



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0127  
May 10, 2024

Francesco Santora

CLAIMANT

v.

Metro-Goldwyn-Mayer Studios Inc.  
and Penguin Random House LLC

RESPONDENTS

## 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 **June 10, 2024**. 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 – Clarity**

Your copyright infringement claim includes confusing allegations identifying the allegedly infringed work. In the “Works infringed” section of the claim, you state that the infringed work is a literary work titled “Wednesday: Child of Woe series,” and you describe the work as: “Novels and cover art.” You list yourself as the author and identify TX0009381788 as the registration number. However, Copyright Office records for that registration show that it covers only a single work titled “The Haunted Clock,” which appears to be the first work in the series.

A copyright infringement claim before the Board must be based on infringement of copyright-protected material in specific, identified work that is registered or subject to a pending application for registration by the Copyright Office at the time the claim is filed. The claim must include the title of the work, and if you file an amended claim, you must correct the title in the “Works infringed” section. If your claim is based on only “The Haunted Clock,” provide that title, and do not describe the work as multiple works; for example, do not describe the work as “Novels.” If your claim is based on any other works, you must have obtained or applied for registration for those works before this claim was filed on April 29, 2024, and you must provide the titles and Copyright Office registration numbers or pending Service Request numbers for those works.

## **Infringing Activity**

Your claim does not present enough facts to clearly state how the respondents used any exclusive rights you have in the allegedly infringed work without permission.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly display the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

You allege that the respondents are creating derivative works based on your work, namely, the Netflix streaming series “Wednesday,” which features Charles Addams’ character Wednesday Addams, and a forthcoming series of literary works. You allege that the infringement began on March 3, 2024. Your TX0009381788 registration indicates that “The Haunted Clock” was created in 2023 and first published on October 12, 2023. A [supplemental document](#) filed with your claim, which appears to be a copy of a demand letter sent to you on behalf of respondent Metro-Goldwyn-Mayer Studios Inc. (“MGM”), states that the Netflix series premiered in November 2022. Those dates appear inconsistent. If the Netflix series premiered in 2022, your claim does not explain how it could be derivative of work created and published in 2023, particularly if the infringement did not begin until 2024.

To address this issue in an amended claim, you must state facts that plausibly describe acts by the respondents that constitute copyright infringement of your work. To support a claim for infringement of “The Haunted Clock,” you must identify infringing works by the respondents that were created after “The Haunted Clock.” If any dates noted above are incorrect, clarify them in the amended claim.

## **Access**

Your claim does not provide facts about how the respondents had access to the allegedly infringed work. “Access” means a reasonable opportunity to view or copy the work before the alleged infringement took place. You allege that you have submitted your works to literary agents and self-published your works, and that the respondents “know my IP exists,” but you have not stated facts that indicate how the respondents had access to “The Haunted Clock” before the alleged infringement began.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include how your work (a) was sent directly to the respondents or a close associate of the respondents; (b) was widely disseminated or was available to the respondents; or (c) is so strikingly similar to the respondents’ work that they could not have been created independently.

## **Substantial Similarity**

Your claim also does not include enough facts that explain the similarities between your work and the respondents’ allegedly infringing work. If it is not readily apparent from supplemental documents that are

submitted with the claim, you must provide some specific allegations about how the allegedly infringing works are substantially similar to elements of your work that copyright protects. None of the similarities that you identify appear to relate to similarities in copyrightable expression.

A valid copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original to the author. Copyright law does not protect ideas; it only protects original elements of expression. Information about copyrightable authorship is available in Sections 302, 308, and 313 of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*.

You emphasize that the allegedly infringing Netflix series is titled “Wednesday” and its main character’s name is Wednesday Addams, while “The Haunted Clock” is part of a series titled “Wednesday: Child of Woe” and its main character is also named Wednesday. However, copyright does not protect personal names, character names, titles, or other short phrases. More information is available in [Circular 33: Works Not Protected by Copyright](#). In addition, the respondents’ title and character name appear to derive not from your work but from the work of Charles Addams and the *Addams Family* television shows and movies. Your contentions that respondents are “required by law” to use the title “Wednesday Addams” rather than “Wednesday” has no basis in copyright law.

