



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0387

January 8, 2025

Kouwai Gbah

CLAIMANT

v.

Julis S Mccoy

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **February 7, 2025**. 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. 17 U.S.C. § 1506(f)(1)(B). However, you should not submit an amended misrepresentation claim if you know that it cannot be properly amended.

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.

Allegedly Infringed Work – Clarity

You are bringing a claim of copyright infringement. You list two allegedly infringed videos, titled “Zola Stone’s Topless Bomb Onlyfans Video” and “Pop The Balloon or Find Love... (My Follow Up!!!),” in a single entry in the “Works infringed” section of the claim. For clarity, if you file an amended claim, please list each allegedly infringed video separately in its own entry in that section, including all specified information requested about each video in its own entry.

You also allege that the respondent “shares some of our text messages” by showing them in a YouTube video. You do not identify a registration or pending application for registration of copyright for those messages. Please note that this proceeding cannot be based on a claim of infringement of those text messages, unless you had obtained or applied for a copyright registration for those messages before filing this claim.

Online Service Provider

Your infringement claim also includes allegations identifying the respondent as an “online service provider” (OSP) that do not appear to be correct.

Under the CASE Act, when a claimant raises a copyright infringement claim against an OSP for storing, or referring or linking to, infringing material, the Board must find the claim noncompliant unless the claimant affirms that the claimant sent a takedown notice to the OSP as required by section 512 of the Copyright Act, and that the OSP failed to remove or disable access to the material expeditiously when it received the takedown notice. In this context, an OSP is a provider of online services to store (and make available), refer to, provide access to, or link to material that is available online and that was created by someone other than the OSP. Please visit the [section 512](#) page and pages 18-19 of the chapter on [Starting an Infringement Claim](#) in the CCB Handbook for additional information about what section 512 requires for an infringement claim against an OSP.

In your responses to questions on the claim form, you allege that the respondent is an OSP; that you are bringing the claim against the respondent because he stored, referred, or linked to infringing material posted by others; and that you sent the respondent a takedown notice. 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 the respondent based on his actions as an OSP, while you do not allege that he failed to act promptly in response to a takedown notice. You can only bring an infringement claim against an OSP if the OSP failed to take down third-party material in response to a proper takedown notice.

Other information in your amended claim, however, suggests that the respondent did not act as an OSP in relation to infringing material posted by a third party. It appears that you sent YouTube a takedown notice and the respondent sent a counter-notice to YouTube. That indicates that the respondent personally posted the allegedly infringing material, while YouTube is the OSP that stored the material. If this is accurate, then you can make your amended claim compliant by answering “No” to the question of whether the respondent is an OSP.

To correct your noncompliant responses to the OSP questions in the claim form, you must provide different responses in an amended claim. If the respondent is not an OSP, as discussed above, then you must answer “No” to the question “Are any of the respondents online service providers?” If the respondent is an OSP, and you seek to hold him directly liable for his own actions and not for failing to take down material posted by a third party, then you must answer “No” to the question “Are you bringing a claim against the online service provider due to their storage of or referral or linking to infringing material posted by others?” Finally, if you maintain that the respondent is an OSP, that you sent him a takedown notice, and that he did not promptly redress the third party’s infringement, then you must answer “Yes” to all four OSP questions, including “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?,” and you must state facts supporting those allegations. Again, your current factual allegations do not portray the respondent as an OSP.

Misrepresentation

You are also bringing a claim of misrepresentation in connection with a 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 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 misrepresentation that apply to your claim are:

1. The respondent sent an OSP a counter-notice, denying the claim of infringement in a takedown notice, 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 counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the OSP’s decision to restore the content, and
5. You were harmed as a result of the OSP’s decision to repost the content.

17 U.S.C. § 512(f). The information provided in your claim indicates that the alleged misrepresentation could not have been a factor in any decision by the OSP to repost the content because the OSP had not reposted the material at issue at the time you filed your claim.

You state that you sent a takedown notice to YouTube (the OSP) on December 4, 2024, requesting removal of two videos on the respondent’s channel, and that YouTube removed the videos: “I was able to get both videos taken down from YouTube due to copyright infringement, online harassment, revenge porn & blackmail.” You also state that the respondent sent a counter-notice to YouTube on December 12, 2024. You filed this claim before the Board three days later, on December 15, 2024. The proximity of these dates, and your allegation that the respondent “has 4 copyright strikes on YouTube,” suggest that YouTube may not have reinstated the material at the time you filed your claim, and there is no allegation in your claim that YouTube did repost the content.

If YouTube had restored the allegedly infringing videos before you filed this claim on December 15, 2024, your amended claim must state facts about that restoration. However, if the respondent’s videos had not been restored in reliance on his counter-notice by that date, this misrepresentation claim cannot move forward, and you must omit the misrepresentation claim from any amended claim that you choose to submit.

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.

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