



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0263

August 9, 2023

Gulagkingpin and Paul Green

CLAIMANTS

v.

Jonathan Wilkins

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 **September 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.

Copyright Registration

The Board can only hear a copyright infringement claim if, *before* the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a). The claim must include the registration number and effective date of registration or, if the work has not yet been registered, the service request number for a pending application to register the copyright. 37 C.F.R. §§ 221.1(b) & 222.2(c)(7)(ii)(C)-(D).

The “Works infringed” section of your claim identifies the allegedly infringed work as a motion picture or audiovisual work titled “YouTube video,” states that the Copyright Office has not registered the work, and provides SR9826174567 as the service request number for an application for registration of the work. That is not a valid service request number. To address this issue, if you file an amended claim, you must include a valid registration number for the allegedly infringed work or a valid service request number for a pending application to register the work. The Board cannot hear this infringement claim unless the work was registered, or a complete application to register the copyright was submitted to the Copyright Office, before the claim was filed on August 7, 2023. If your

work was neither registered nor subject to a complete pending application at that time, this claim cannot be successfully amended and cannot proceed. Instead, you will have to refile your infringement claim as a new claim in a new proceeding after a complete application packet is filed. You should not submit a new claim until after you submit the application, deposit, and fee. For more information on registration, please refer to the [Copyright Office Registration Portal](#).

Because your copyright infringement claim is based on a work that does not appear to be covered by a registration or complete application for registration, we have not reviewed the remainder of your infringement claim to determine whether it complies in other respects with the legal and formal requirements for a claim before the Board. If you submit an amended claim that resolves the registration issues, the Board will engage in a full compliance review, so you should review the [CCB Handbook](#) and make sure the rest of your amended claim is compliant.

Misrepresentation – Elements

You are bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). That kind of misrepresentation has a very specific meaning under copyright law, which involves false statements made to an online service provider (OSP) related to a copyright-protected work posted online. Your claim must make enough factual allegations to support each “element” of the claim. The elements of a misrepresentation claim are:

1. The respondent sent an OSP either
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying infringement and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the OSP’s decision to take down or repost the content,
5. The OSP relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). The claim must describe the takedown notice and provide the words that you allege were a misrepresentation, and an explanation of the alleged misrepresentation. 37 C.F.R. §§ 222.2(c)(9)(iv), (vi)-(vii).

You state that you sent a takedown notice to YouTube on August 4, 2023, and that the respondent sent a counter-notice three days later. Your description of the content of the takedown notice is only “Videos,” and you state that the content of the counter-notice is: “Falsely appealing.” Your statement of the words that made up the misrepresentation, and explanation of the misrepresentation in the counter-notice, is: “User is falsely sending counter notifications to YouTube.” Those descriptions do not clearly state the facts of the alleged

misrepresentation. Without information about a specific statement in a counter-notice by the respondent that you contend was false or incorrect, your misrepresentation claim cannot proceed.

If you maintain the misrepresentation claim in an amended claim, you must provide additional facts to show what the takedown notice and counter-notice said, indicating what words in the counter-notice were false or incorrect and clearly describing how and why those words were false or incorrect.

After filing the claim, you separately uploaded additional documents that appear to be screenshots of the [counter-notice](#) and of a [message](#) from YouTube. These filings will not be reviewed by the Board or considered a part of your claim unless you upload them with your amended claim using the instructions below. Please make sure that any attachments to your amended claim are relevant to the claim.

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.