You also allege that both your work and the Netflix series feature werewolves, vampires, and magical realism. Copyright does not protect stock characters, the idea of a character, or other ideas that are common or necessary to a particular genre. See *Compendium* Sections 313.3(A) and 313.4(I).

You have not identified any other original elements of expression in your allegedly infringed work as substantially similar to any aspect of the allegedly infringing work. If there are such areas of substantial similarity, you must provide specific allegations that detail the similarity. If you submit an amended claim, your description should include more specific allegations, identifying specific copyrightable subject matter in your work that the respondents copied. More information about what to include in the “Describe the infringement” section is available at pages 15-16 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

## **Noninfringement**

It appears that MGM’s demand letter accused you of infringing the Wednesday Addams character and other elements of the “Wednesday” series, including its scripts. You have raised a noninfringement claim before the Board, seeking a declaration that your work does not infringe the respondent’s work. Information about what to include in the claim is available in the [Starting an Noninfringement Claim](#) chapter of the CCB Handbook.

Your noninfringement claim includes allegations that no copyright registration exists for the “Wednesday” series. In the “Describe the work” section, you assert that “‘Wednesday Addams’ is registered but ‘Wednesday’ is not,” and in the “Describe why you believe no infringement occurred” section, you add, “there is no way they can claim to have a registered IP called ‘Wednesday’ that is a deliberate lie with the intent to intimidate and threaten me.” However, the Copyright Office issued registrations to MGM Television Entertainment Inc. for eight episodes of the “Wednesday” series (Reg. No. PA0002406371, PA0002406373, PA0002406375, PA0002406379, PA0002405204, PA0002405339, PA0002405205, and PA0002405206), each effective February 15, 2023. The

Copyright Office also issued registrations to MGM Television Entertainment Inc. for a “teaser trailer” (Reg. No. PA0002373544, effective September 1, 2022) and a “teaser one-sheet” (Reg. No. VA0002332020, effective November 30, 2022) for the “Wednesday” series. If you file an amended claim, do not include allegations that there is no registration for “Wednesday.”

## 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, which involves false statements made to an online service provider (OSP) related to a copyright-protected work posted online. The claim cannot proceed unless you clarify certain allegations.

In a misrepresentation claim, the alleged misrepresentation must be a false statement of fact made to an OSP. In the “Words that make up the misrepresentation and explanation of the misrepresentation” section, you do not provide a description of any false statement of fact. Instead, you restate your assertions that the Netflix series is infringing and that its “Wednesday” title is improper. If you file an amended claim, you must identify a false statement of fact made to an OSP.

The misrepresentation to the OSP must be made by a respondent. You state that the “[m]isrepresentation occurred in the counter-notice,” which seems to contradict your claim, since you also allege that it was *you* who sent the counter-notice to OSPs after MGM sent a series of takedown notices. If MGM sent takedown notices rather than counter-notices, the claim can only proceed if it made a misrepresentation in the takedown notices, and if you allege that the misrepresentation occurred there, not in your counter-notice.

If a counter-notice was sent, the misrepresentation claim must include a description of the counter-notice. In the “Describe the content of the counter notice” section, you instead appear to provide the contents of a takedown notice in which you requested that an OSP remove “Wednesday” from its website. If a respondent sent a takedown notice to an OSP and you sent a counter-notice in response, you must describe that counter-notice in that section. If not, your amended claim should not allege that you sent a counter-notice to an OSP.

Your misrepresentation claim cannot proceed unless you file an amended claim that includes factual allegations that explain how the respondent made a misrepresentation in a section 512 takedown notice or counter-notice to an OSP. More information about what must be alleged in a misrepresentation claim is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook. More information about section 512 and the notice-and-takedown system is available on the Copyright Office’s [Section 512](#) page.

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