



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0070

United States Copyright Claims Board

Oliver D Finnigan 3

CLAIMANT

v.

Greg Boehm and Mudpuddle Books

RESPONDENTS

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 **November 7, 2022**. 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 extra filing fee for an amended claim. [17 U.S.C. § 1506\(f\)\(1\)\(B\)](#).

To make your amended claim compliant, you must resolve the issue 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.

Issue – Permissible Claim

The Board is only authorized to resolve certain types of copyright disputes. Three particular kinds of claims are permitted:

1. claims of copyright infringement;
2. claims seeking a declaration that activity is not infringement; and
3. claims about misrepresentations in connection with a takedown notice or counter-notice under the Digital Millennium Copyright Act.

17 U.S.C. § 1504(c)(1)-(3). The Board cannot consider claims for breach of contract. 17 U.S.C. § 1504(d)(1).

You checked the box stating your claim was one of copyright infringement. However, the facts described in the “Describe the infringement” section of the claim appear to describe a breach of contract dispute, not a copyright infringement dispute.

Violation of a term in a copyright license can result in an infringement claim only if the respondents used your work outside of what you gave them permission to do. Alternatively, a copyright infringement claim can arise if (1) the agreement was terminated, but the respondent continued to use your work in an unlawful way or (2) the copyright license depended on what is known as a “condition precedent” in the agreement, and the respondent failed to satisfy it.

A “condition precedent” is an obligation that the respondent must do or a requirement that must happen in order for the respondent to use the work. A failure to fulfill terms in an existing contract, such as failure to make payment, is considered a breach of contract—and does not give rise to a copyright infringement claim—unless the contract made payment a “condition precedent” to the copyright license by clearly stating that permission to use the work is not effective unless payment is received.

In your claim, you state that a signed 2010 agreement between you and the respondents authorized them to publish your work “The Joy of Juggling” in juggling kits in exchange for royalty payments, and you indicate that the agreement is still in effect. You allege that the respondent Mudpuddle Books continues to sell the work “The Joy of Juggling” with its juggling kits, but that it stopped making payments in 2013, violating one of the terms of the agreement. Those allegations appear to be consistent with a breach of contract claim, not a copyright infringement claim.

The Board may be able to hear your claim if you can amend it to state facts that identify how the respondents (1) used your work unlawfully outside of what you gave them permission to do, (2) continued to use your work after you affirmatively terminated the agreement, or after it expired, or (3) failed to satisfy a condition precedent in your agreement, such that they did not actually have the right to use your work. You may also choose to include the 2010 agreement, or correspondence that plays a significant role in your allegations, as supplemental documentation in support of your claim.

Please review the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear. You should only file an amended claim if you believe you actually have a claim that can be heard by the Board. For more information about what is required to support a claim of infringement, noninfringement, or misrepresentation please refer to the CCB Handbook:

- [Starting an Infringement Claim](#)
- [Starting a Noninfringement Claim](#)
- [Starting a Misrepresentation Claim](#)

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 your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page. Please include only documents that are directly related to your claim.
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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney
October 6, 2022