts that identify Amazon (1) engaging in infringing activity on its own, not on the basis of infringing material posted on its website by others (and so not in its capacity as an OSP), or (2) failing to follow the safe harbor procedures for an OSP. If your second amended claim is against Amazon based on its activities as an OSP, you must state additional facts that would make it liable despite the section 512 safe harbors, for example, stating facts showing that Amazon (rather than the seller) relisted the removed listing despite receiving a timely notification from you that you had filed this proceeding.

Final Amendment

Your amended claim does not resolve the issues raised in the June 3, 2024 noncompliance order. **This is your third and final opportunity to submit a compliant claim. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

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