



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0200
July 10, 2023

Todd M. Schultz

CLAIMANT

v.

Michael C. Thompson

RESPONDENT

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 **August 9, 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.

Copyright Infringement Claim

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) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a); 37 C.F.R. § 221.1(a).

In your claim, you describe the allegedly infringed work as a “Livestream from YouTube Channel” titled, “I Guess YouTube Is My Only Choice Right Now To Get My Message Across.” You state that the work is not registered and you provide 1-12663915611 as the service request number for a pending application. A Board search of Copyright Office records indicates that the application is not complete. The required registration fee was not paid to the Copyright Office, and the required deposit copy of the allegedly infringed work has not been received.

The complete application packet, including the deposit and fee, must have been delivered to the Copyright Office before you filed your claim on June 12, 2023. If your work was neither registered nor subject to a complete pending application at that time, this infringement claim cannot be successfully amended and cannot proceed. Instead, you will have to refile your infringement claim as a new claim in a new proceeding after a complete

application packet has been filed. Therefore, you should not submit a new claim until after you have submitted the fee and deposit for 1-12663915611, or submitted a new application, deposit, and fee for the allegedly infringed work. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

Because your copyright infringement claim does not appear to be based on a work covered by a registration or a complete application for registration, we have not reviewed the remainder of the infringement claim to determine whether it complies in other respects with the legal and formal requirements for a claim before the Board. If you submit a new claim after resolving the registration issue (or if you believe the registration issue described above is not accurate and you submit an amended claim that adequately explains how the registration issue described above is incorrect), the Board will engage in a full compliance review, so you should review the [CCB Handbook](#) and make sure the rest of your amended claim is compliant.

Misrepresentation Claim – No Copyright Misrepresentation

You are also bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). That kind of misrepresentation has a very specific meaning under copyright law that involves false statements made to an online service provider related to a copyright-protected work posted online by others. To violate section 512(f), a statement must misrepresent “that material or activity is infringing, or . . . that material or activity was removed or disabled by mistake or misidentification.” 17 U.S.C. § 512(f)(1)-(2).

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.

You allege that you sent a takedown notice to YouTube on June 12, 2023, and that no one sent a counter-notice. If you file an amended claim, you must identify a misrepresentation made by the respondent in a counter-notice to YouTube. To support a claim of misrepresentation, you must provide additional facts to show that the counter-notice included a false or incorrect statement of fact “that material or activity was removed by mistake or

misidentification”—in other words, that the respondent denied committing copyright infringement, and that an online service provider relied on that misrepresentation to put the material back online.

Your allegations appear to describe acts of intimidation or defamation unrelated to copyright, and do not identify a false statement about copyright made by the respondent to an online service provider. Therefore, those allegations do not identify the sort of misrepresentation that could violate section 512(f). If you submit an amended claim, you must state facts in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by the respondent that would violate section 512(f), indicating what words were false or incorrect and how they were false or incorrect.

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.