



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0159

August 16, 2023

Donna M. Conner

CLAIMANT

v.

Blurb.com

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. While you resolved the compliance issues raised in the noncompliance order issued on June 7, 2023, additional issues explained below also must be resolved before the claim can go forward.

If you wish to proceed with this claim, you must file a second amended claim by **September 15, 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. 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.

### Copyright Registration

A copyright infringement claim must include the copyright registration number and effective date of registration for the allegedly infringed work, if the registration has issued. 37 C.F.R. § 222.2(c)(7)(ii)(C).

After you filed your amended claim, the Copyright Office registered the allegedly infringed work with registration number TX0009287965 and an effective date of registration of April 25, 2023. If you file a second amended claim, please answer “Yes” to the question “Has the work been registered by the Copyright Office?” and provide the registration number and effective date of registration in the “Works infringed” section.

### Online Service Provider

Special rules apply to infringement claims against an online service provider (OSP). When a copyright infringement claim is raised against an OSP for storing, or referring or linking to, infringing material, the Board must find the claim noncompliant unless the claimant affirms that:

1. the claimant sent a takedown notice to the OSP as required by section 512 of the Copyright Act, and
2. the OSP failed to remove or disable access to the third-party infringing material expeditiously.

17 U.S.C. § 1506(f)(1)(C)(i); 37 C.F.R. § 222.2(c)(7)(iii)(G). In this context, an OSP is a provider of online services to store (and make available), refer to, or link to material that is available online. OSPs include content-sharing websites and internet search engines, among other services.

In your responses to questions in the “Wrongful activities” section on the claim form, you allege that respondent Blurb.com is an OSP and that you are bringing the claim against respondent because it stored, referred, or linked to “infringing material posted by others,” but that you did not send respondent a section 512 takedown notice. You are permitted to bring an infringement claim against an OSP only if it failed to take down the third-party material in response to a proper takedown notice.

Other factual allegations in your claim, however, suggest that the respondent was not acting as an OSP in relation to infringing material posted by a third party. You allege that you submitted your work to respondent and that you personally uploaded it to respondent’s website, with respondent’s help. These allegations indicate that this claim does not involve an OSP’s actions related to “infringing material posted by others.” It appears that you are alleging *direct* infringement of a work that the respondent received from you, not infringement based on materials posted by third parties. If that is correct, then you can make your claim compliant by answering “No” to the question of whether the respondent is an OSP and leaving the remaining information in place.

To correct your noncompliant responses to the OSP questions in the claim form, you must provide different responses in a second amended claim.

- If the respondent is not an OSP, as discussed above, then you must answer “No” to the question “Are any of the respondents online service providers?”
- If the respondent is an OSP, and you seek to hold it directly liable for its own infringing 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?”
- Finally, if (despite your current factual allegations, which do not portray the respondent as an OSP) you maintain that the respondent (1) is an OSP to which you sent a takedown notice, and (2) did not promptly remove or disable infringing material posted by a third party, then you must answer “Yes” to all four OSP questions. In other words, if you contend that the respondent is an OSP that failed to remove or disable infringing material after receiving a takedown notice from you, answer “Yes” to the question “Did the online service provider fail to expeditiously remove or disable access to the material after you sent a takedown notice?” and add facts to your claim supporting those allegations.

Please visit the [section 512 page](#) and the discussion at pages 16 and 19-21 of the chapter on [Starting an Infringement Claim](#) in the CCB Handbook for additional information about what section 512 of the Copyright Act requires for an infringement claim against an OSP.

## Final Amendment

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 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