



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0369

January 14, 2025

Tamar Israel

CLAIMANT

v.

eBay

RESPONDENT

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **February 13, 2025**. 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 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.

First Sale

Copyright law grants exclusive rights to copyright owners, including the initial rights to reproduce and distribute copies of an original work. However, after an authorized, lawfully made copy of a work is distributed, copyright law does not give the copyright owner the right to prevent further distributions of that physical copy. As stated in the December 13, 2024 Order to Amend Noncompliant Claim (December 13 Order): “The owner of a lawfully made copy of a work may sell or otherwise dispose of that copy. 17 U.S.C. § 109. This is sometimes called the ‘first sale’ doctrine in copyright law.” The first sale doctrine permits such activities as the sale of used books that are lawfully made.

In your copyright infringement claim, you allege that you are the sole author of a book titled “The Laws of יהיה,” and that a freelancer you hired for help with a sales pitch to promote the book has been “re-selling” copies of the book on eBay. Your allegation that you hired the freelancer for work related to your book suggests that at some point you may have given him authorized copies of the book, such as advance copies, review copies, or genuine

merchandise. You assert that he “does not have any legal rights to my book” and “did not co-author my book.” However, if he owns lawfully made copies of the book, then under the first sale doctrine, selling or reselling those copies is not a basis for a copyright infringement claim.

As further stated in the December 13 Order, “if the copies of the book listed for sale by the freelancer on eBay were not made or obtained lawfully, then you must state in [an] amended claim that they are not lawfully made or obtained copies.” Your amended claim does not indicate whether the particular copies of the book offered for sale on eBay were lawfully made. If they were lawfully made, it would not violate copyright law to sell them. Therefore, to move forward with a claim of copyright infringement based on those eBay listings, you must file a second amended claim that states facts that indicate that those copies were not lawfully made.

Online Service Provider

Your infringement claim is not against the freelancer but against eBay, which you identify as an “online service provider” (OSP). Please visit the [section 512](#) page and the discussion at pages 18-19 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook for information about what section 512 of the Copyright Act requires for an infringement claim against an OSP. As the December 13 Order stated:

An infringement claim against an OSP that is eligible for a section 512 safe harbor must present facts that indicate that the claimant sent a takedown notice to the OSP as required by section 512, and that the OSP failed to remove or disable access to the material expeditiously when it received the takedown notice. . . . You can only bring an infringement claim against an OSP if it failed to take down third-party material in response to a proper takedown notice, or restored that material without a proper counter-notice.

In response to a question in the claim form, you contend that eBay “fail[ed] to expeditiously remove or disable access to the material after you sent a takedown notice,” and you contend that you “have contacted eBay several times and they are allowing the seller to continue this activity.” However, your amended claim does not present facts that support those contentions, and other information in the amended claim suggests that eBay has not failed to expeditiously comply with your takedown notices. You allege that you sent eBay a takedown notice in 2023 and that eBay removed the allegedly infringing content. That removal appears to be reflected in an [exhibit](#) filed with the amended claim. You allege that the freelancer listed the book again in 2024, and that you sent eBay a second takedown notice. Other exhibits indicate that you also reported the 2024 listing in a [complaint](#) to the Better Business Bureau on November 29, 2024, and that in [response](#) to that complaint on December 10, 2024, eBay stated that the listing was “no longer active on our website.” The exhibits seem to show that both the 2023 and 2024 listings were removed. You do not present facts that indicate that the removals were less than prompt, and you do not allege that the listings were ever restored.

You also state in the amended claim: “This keeps being an issue and I am concerned I am going to have to keep repeating these tasks.” That is not a basis to hold eBay liable for copyright infringement.

To address this issue in a second amended claim, you must present additional facts that support your contention that eBay did not remove or disable access to an allegedly infringing listing expeditiously after receiving a takedown notice about that listing. If you cannot present such facts, your infringement claim against eBay cannot proceed.

Final Amendment

Your amended claim does not resolve the compliance issues raised in the December 13 Order. Those issues, also discussed in this order, must be resolved for the claim to move forward. **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 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 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.