



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0198
October 18, 2023

CHD Design groups Inc

CLAIMANT

v.

Hank Chang

RESPONDENT

ORDER DISMISSING CLAIM WITHOUT PREJUDICE

Claimant CHD Design groups Inc initiated this proceeding against the respondent on June 8, 2023. On July 20, 2023, the Copyright Claims Board (Board) issued a noncompliance order that notified the claimant that the claim did not comply with the applicable statutory and regulatory requirements for filings before the Board. 37 C.F.R. § 224.1(C)(2). Claimant submitted an amended claim on August 11, 2023. The Board again found it noncompliant and issued a second noncompliance order on September 14, 2023 (September 14 Order).

On October 11, 2023, claimant submitted a second amended claim (Second Amended Claim), which was its final opportunity to submit a compliant claim. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

A Copyright Claims Attorney reviewed the Second Amended Claim and concluded that, although the claim addressed the issues in the September 14 Order, it introduced new facts that render the claim noncompliant. The Second Amended Claim elaborated that the respondent copied, distributed, and adapted the claimant's work in 2017. A proceeding before the Board cannot be commenced more than three years after the claim accrued. 17 U.S.C. § 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). The Second Amended Claim does not indicate when the claimant discovered the infringement. Accordingly, since the claim states that the infringing act occurred before June 8, 2020, which is three years before the claim was filed, the claim falls outside of the statute of limitations and is noncompliant.

The Copyright Claims Attorney referred the claim to a Copyright Claims Officer to confirm that it does not comply with the applicable requirements and that this proceeding should, therefore, be dismissed without prejudice. 17 U.S.C. § 1506(f)(1)(B). The Copyright Claims Officer reviewed the Second Amended Claim and concurs with the finding of noncompliance. The Officer notes, however, that the claimant may refile its claim if the claimant includes information about whether it discovered the infringement within three years of filing its refiled claim.

Accordingly, the Board dismisses this proceeding without prejudice and closes this case. Dismissal without prejudice means that claimant may raise the allegations again by filing a new claim.