



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0068

March 19, 2024

James A Colwell

CLAIMANT

v.

Sean Seidel

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 18, 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 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.

### Misrepresentation — Elements

You are bringing 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 related to a copyright-protected work posted online. Your claim must make enough factual allegations to support each “element” of the claim. The elements of a misrepresentation claim are that:

1. The respondent sent an online service provider either
  - a. a takedown notice claiming online content or activity was infringing, or
  - b. a counter-notice denying infringement 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 takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the online service provider’s decision to take down or repost the

content,

5. The online service provider relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). Your claim does not describe your takedown notice in relation to anything regarding copyright, does not detail a misrepresentation in a counternotice, and asks for relief that the Board cannot grant. More information is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook.

### **Content of Takedown Notice**

To support your claim of misrepresentation, you must provide additional facts about your takedown notice. The DMCA notice and takedown process allows copyright holders to get user-uploaded material that infringes their copyrights taken down from certain websites. A copyright owner can provide a takedown notice to an online service provider, notifying them that someone posted infringing content on the service provider's system or network and demanding it be taken down.

In your claim, you describe your takedown notice as "Copyright: Registration Number PAu 4-213-935. A 1 hour and thirteen-minute segment from my Twitch Stream channel that was uploaded to my Youtube channel." Your description of the content of the takedown characterizes the content of the video but does not describe your takedown notice or its relationship to copyright infringement, as required under Section 512.

To correct this issue, you must describe the content of your takedown notice(s) including generally the information you gave the online service provider as well as a description of the allegedly infringing content that you requested be removed, and you should include the date the takedown notice(s) were sent. You may also attach the copyright takedown notice you sent YouTube to your claim.

### **Misrepresentation — Clarity**

Your claim also does not provide enough facts about the counternotice you received. Once the content is taken down by an online service provider, the person or company that posted the content may get it reposted by sending a counternotice to the online service provider. In your claim, you state that the counternotice "Targeted Ad Hominem and Personal Attacks at my channel made by Sean Seidel simply to fill out the Youtube counter claim form to insult me." Typically, if the material was taken down due to an infringement claim in the takedown notice, the counternotice states that the takedown notice was incorrect such that the content was removed or disabled by mistake or misidentification and asks that the content be reposted. To violate section 512(f), a statement in a takedown notice or counternotice must misrepresent "that material or activity is infringing, or . . . that material or activity was removed or disabled by mistake or misidentification." 17 U.S.C. § 512(f)(1)-(2).

Additionally, you state that the describe the misrepresentation as "Sean Seidel claimed that he could use my content on his channel as he cited my video as it was intended to 'harass other content creators.' He gave a false statement purported as fact in his two counter claims while using my registered copyright in two uploads on his youtube channel, an upload on Twitter, and an upload on Rumble."

If the misrepresentation made by the respondent is based on a counternotice that denies infringement, your claim must include some detail as to why there was an infringement in the “explanation of the misrepresentation” section of your claim. Copyright infringement occurs when a copyrighted work is reproduced, distributed, publicly performed or displayed, or made into a derivative work without permission of the copyright owner, if the use does not qualify for an exception, such as fair use.

To correct this issue, you must provide additional facts to explain what work the respondent infringed and how it was infringed. You must describe your work or the allegedly infringing work, and state or show how they are identical or substantially similar. In part because hyperlinks can lead to material that is no longer available online, the Board will not take into account material that is solely referred to in a hyperlink and not uploaded as supplemental documentation. Furthermore, the Board will only take into account material attached to the claim (which you should clearly label). If you file an amended claim, you should not expect that the Board will take separate filings into account when deciding whether your amended claim is compliant.

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](mailto: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