



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0418

April 12, 2024

Chicago Corner LLC, Jerry Vasilatos

CLAIMANT

v.

Hard Lens Media, Inc., Google LLC d/b/a
YouTube, Odysee, Inc.

RESPONDENT

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **May 13, 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. 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 amended 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.

Pending Litigation — Hard Lens Media, Inc.

The Board cannot hear any claim “is pending before a court of competent jurisdiction, unless that court has granted a stay to permit that claim or counterclaim to proceed before the Copyright Claims Board.” 17 U.S.C. § 1504(d)(2). In your claim, you state “[w]e have subsequently filed and presented [a] copyright lawsuit filed in US federal court against Hard Lens Media for use of our unauthorized copyrighted content in this video.” A Board search of relevant court records shows that the video at issue in this claim is also a work at issue in your claim in federal court. If your claim against the respondent is currently in litigation, you cannot raise the same claim against them before the Board. Therefore, it appears that you are barred from pursuing this claim against Hard Lens Media and this respondent must be removed from the claim. Alternatively, you may file a second amended claim against Hard Lens Media if you either dismiss the federal court proceeding or seek and obtain a stay of that proceeding before filing the second amended claim.

It appears that your CCB claims against YouTube and Odysee are based upon their hosting of the allegedly infringing material posted by Hard Lens Media. If you choose to file a second amended claim against only YouTube and Odysee for their roles as online service providers, it is likely that the claim will be found noncompliant or dismissed as unsuitable for a CCB proceeding because a finding regarding the liability of YouTube and Odysee would require a determination whether the Hard Lens Media productions entitled "Exposed: Chicago Corner and Jerry Vasilatos" and "Content Cop - Chicago Corner & Jerry Vasilatos" infringed your copyrights. Unsuitable claims are claims the Board is not permitted to handle due to failure to join a necessary party, the lack of an essential witness, evidence, or expert testimony, or other reasons. Before filing a second amended claim, you should consider whether such factors would cause the Board to conclude that your claim is unsuitable for determination by the Board. Additional information about unsuitability is available in the [Unsuitability](#) chapter of the CCB Handbook.

Legal or Beneficial Ownership

Your amended claim, like your original claim, also provides conflicting information about the status of claimant Jerry A. Vasilatos (Vasilatos) as a legal or beneficial owner of the allegedly infringed work. To bring a copyright infringement claim before the Board, the claimant must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work.

A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. The claim does not present facts that indicate that Vasilatos is a proper claimant. A Board search of Copyright Office records shows Chicago Corner LLC, an entity, listed as author and copyright claimant in the registration of the allegedly infringed work; however, Vasilatos, an individual, has also been named as claimant in the proceeding. Even though Vasilatos may have an ownership interest in Chicago Corner LLC, the law considers LLCs to be separate legal entities. As noted above, the copyright claimant listed on the registration certificate is not the entity named as claimant in the proceeding and you have not included any additional information about the ownership of the copyright rights, your claim may not proceed.

To correct this issue, you can either (1) remove the individual claimant or (2) provide additional information about how the copyright in the work was transferred from, or exclusively licensed by Chicago Corner LLC to Vasilatos. If Chicago Corner exclusively licensed or transferred the exclusive rights at issue to the Vasilatos, your amended claim must add additional information to the “Describe the infringement” section of the claim that explains how the Vasilatos (1) obtained ownership of the exclusive rights allegedly infringed, or (2) how the individual was the author or otherwise the legal or beneficial owner of the exclusive rights at the time of the

infringement. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Respondent Clarity Regarding Odysee

The amended claim does not specify the role of respondent Odysee in the alleged acts of infringement. In your claim you state that Hard Lens Media “used 5 minutes of intellectual property wholly owned by Chicago Corner, LLC ... to produce ... the recently discovered ‘Content Cop - Chicago Corner & Jerry Vasilatos’ (our content used from 1:08:17 to 1:13:39) on Odysee.” It also alleged that “Hard Lens Media, Inc. has also ignored our request to cease and desist, continuing to exploit our copyrighted work for monetization on their YouTube and Odysee Channels.” The claim makes no additional allegations about Odysee, and the references to Odysee simply seem to say that Hard Lens Media has posted the allegedly infringing material on Odysee.com. The sparse factual allegations relating to Odysee suggest that Odysee, like YouTube, was acting as an online service provider. An “online service provider” is a provider of online service to store (and make available), refer to, provide access to, or link to material that is available online. Online service providers include content-sharing websites and internet search engines, among other services. Your infringement claim asserts that YouTube is an online service provider; that you are bringing the claim against YouTube “due to their storage of or referral or linking to infringing material posted by others”; and that it failed to expeditiously remove or disable access to infringing material after you sent the respondent a takedown notice as required by section 512 of the Copyright Act.

