



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0099

April 14, 2023

Julia J. Garcia

CLAIMANT

v.

Teresa Smith Gomez

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 **May 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. 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.

Allegedly Infringed Work

Your claim does not include enough information about the allegedly infringed work. You list your work, titled “Chisme Time,” as a motion picture or audiovisual work, and you further describe the work as a “Tiktok Live.” However, your claim does not describe or show any of the content of the work.

Access

Your claim does not provide enough facts about how the respondent had access to your work. “Access” means a reasonable opportunity to view your work before the alleged infringement took place. You list your work, titled “Chisme Time,” as a motion picture or audiovisual work, and further describe the work as a “Tiktok Live,” which indicates that the work was a video streamed on TikTok. However, you have not alleged or shown that your allegedly infringed work—the TikTok Live video—was available for public viewing. As a result, your allegations do not clearly indicate how the respondent may have accessed “Chisme Time” before the alleged infringing activity.

If you file an amended claim, your allegations must make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include that your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or

respondent; or (c) is so strikingly similar to the respondent's work that they could not have been created independently.

You can upload copies of your work and the allegedly infringing work if those images demonstrate that the works are so strikingly similar that they could not have been created independently. If you include copies of the works at issue as supplemental documents, they must be clearly labeled and identified so they can be properly compared to each other.

Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your works and the respondent's allegedly infringing works. "To support a claim of copyright infringement, the copy must bear a substantial similarity to the protected aspects of the original." *Peel & Co. v. Rug Mkt.*, 238 F.3d 391, 398 (5th Cir. 2001). To allege substantial similarity, you must describe or show similarities between original elements of your work and the respondent's work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are substantially similar.

Your claim states that your work is a Tiktok Live video and that the "[r]espondent screen recorded my content in its entirety and posted it to their youtube channel without having my explicit consent." However, your claim does not provide enough information describing your work and the allegedly infringing work, or stating or showing how they are identical or substantially similar. As a result, the claim does not provide enough information to enable the respondent to understand the claim and respond to it.

If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity. You must include a clear, detailed statement specifying which elements of your work were copied and reproduced on the respondent's YouTube channel, or documents that show the similarities. If you include copies of the works at issue as supplemental documents, they must be clearly labeled and identified so they can be properly compared to each other.

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.

Copyright Claims Attorney