



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0205  
July 12, 2024

Katherine Estes

CLAIMANT

v.

Joe Vitale

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 **August 12, 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.

### Substantial Similarity

Your claim does not include enough facts that explain the similarities between your work and the respondent's allegedly infringing works. A copyright infringement claim must include enough factual allegations to indicate that the allegedly infringing works are substantially similar to the original elements of expression in your work. If it is not readily apparent from supplemental documents submitted with the claim, you must provide some specific allegations about how the allegedly infringing works are similar to material in your work that copyright protects.

A valid copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original to the author. Information about copyrightable authorship is available in Sections 302, 308, and 313 of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*. Copyright law does not protect facts; it only protects original elements of expression. See Section 313.3(C) of the *Compendium*.

In the “Works infringed” section, you identify your work as a literary work titled “History Tour of The Haunted Hill House LLC.” You describe your work as a written work “that is spoken orally during a tour of the home.” In the “Describe the infringement” section, you allege that the respondent infringes your copyright in YouTube videos

in which “he shares a written version of the tour on live video and he is telling people the history of our home,” and that the videos “discuss our location[']s History” and are “slandering our location.”

However, you do not describe how much of your literary work, or which elements of that work, are used in the respondent’s videos. Your allegations in the “Describe the infringement” section do not describe or show how the videos are substantially similar to copyrightable material in your work. When you state that the respondent “shares a written version of the tour,” it is not clear if you mean that his videos repeat or display text from your literary work or from some other written description. Your allegations that the respondent discusses the history of your home and location do not describe copyright infringement because historical facts are not copyrightable. You also have not provided a copy of your work or the allegedly infringing works as supplemental documents. You list six YouTube URLs in supplemental documents, but when reviewing claims, the Board will not take into account material that is solely referred to in URLs and not uploaded along with the claim, in part because URLs can lead to material that is no longer available.

Your claim does not provide enough information to enable the Board and the respondent to understand which elements of your work you claim were infringed. To address this issue in an amended claim, it must include more factual allegations or information that identifies substantial similarities in copyrightable expression. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work were taken by the respondent in the allegedly infringing works, and the extent to which the respondent’s works are similar to the work that you allege was infringed.

Alternatively, you may upload documents or videos 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. More information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

## **Online Service Provider**

In response to questions in the claim form, you assert that the respondent is an online service provider (OSP) and that you sent the respondent a takedown notice to take down third-party material. OSPs include content-sharing websites and internet search engines, among other services. However, other allegations in the claim suggest that the respondent is not an OSP, and that he did not act as an OSP in relation to infringing material posted by a third party. As further detailed below, if you file an amended claim, you can address this issue by answering “No” to the claim form question, “Are any of the respondents online service providers?”

Special rules apply to infringement claims brought against OSPs, which provide online services to store (and make available), refer to, provide access to, or link to material that is available online. Please visit the [section 512](#) page and the discussion at pages 18-19 of the CCB Handbook chapter on [Starting an Infringement Claim](#) for more information about what section 512 of the Copyright Act requires for an infringement claim against an OSP.

Factual allegations in your claim suggest that the respondent did not act as an OSP in relation to infringing material posted by a third party. You allege that he committed infringement by sharing videos on YouTube and

that you “have reported it to youtube many times.” Those allegations indicate that the respondent personally posted the allegedly infringing material, while YouTube is the OSP that stored the material. If this is accurate, then you can address this issue by answering “No” to the question asking if the respondent is an OSP and leaving the remaining information in place. Alternatively, if the respondent is an OSP, and you seek to hold him directly liable for his own actions and not for failing to take down material posted by a third party, then you must answer “No” to the question, “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?”

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