



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0040

March 10, 2023

Gan Shu, Shenzhiyishoumaoyishenzhenyouxiangongsi

CLAIMANT

v.

jinhuashixichunzhizhipinyouxiangongsi

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 **April 10, 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.

Foreign Respondent

The Board cannot hear a claim asserted against a person or entity residing outside the United States. 17 U.S.C. § 1504(d)(4). Your claim includes conflicting information about the address for the respondent. In the claim form, for you entered an “Industry, CA” address (the same address that you entered for a different respondent in another proceeding, *Shenzhiyishoumaoyishenzhenyouxiangongsi, et al v. guang zhong shi bo qing bo mao yi you xian gong si*, No. 23-CCB-0065) for the respondent. However, a [supplementary document](#) included with the materials has “Detailed Seller Information,” which lists an address in “Zhejiangsheng, China.” This indicates that the Board may not be able hear the claim. In your amended claim, please include additional information in the “Describe the infringement” section of the claim detailing why you believe the respondent to be a U.S. resident and that the address supplied is correct. If the address that you provided in the claim form is incorrect *and* the entity resides in the United States, then you should also correct the address in the “Respondent” section. If the address in the claim form is incorrect and the respondent resides in China, the Board cannot hear the claim and you should withdraw your claim.

Copyright Infringement Claim – Online Service Provider

In your responses to questions on the claim form, you allege that the **respondent** is an online service

provider and that you sent the respondent a takedown notice to take down third-party material. Online service providers include content-sharing websites and internet search engines, among other services. The factual allegations in your claim, however, suggest that the respondent ***did not*** act as an online service provider in relation to infringing material posted by a third party. As further detailed below, you can address this issue in your amended claim by answering “No” to the question in the form “Are any of the respondents online service providers?”

Under the CASE Act, when a claimant raises a copyright infringement claim against an online service provider for storing, or referring or linking to, infringing material, the Board must find the claim noncompliant unless the claimant affirms that:

1. the claimant sent a takedown notice to the service provider as required by section 512 of the Copyright Act, and
2. “the service provider failed to remove or disable access to the material expeditiously” when it received the takedown notice.

17 U.S.C. § 1506(f)(1)(C)(i); 37 C.F.R. § 222.2(c)(7)(iii)(G). In this context, an “online service provider” is a provider of online services to store (and make available), refer to, provide access to, or link to material that is available online. Please visit the section 512 page and the discussion at pages 18-19 of the chapter on [Starting an Infringement Claim](#) in the CCB Handbook for additional information about what section 512 of the Copyright Act requires for an infringement claim against an online service provider.

In your responses to questions on the claim form, you allege that the respondent is an online service provider; that you are bringing the claim against the respondent because they 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 online service provider, while you do not allege that the respondent failed to act promptly in response to a takedown notice. The factual allegations in your claim, however, suggest that it is likely that your error was caused by answering “yes” to whether the respondent acted as an online service provider in relation to infringing material posted by a third party.

In your claim, you allege that the respondent “jinhua shixichunzhizhipinyouxiangongsi” is publicly displaying and reproducing your work and that “The product (ASIN-B0BJQGNS89) sold online in the above Amazon store plagiarized our product pattern design ideas, see below for details.” This indicates that your allegations are that the respondent *personally* posted the allegedly infringing material, while Amazon is the online service provider that stored the material.

If the Board’s summary above is correct, as mentioned above, to address this issue in an amended claim, you must provide different responses to the questions about online service providers in the claim form. If you seek

to hold the respondent directly liable for their alleged display and reproduction of the construction element paper plates on Amazon, then you must answer “No” to either “Are any of the respondents online service providers?” If, in the alternative, you maintain that the respondent is acting as an “online service provider,” and you sent the respondent a takedown notice and that he did not promptly redress the infringement you identified of a third party, then you must answer “Yes” to the question “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.

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 supplementary 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