



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0232

## United States Copyright Claims Board

David L Harper

CLAIMANT

v.

Amazon, North Las Vegas Library, North Vista Hospital,  
The Corridor of Hope, 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 **January 4, 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.

#### Type of Claim

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

1. claims of copyright infringement;
2. claims seeking a declaration that activity is not infringement (“noninfringement claims”); and
3. 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). You have filed two types of claims: (1) a noninfringement claim and (2) a claim about a misrepresentation in connection with a takedown notice or counter-notice under the DMCA.

A noninfringement claim can be brought when you have facts showing that there is a dispute between you and the respondent because the respondent believes that *you* are infringing *their* work, and you want the Board to find that your activities do not amount to infringement. However, your allegations appear to allege copyright infringement of several of *your* works. Copyright infringement occurs when a copyrighted work is reproduced, distributed, publicly performed or displayed, or made into a derivative work (such as a translation of a book or its adaptation into a movie) without the permission of the copyright owner. Someone who does (or authorizes someone else to do) one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. Your claim appears to be attempting to set forth a claim of infringement, not noninfringement. The claim includes statements about others using your work without permission, but does not seem to indicate that respondent is accusing you of using their work without permission. For example, in your claim, you include allegations such as “[s]ome guy, named Roger, is profiting from my book!” To address this issue, you would need to change your claim from a noninfringement claim to an infringement claim by completing the infringement section of the claim form.

You can only file an amended claim of infringement if the Copyright Office had registered the works that you claim were infringed, or applications to register those works were delivered to the Copyright Office, before you filed your claim on November 7, 2022. The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) a completed application to register the copyright was delivered to the Copyright Office, along with the deposit and fee, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

In your claim, you state that the works are not registered. If that is incorrect and you file an amended claim, please provide the registration number for the works or the service request numbers for the applications to register the works. If, however, that statement is correct, and your works were neither registered nor subject to pending applications on November 7, 2022, this claim cannot be successfully amended and cannot proceed. Instead, you would need to apply to register the copyright for the allegedly infringed works before you could refile an infringement claim as a new claim. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

The claim form will also ask you to identify your copyrighted works and the person(s) or entity(ies) that violated your rights, give a detailed description of how they infringed your copyrights, and describe any harm you suffered because of the infringement. You must include clear and detailed allegations in the “Describe the infringement” section of the claim that specifically describe, state, or show how *each* respondent engaged in infringing acts under copyright law. You must also include facts that detail how the respondents had access to

your works and explain the similarities between your works and the respondents' allegedly infringing works. You may also attach supplemental materials if they are directly related to your claim. If substantial similarity of your works and the alleged infringers' works is not readily apparent from supplemental materials submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar.

Your claim makes certain allegations that are clearly outside the Board's jurisdiction. As noted above, the Board can only address disputes regarding claims of copyright infringement, claims seeking a declaration of noninfringement, and claims about misrepresentation in a takedown notice or counter-notice. We cannot address allegations regarding rape, drugging, and theft. If you amend your claim, there is no reason to include such allegations. Further, the Board can only grant damages to a successful claimant for infringement or misrepresentation and not for emotional or psychological harm.

Please review the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear. For more information about what is required to support a claim of infringement, please refer to the CCB Handbook chapter on [Starting an Infringement Claim](#).

### **Misrepresentation Claim – No Misrepresentation**

You are bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). 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 is not compliant because it does not provide any information about how any of the respondents made a misrepresentation in a takedown notice or counter-notice to an online service provider.

Misrepresentation under copyright law has a very specific meaning, about false statements made to an online service provider related to a copyright-protected work posted online. You state that respondent YouTube both sent and received the takedown notice; however, YouTube is generally the recipient of such notices as an online service provider. You will need to identify which individuals or entities sent the notice at issue. Your description of the content of the takedown notice, "No content provided," does not describe a takedown notice. You provide just the word "No," in the section requesting the words that made up the misrepresentation and explanation of the misrepresentation area of the claim. This does not describe or explain any misrepresentation that satisfies the elements of a misrepresentation claim under Section 512(f). Your misrepresentation claim cannot proceed unless you file an amended claim that includes factual allegations that explain how each respondent made a misrepresentation in a section 512 takedown notice or counter-notice to an online service provider.

More information about the elements required to assert a claim of misrepresentation is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook.

Note that you are allowed to amend your claim to remove the misrepresentation claim and just attempt to proceed with an amended infringement claim. You may also amend your claim to remove the noninfringement claim and just attempt to proceed with an amended misrepresentation claim.

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 supplementary documents, you must re-upload any documents you wish to include in the amended claim on the "**Documentation**" page. Please include only documents that are directly related to your claim.
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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.