



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0023

United States Copyright Claims Board

Catalina M. Jaramillo

CLAIMANT

v.

Apple Inc.

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 **December 5, 2022**. 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 a second amended claim. If you amend your 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 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 a second amended claim.

Final Amendment

Your amended claim resolves some, but not all, of the issues raised in the September 19, 2022 noncompliance order. Your copyright infringement claim is now compliant, but your misrepresentation claim is not. If you file a second amended claim, it must state enough facts in support of all claims alleged.

This is your third and final opportunity to submit compliant claims in this proceeding. If you raise any claims that your allegations do not support, the entire proceeding will be dismissed. 17 U.S.C. § 1506(f)(1)(B). If you cannot address the issue with the misrepresentation claim identified below, you should omit it from your second amended claim or the copyright infringement claim cannot go forward.

Misrepresentation Claim – Proper Respondent

You are bringing a claim of misrepresentations 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). 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.

Your amended claim is still not compliant because it still does not describe a misrepresentation in a takedown notice or counter-notice to an online service provider. Your amended claim asserts that you sent takedown notices to Apple and that no one sent counter-notices, which contradicts the basis for the claim. A misrepresentation claim must allege a misrepresentation made by the respondent. Your allegation that Apple ignored your takedown notices offers support for your infringement claim against Apple, but does not support holding Apple liable for making misrepresentations under section 512(f).

If you submit a second amended claim that asserts a noncompliant misrepresentation claim, the entire proceeding will be dismissed. In the alternative, you may delete the misrepresentation claim altogether and re-submit only the copyright infringement claim presented in your amended claim.

Designated Service Agent

The respondent has designated a service agent, listed in the [CCB Designated Service Agent Directory](#), to accept service of claims brought before the Board. If you file a second amended claim, you must put [the address listed for the service agent](#) in the directory into the claim form for the respondent's address. 17 U.S.C. § 1506(g)(5)(A). If the CCB finds your amended claim compliant and authorizes service, you will need to have the claim served on the service agent, using the service method specified in the directory. [37 C.F.R. § 222.5\(b\)\(2\)](#).

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 amended claim.
3. Make the necessary edits. If your claim included supplementary documents, you must re-upload any documents you wish to include in the second 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. 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 Copyright Claims Board Handbook for more assistance.

Copyright Claims Attorney

November 4, 2022