



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0212

United States Copyright Claims Board

Pinwheel Crafts LLC

CLAIMANT

v.

Tsoi Cheung Ching

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 **November 28, 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 extra 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 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 a second amended claim.

Good-Faith Belief

The claim must include the respondent's mailing address, unless you certify that the address is unknown and that you have "a good-faith belief that the statute of limitations for the claim is likely to expire within 30 days from the date that the claim is submitted," and you describe the basis for that belief. [37 C.F.R. § 222.2\(c\)\(6\)](#). In your amended claim, filed October 26, 2022, you checked a box on the "Respondent" page of the claim form to declare, "I do not know the respondent's address and have a good faith belief that the statute of limitations will expire within 30 days." On the same page, the claim form asks, "Please describe the basis for your good faith belief that you need to file your claim now because the statute of limitations will expire within 30 days." You responded as follows, "I received a counter notice to a copyright infringement claim I made and need to provide notice of a lawsuit prior to October 28th."

Your amended claim does not describe a basis for believing that the statute of limitations period is about to expire, and allegations in your amended claim indicate that it is not about to expire. A "statute of limitations" is a time limit set by law for starting a claim. The statute of limitations period for copyright claims is three years. 17 U.S.C. §§ 507(b) & 1504(b)(1). In the "Describe the infringement" section of your amended claim, you state, "The respondent has been aware of this as far back as January 2021 (possibly earlier), as we have contacted them previously regarding a design patent infringement." Based on your amended claim, it is not apparent that the three-year statute of limitations period is due to expire shortly, and it is not apparent why you would believe that it would expire within 30 days.

To address this issue, your second amended claim must include a mailing address for the respondent, or an explanation of facts that led you to have a good faith belief that the statute of limitations was likely to expire within 30 days after you submitted the claim. More information about the statute of limitations period for copyright infringement claims is available at page 11 of the [Responding to an Infringement Claim](#) chapter of the CCB Handbook.

Foreign Respondent

The Board cannot hear a claim asserted against a person or entity residing outside the United States. 17 U.S.C. § 1504(d)(4). Your amended claim still appears to be against a foreign resident.

When the Board reviews a claim for compliance with the CASE Act and Board regulations, it considers the facts stated in the claim materials along with "information provided elsewhere in the materials or in the Board's records." [37 C.F.R. § 224.1\(d\)](#). In the original claim filed in this proceeding on October 21, 2022, you certified that the respondent's address was unknown at the time, but you indicated that the respondent resides in Hong Kong. You stated, "I received a counter notice to a copyright infringement claim I made and need to provide notice of a lawsuit prior to October 28th. The counter notice claims the respondent is in the US, but they provided a Hong Kong address." On October 25, 2022, the Board issued an [Order to Amend Noncompliant Claim](#) that explained, "A Hong Kong address for the respondent indicates that the Board cannot hear the claim. You should only amend your claim if you are raising it against an individual or entity residing in the United States." Later that day, you filed an amended claim against the same respondent that is substantially the same as your initial claim, except that the amended claim omits the sentence discussing the respondent's Hong Kong address.

Your amended claim does not explain the omission, and it does not state a basis to find that the respondent resides in the United States despite the stated Hong Kong address. The Board will dismiss this proceeding without prejudice if you do not submit a second amended claim that includes a U.S. address for the respondent, or that includes facts that allow the claim to proceed against the respondent before the Board. Although not required, you may want to include copies of any key documents that you consider helpful to your claim, for example, correspondence related to the claim, such as a cease-and-desist letter, your takedown notice, or the respondent's counter-notice.

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 your claim included 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. 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.

Copyright Claims Attorney

October 27, 2022