



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0227
August 9, 2024

Cynthia Quiles

CLAIMANT

v.

John Quigley

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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, **and you should not submit an amended misrepresentation claim, but instead should remove the misrepresentation claim if you know it cannot be properly amended.**

If you wish to proceed with this claim, you must file an amended claim by **September 9, 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. 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 be able to 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. Your infringement claim as currently drafted appears to be compliant, so if you cannot properly amend the misrepresentation claim, you should remove that claim, because if you submit the infringement claim and only the infringement claim as it is currently drafted, the claim will likely be found compliant.

Misrepresentation Claim – Reliance by Online Service Provider

You are bringing both a claim of copyright infringement and a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). That kind of misrepresentation has a very specific meaning under copyright law, which involves false statements made to an online service provider (OSP) related to a copyright-protected work posted online. Your claim must make enough factual allegations to support each “element” of the claims. The elements of misrepresentation that apply to your claim are:

1. The respondent sent an OSP a counter-notice denying the claim of infringement in a takedown notice, and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the counter-notice,

3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the OSP's decision to repost the content, and
5. You were harmed as a result.

17 U.S.C. § 512(f). "Safe harbor" provisions in section 512 of the Copyright Act protect certain OSPs from paying damages for infringement claims if they restore allegedly infringing material, not less than ten or more than fourteen business days after receiving a proper counter-notice, unless they first receive notice of an infringement claim filed against the alleged infringer in court or before the Board. More information is available on the Copyright Office's [section 512](#) page.

A misrepresentation in a counter-notice only violates section 512 if the OSP relies on it to restore the allegedly infringing content. Information provided in your claim indicates that the alleged misrepresentation could not have been a factor in any decision by the OSP to repost the content because the OSP had not reposted the material at issue at the time you filed your claim. Your claim indicates that you sent takedown notices to YouTube (the OSP) on July 31, 2024, and that it received counter-notices sent by the respondent on August 2, 2024. You filed this claim on August 4, 2024. The proximity of the latter two dates suggests that the OSP had not reinstated the material at the time you filed your claim, and there is no allegation in your claim that the OSP did restore it. Instead, supplemental documents show that YouTube told you, on August 2, 2024 that the material might be reinstated after ten business days if you did not notify YouTube of a legal claim you have brought against the alleged infringer: "You have 10 US business days to reply to this counter notification. . . . After 10 US business days, if we don't get a response from you, the content at issue may be reinstated to YouTube."

If YouTube had restored the allegedly infringing material by the time you filed this claim on August 4, 2024, your amended claim must state facts about that restoration. However, if YouTube had not restored the allegedly infringing material in reliance on the counter-notices, this misrepresentation claim cannot move forward and you could only pursue your infringement claim if you file an amended claim that omits the misrepresentation claim.

In addition, in the "Words that made up the misrepresentation and explanation of the misrepresentation" section of the claim, you included what appears to be the respondent's street address, email address, and telephone number. If you file an amended claim, you should only provide such personally identifying information about the respondent in the "Respondent" information section of the claim, which is not publicly available.

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 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