



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0218  
August 5, 2024

Johnny Threads Inc., Michael Wodeyla

CLAIMANTS

v.

Heather Firca D/B/A MilMie Designs

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.

If you wish to proceed with this claim, you must file an amended claim by **September 4, 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.

### Claimant Representation

Each of the claimants has listed a representative; however, it appears that one of the listed representatives cannot represent the individual claimant.

The claim was filed by Kate Moberg who has registered for eCCB as a "Self-Represented Party." However, in the claim form Kate Moberg is listed as the representative for "Michael Wodeyla," an individual. While a self-represented claimant may be given permission by other claimants to file the claim on their behalf, each individual claimant needs to represent themselves or have an attorney or law student represent them for the rest of the proceedings. Furthermore, it is not clear how Kate Moberg is involved with Johnny Threads Inc.. Businesses and organizations that participate in CCB proceedings may also be represented by an in-house counsel, owner, member, partner, officer, or other authorized employee.

Accordingly, if Kate Moberg is not an attorney, they are not eligible to represent Michael Wodeyla. In your amended claim, you will need to correct the authorized representative information for Michael Wodeyla. Moreover, if Kate Moberg is an in-house counsel, owner, member, partner, officer or other authorized employee of Johnny Threads you Kate Moberg will need to change their "User Type" in the eCCB User Settings to indicate that Kate

Moberg is authorized to file the claim. Additional information is available in the [Representation Chapter](#) of the CCB Handbook.

### **Multiple Claimants — 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 provide enough information about how each claimant was harmed by the misrepresentation and does not include enough information about the alleged misrepresentation by the respondent.

### **Claimant Harm**

A DMCA misrepresentation must have caused some provable harm (“injury”) or damage to you, such as a financial loss. In your claim, you have listed two claimants but do not include any additional information describing how each claimant was harmed by the alleged misrepresentation. It appears from the contact information included in the claim that Michael Wodeyla (“Wodeyla”) may be an owner or employee of Johnny Threads Inc. Even though Wodeyla may be the owner of Johnny Threads Inc., the law considers corporations to be separate legal entities from the individuals who own them. Accordingly, you must detail how Johnny Threads and Michael Wodeyla were harmed independently. Because the claim does not include enough information about how each claimant was harmed, your claim may not proceed. To correct this issue, you can either (1) amend the claim to name only Johnny Threads Inc. as the claimant or (2) provide additional information about how each claimant was individually harmed by the alleged misrepresentation.

## Words that Made Up the Misrepresentation—Clarity

To violate section 512(f), a statement 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). To support your claim of misrepresentation, you must provide additional facts to show that the takedown notice included a false or incorrect statement of fact “that material or activity is infringing” and that shows or explains why the statement was false or incorrect.

In your claim, you state “[d]espite not owning a copyright for the design as described in 313.4(c), Heather Firca filed a DMCA takedown with Etsy on June 23, 2024, claiming ownership.” It is unclear why you believe that the design is either not *eligible* for copyright registration (an actual registration is not necessary for a takedown notice) or why respondent does not own the copyright in the particular design in question. Your amended claim should include additional information on this topic.

If you submit an amended claim, you must state facts in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by the respondent that would violate section 512(f), and indicating what words were false or incorrect and how they were false or incorrect.

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