Your claim does not provide enough information to determine whether Odysee is an online service provider, but as noted above, the sparse allegations relating to Odysee suggest that it was acting in that capacity. However, a Board search of the Copyright Office’s DMCA Designated Agent Directory shows that Odysee is included in the directory as an alternate name for an online service provider named [LBRY Inc.](#) “Safe harbors” in section 512 shield certain online service providers from paying damages for copyright infringement claims if, among other things, the online service providers take steps to quickly remove or disable access to infringing material when a copyright owner notifies them about the infringement through a proper takedown notice. To avoid liability, online service providers must follow procedures specified in section 512 when they receive takedown notices alleging infringement, and counter-notices seeking the re-posting of the allegedly infringing material. In an infringement claim against an online service provider that is eligible for a section 512 safe harbor, the claimant must state facts that indicate that the respondent did not follow those procedures.

Your infringement claim does not clearly provide enough information about Odysee’s activities to determine what actions it engaged in that would make it liable for copyright infringement. If Odysee was not acting as an online service provider, your second amended claim must allege sufficient facts to understand how and in what capacity it contributed to the alleged infringement. If Odysee was acting as an online service provider, you must answer the four questions below regarding online service providers in the “Describe the infringement” section of the claim:

1. Is Odysee an online service providers?

2. Are you bringing a claim against the online service provider due to their storage of or referral or linking to infringing material posted by others?
3. Did you send the online service provider a ‘takedown notice’ as required by Section 512 of the Copyright Act?; and
4. Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?

If Odysee is an online service provider, if you sent a takedown notice to Odysee, and if Odysee removed all of the allegedly infringing content. If it did, then your claim against Odysee cannot go forward.

If your answers to each of the four questions regarding online service providers are all “Yes” with respect to Odysee, your amended claim should provide more specific information regarding Odysee’s status as an online service provider including when you sent the takedown notice, when Odysee responded, and what Odysee said in the response regarding whether it was removing or disabling access to the allegedly infringement material. Please visit the [**section 512 page**](#) and the discussion at pages 18-19 of the chapter on [**Starting an Infringement Claim**](#) in the CCB Handbook for additional information about what is required for an infringement claim against an online service provider protected by a section 512 safe harbor.

Improper Relief

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

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

17 U.S.C. § 1504(c)(1)-(3). In the claim you describe the harm suffered and relief sought as “Unauthorized Usage, Misrepresentation, Defamation, Slander, Disclosure of Private Information, Devaluation of I.P. Owner's and Managing Operator's Branding and Reputation.” These allegations do not appear to be about any kind of claim that the Board could hear; nor do they describe any form of relief that you are seeking. The most that respondents can be ordered to pay in damages (actual or statutory) in a Board proceeding is \$30,000. 17 U.S.C. § 1504(e)(1)(D). However, the maximum amount of statutory damages available from the Board is \$15,000 for each work that was infringed. 17 U.S.C. § 1504(e)(1)(A)(ii)(I).

In addition, if your work was (1) unpublished and the copyright was registered after the infringement started, or (2) published and the copyright was registered both after the infringement started and more than three months after the publication of your work, the maximum statutory damages is \$7,500 per work. 17 U.S.C. § 1504(e)(1)(A)(ii)(II); 17 U.S.C. § 412(1). Please amend the “Description of harm suffered and relief sought” section of your claim to

describe the financial harm or loss you have incurred as a result of the respondents' alleged acts of copyright infringement and the relief that you are seeking as compensation for that harm or loss.

Final Amendment

Your amended claim resolved some, but not all, of the compliance issues raised in the January 25, 2024 Order to Amend Noncompliant Claim. **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 a second 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.