



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0129
May 1, 2023

Linda M. Jiron

CLAIMANT

v.

Rachel Arnold and YouTube

RESPONDENTS

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 **May 31, 2023**. 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.

Online Service Provider

You have brought a copyright infringement claim against two respondents, Rachel Arnold (Arnold) and YouTube. Your claim against YouTube cannot proceed based on your current allegations.

You describe the allegedly infringed work as a 1980 photograph of your friend Maryanne Holloman and Bruce Springsteen. In a [supplemental document](#) filed with the claim, you indicate that you uploaded the photograph to a memorial page for Ms. Holloman on findagrave.com (Find A Grave) in 2009. You allege that Arnold accessed the photograph on Find A Grave, posted it in a YouTube video in 2022, and declined your request to remove the photograph. You allege that you submitted a takedown notice to YouTube, which removed the video. In response to questions in the claim form, you indicate that YouTube is an “online service provider” (OSP) and that it removed the video “expeditiously” after you sent the takedown notice.

“Safe harbors” in section 512 of the Copyright Act shield certain OSPs from paying damages for copyright infringement claims if, among other things, they take steps to quickly remove or disable access to infringing material when a copyright owner notifies them about the infringement. An infringement claim against an OSP eligible for a section 512 safe harbor cannot be compliant unless you affirm that you sent the OSP a section 512 notice of

infringement, and that it “failed to remove or disable access to the material expeditiously upon the provision of such notice.” 17 U.S.C. § 1506(f)(1)(C)(i), [37 C.F.R. § 222.2\(c\)\(7\)\(iii\)\(G\)](#). You can only bring an infringement claim against an OSP if it failed to take down user-posted infringing material in response to a proper takedown notice. 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 OSP protected by a section 512 safe harbor.

Because you allege that YouTube removed the allegedly infringing video expeditiously, your claim against YouTube is not compliant. Your claim cannot proceed unless you file an amended claim that either (1) alleges that YouTube did not comply with your takedown notice, and states facts in support of that allegation that would make YouTube liable despite the section 512 safe harbor, or (2) removes YouTube as a respondent.

Substantial Similarity

Your claim does not include enough facts that explain the similarities between your work and the allegedly infringing video. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar.

You describe your work as a “[p]hoto of Maryanne Holloman and Bruce Springsteen.” In the “Describe the infringement” section, you allege, “The person in the photo was a friend of mine. I uploaded the photo to Find A Grave. . . I found my photo on a YouTube channel. . . My photo was stolen from the Find A Grave site[.]” A [supplemental document](#) filed with the claim appears to show your work on Find A Grave above text stating in part, “Image not to be used without my permission.”

However, you have not provided enough information describing or showing the allegedly infringing work. You assert, in another [supplemental document](#): “Not only was my photo stolen, it was altered also.” You do not provide a description of how the photograph was altered. No allegations in the “Describe the infringement” field of the claim state or show how your work and the allegedly infringing work are substantially similar. In addition, you have not provided a copy of the allegedly infringing work as a supplemental document. As a result, the claim does not provide enough information to enable a respondent to understand the claim and respond to it.

If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity. Please provide more details and background regarding this element in the “Describe the infringement” section, including a clear, detailed statement regarding which portions of your work were taken by the respondent in the allegedly infringing work and describing any alterations made to the work, or attach documents that are sufficient to show the similarities. If you include copies of the works at issue as supplemental documents, they must be clearly labeled and identified so they can be properly compared to each other.

Service Request Number

A copyright infringement claim before the Board must include the registration number and the effective date of registration, or, if no registration has issued, the service request number for an application for registration and the

application date. [37 C.F.R. § 222.2\(c\)\(7\)\(ii\)\(C\)-\(D\)](#). In your claim, you state that the allegedly infringed work has not been registered, and you provide 12428791581 as the service request number. Copyright Office records show that the complete service request number is 1-12428791581. If you file an amended claim, please include the complete service request number with the “1-” in front of the longer number, and the April 6, 2023 application date.

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