



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0312

October 26, 2023

Todd Deetsch

CLAIMANT

v.

Lumia Products Co LLC; Peter Lei

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 properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **November 27, 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. 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.

Claim Form

The Board claim form is a standardized form, available on [eCCB](#), where claimants must enter all relevant allegations. 37 C.F.R. § 222.2(a)(1). Allegations in support of the claim must be made through the standard form. You submitted, as supplemental material, a document titled “[2023TD004 Amended Complaint.pdf](#)” (Amended Complaint), which appears to be patterned on a complaint that might be filed in federal court. Such an Amended Complaint is not an acceptable way to submit a claim before the Board.

In your claim, you direct the reader to “see attached ‘Amended Complaint’ PDF for extensive details supporting Plaintiff’s case of copyright infringement.” This is not sufficient. You need to include the factual allegations related to your claim of infringement in the claim form itself, such as your allegations of access, substantial similarity, and infringing activity. Supplemental documents are appropriate for providing well-labeled screenshots, comparisons, and documentary evidence that you wish to provide the respondent when you formally serve them. While allegations may be contained in supplementary documents, they cannot be styled in the form of a federal complaint,

and they may only supplement the necessary allegations contained in the claim. If you are providing labeled copies of your works and the respondent's works, you do not need to provide written descriptions.

Infringed Works

To bring an infringement claim, you must provide for each work at issue in the claim the title, author, registration, and work of authorship category. 37 C.F.R. § 222.2(c)(7). In your claim form, you list a work title “Pictures of Pillow Demonstrations” and registration number VA0002336014. A review of Copyright Office records shows that this registration corresponds to a group registration of four unpublished photographs. It appears from your claim that you are alleging that the respondent infringed multiple images within the group registration; however, in your damages section of the Amended Complaint, you refer to “3 works.” Please clarify which works are subject to your claim by listing each one separately. If you are alleging more than one photo has been infringed you should provide the title, author, registration number (which presumably will be the same number for each photograph), and work of authorship category for each photograph that is involved in the claim. You may want to use the title list that you provided with your group registration application to find and include the title of each work infringed.

Respondent Clarity – Peter Lei

In its prior [noncompliance order](#), the Board stated that your claim “may be barred based on allegations that show you knew about all of the alleged infringing activities more than three years ago, and there is a lack of clarity about whether the infringing activity is continuing or when it ended.” In your amended claim, you provide additional information about allegedly infringing activity on the part of Lumia Products Co LLC continuing until at least 2022. These allegations resolve the statute of limitations compliance issue as to Lumia Products. As to Peter Lei, however, your claim may still be barred based on the statute of limitations. In the amended claim, you alleged that Lei sold infringing products prior to the incorporation of Lumia Products in August 2018. You do not, however, allege any ongoing infringing activity by Lei after August 2018, and you do not indicate that you discovered Lei's alleged infringement within three years of filing your claim. When you submit an amended claim, you will need to either remove Lei as a respondent in this action or provide additional allegations that show how Lei may be held personally liable for infringing activity within the statute of limitations.

Final Amendment

Your amended claim resolved some, but not all, of the compliance issues raised in the September 29, 2023, 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