



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0050

March 27, 2024

Believe In Gold Data Technology Group Co., Ltd.

CLAIMANT

v. Guangzhou donghu dianzi shangwu youxiangongsi,
Yijiang Qunan Jiaju Huizhou Youxian Gongs

RESPONDENTS

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **April 26, 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 amended 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 Information

In the Board's March 7, 2024, Order to Amend Noncompliant claim the Board identified an issue with the address provided for the respondents and noted that "[t]his address appears to be an Amazon warehouse." Additionally, the Board requested that you "include additional information to clarify this discrepancy, such as information verifying the California address for the actual respondent, or other information describing or showing that the respondent resides in the United States." In your amended claim, you have amended the mailing address for each respondent. However, because of the original discrepancy, the Board will require you to specifically provide information in any amended claim explaining how you have determined that the respondents actually reside at the newly provided address. In your second amended claim, you must therefore provide additional information or records showing how you know that the respondents reside in the United States addresses you have provided.

Respondent Clarity

The Board can only hear claims asserted against multiple respondents if all claims in the proceeding “arise out of the same allegedly infringing activity or continuous course of infringing activities[.]” 17 U.S.C. § 1504(c)(6). Your claim discusses the acts of each respondent separately. Nowhere in your claim do you allege that all respondents acted *together* or that your claims all arise out of the same infringing activity or activities. In the describe “Where the alleged infringing acts occurred” and “Describe the infringement” sections of the claim you discuss the actions of each respondent separately.

To address this issue, your amended claim must either be raised against only one respondent (or set of respondents, if you allege that they acted together in the same course of conduct) or must include facts that indicate that the respondents jointly engaged in the same allegedly infringing activities or were parts of a chain of one continuous course of infringing activities. Furthermore, you list the alleged infringers as Misimisi and Art and Piece, but do not make clear how those names refer to the respondents. Please note that the Board cannot review material in links, so if you want the Board to review supplemental materials, they must be attached to the amended claim.

Copyright Infringement—Elements

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. Information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook. The elements of a copyright infringement claim are:

1. You own a valid copyright in the work, or have been given an exclusive license to the copyright rights at issue in the work,
2. The respondent used one of your exclusive rights in the work without permission,
3. The respondent had access to your work, meaning a reasonable opportunity to view or hear your work, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

Your claim does not provide enough facts about the ownership of the work and the infringing activities of each respondent. Please provide more details and background regarding this element in your amended claim.

Legal or Beneficial Ownership

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner of the allegedly infringed work. To bring a copyright infringement claim before the Board, the claimant must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work.

The claim does not present facts that indicate that “Believe In Gold Data Technology Group Co., Ltd.” is a

proper claimant. A Board search of Copyright Office records shows that Jin Xin is listed as the author and copyright claimant of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

To correct this issue, your amended claim must include specific allegations about how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining how the claimant was the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between Believe In Gold Data Technology Group and Jin Xin or state how the claimant obtained legal or beneficial ownership of copyright in the works. If the information in the claim identifying the claimant or the authors of the work is inaccurate, you may correct that information in an amended claim. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Infringing Activity

Your claim also does not present enough facts to clearly state how each respondent used any exclusive rights you have in each allegedly infringed work without permission. Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly display the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. Claimants are allowed to bring claims involving multiple works as long as the alleged infringement was part of the same allegedly infringing activity or continuing course of infringing activity. 17 U.S.C. § 1504(c)(6). More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

You have brought a claim alleging that two respondents separately infringed two different works. As noted above, it is unclear if you are permitted to bring a claim which includes both of these works and both of these respondents in the same proceeding. Your submissions do not provide a basis to hold each respondent liable for infringement of each work.

If you submit an amended claim, you must more fully explain how each respondent infringed each of your allegedly infringed works. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe (1) acts infringing your copyrights in each work, specifying the infringing works and how the respondents engaged in the infringing activity, and (2) the infringing acts of each respondent, specifying the allegedly infringed and infringing works for each respondent. You should be as detailed as possible, setting forth what each respondent did in relation to each work you allege was infringed. If you cannot state facts to support an infringement claim about any particular works, or against any named respondents, you must omit them in the amended claim.

Final Amendment

Your amended claim resolved some, but not all, of the compliance issues raised in the March 7, 2024, Order to Amend Noncompliant Claim. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

To submit a second 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