



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0317
December 10, 2024

Jordan McFadden

CLAIMANT

v.

James Colwell

RESPONDENT

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **January 9, 2025**. 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

To make your second 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.

Relief Sought

Your copyright infringement claim must describe the harm that you have suffered as a result of the alleged infringement and the relief you are seeking. 37 C.F.R. § 222.2(c)(10). The Board can grant only certain types of relief. If you seek damages for your infringement claim, you can seek either (1) actual damages and the profits of the infringer attributable to the infringement, or (2) statutory damages. *Actual damages* are money damages awarded based on the proven harm or loss you suffered. 17 U.S.C. § 1504(e)(1)(A). An example of actual damages may be the amount of lost sales revenue or licensing fees you experienced that are attributable to the infringement. An award can also include any additional profits the respondent made from the infringement. *Statutory damages* are money damages awarded to a successful claimant that the Board considers “just” within a range set by law, without a need to provide proof of the actual amount of harm or loss.

The harms alleged in the “Description of harm suffered and relief sought” section of your claim would not be the basis of any award that the Board may grant on this infringement claim. You allege that a video you produced

was uploaded to your Twitter account and your YouTube channel, and that the respondent committed infringement by making a copy of your video and uploading it to Twitter and YouTube. Those allegations may support a claim for relief for infringement. However, your further allegations about the respondent's use of that video and the harm you suffered appear to be based on alleged misrepresentations rather than any infringing activity. You allege that the respondent used his copy of your video as a basis to falsely claim, in takedown notices to Twitter and YouTube, that he was the owner of the video and that your uploads were infringing; and that those notices led to the suspension and loss of your Twitter account and a copyright strike against your YouTube channel. The damages you claim related to those allegations appear to be based not on infringing activity but on false statements to online service providers. Injuries that result from service providers relying on a misrepresentation when removing or disabling access to allegedly infringing material may be recovered on a misrepresentation claim under 17 U.S.C. § 512(f), but the Board does not award damages based on such injuries in an infringement claim. The damages must be directly attributable to the infringement whereas you seem to be alleging that respondent infringed your video and then also filed a false takedown notice, the latter of which harmed you.

In addition, you describe “potential reputational damage to my public person,” “emotional damage,” and “a long and stressful experience” of your interactions with the respondent, but the Board does not award damages based on emotional, reputational, or psychological harm. You also request that the Board enter a “monetary punishment” against the respondent, but the Board cannot award any “punitive damages” on an infringement claim.

If you file an amended claim, it must not include a request for relief that the Board cannot grant. You are not required to choose between actual or statutory damages at this point. 17 U.S.C. § 1504(e)(1)(B). You are not required to request damages at all. *Id.* § 1504(c)(1) & (e)(1)(B)(ii). Your amended claim may include a request for damages without giving a specific basis or amount. However, if you specify a basis for damages, it must be one that the Board may treat as a basis for awarding damages for infringement.

More information about the available forms of relief can be found in the [Damages](#) chapter of the CCB Handbook, and on pages 6-7 of the [Starting an Infringement Claim](#) chapter.

Final Amendment

Your amended claim resolves the issues raised in the October 28, 2024 Order to Amend Noncompliant Claim. However, the other compliance issues discussed in this order must be resolved for the claim to move forward. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

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.

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