



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0379

January 3, 2024

MSE Publishing LLC

CLAIMANT

v.

Tokybook.com

RESPONDENT

## 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 **February 2, 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. 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.

### Foreign Respondent

The November 15, 2023 noncompliance order stated:

The Board cannot hear a claim asserted against a person or entity residing outside the United States. 17 U.S.C. § 1504(d)(4). The claim must include the respondent's mailing address. 37 C.F.R. § 222.2(c)(6).

In the claim form, you list a mailing address for the respondent in New Jersey. A supplemental document filed with the claim, [Tokybook Registered Office and Linked Authorization.pdf](#), states that the respondent has a “registered office” at that address. However, the claim does not identify the source of the document or support its veracity, and other information in the claim indicates that the respondent is a foreign entity.

You allege that the respondent made a misrepresentation in a counter-notice submitted to YouTube, and you quote the alleged misrepresentation in the “Words that made up the misrepresentation” section of the claim form. That quote appears in another supplemental document filed with the claim, [Counter Notice for Dragon Emperor 2.pdf](#), which appears to include the contents of the respondent's counter-notice forwarded by YouTube. The counter-notice provides a mailing address for the respondent in Vietnam. This indicates that the Board may not have jurisdiction to hear your claim. The counter-notice also provides the same phone number and email address for the respondent that you included in the claim

form. The respondent's phone number has an area code of 033, which is not in the United States. *See* 47 C.F.R. §§ 52.3, 52.5(d), 52.7(a). In addition, the respondent's email address is at a .asia domain name. Thus, it appears that the Board may not be able to hear your claim because the respondent appears to be a foreign resident.

If you file an amended claim, you must include additional information, such as information verifying the New Jersey "resident office" listing, to address this discrepancy and show that the respondent resides in the United States. If the respondent does not reside in the United States, 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.

Your amended claim lists the same New Jersey address for the respondent Tokybook.com as in the original claim. In response to the noncompliance order, you add a letter from your attorney as a supplemental document, labeled "[Veracity of Address.pdf](#)," offering two reasons to consider that address verified:

1. "the address is available online in a public letter," namely the "[Registered Office](#)" document; and
2. the respondent's counter-notice included a link to the "Registered Office" document.

Your attorney contends that Tokybook.com's address is therefore "verified." While your attorney's letter identifies a source of the "Registered Office" document, that document does not suffice to show that the respondent is a United States resident, in light of the contrary evidence in the counter-notice.

Tokybook.com's counter-notice includes what appears to be the "subscriber's name, address, and telephone number," as required by 17 U.S.C. § 512(g)(3)(D). It provides the name Luna Lan, at 68 Tô Ký in Hồ Chí Minh, Vietnam, with a phone number that does not resemble a United States-based phone number. It also includes the subscriber's electronic signature, sworn statement, and other information required in a counter-notice. *See* 17 U.S.C. § 512(g)(3).

However, information in the "Registered Office" document appears dubious. It is described in the counter-notice as "an authorization contract to confirm that the content we post is completely in accordance with Youtube's regulations," though the document does not mention any content posted on YouTube. The "Registered Office" document purports to be signed by an "authorized signatory," whom the signature block lists as Tokybook.com's "SVP, Global Fin & Accounting," but the document does not name anyone with that title, and the digital signature in the signature line reads only "tokybook." The signature block also lists a signature date of "05/08/2025," which is in the future. The document claims that Tokybook.com has a "registered office" at 1 Washington Pl, Newark, NJ, 07102, which appears to be the headquarters of Audible, Inc. The document also asserts that Tokybook.com has authorized an agent to remove content "on Audible's behalf," but it does not provide a basis for that assertion. To the contrary, it appears Audible has issued takedown notices seeking the removal of allegedly infringing material posted on hundreds of Tokybook.com URLs. *See*, for example, <https://lumendatabase.org/notices/30730222> and <https://lumendatabase.org/notices/36430118>. Finally, the document states that "we have authorized *Jade Dao*, having their office at E 14 C 1st Floor Sector 8 Noida, UP – 201301, India, to be our online antipiracy service provider." While not conclusive, that statement lends additional support to the conclusion that respondent resides outside the United States.

Whatever credence the “Registered Office” document may deserve, it does not demonstrate that Tokybook.com resides in the United States, even if it has a “registered office” in New Jersey. The state of New Jersey requires that “every foreign corporation authorized to transact business in this State shall continuously maintain a registered office in this State.” N.J. Stat. Ann. § 14A:4-1(1). However, that “registered office may be, but need not be, the same as a place of business of the corporation which it serves.” N.J. Stat. Ann. § 14A:4-1(2).

If you file a second amended claim, you must include more information that indicates that the respondent resides in the United States, such as facts or documents that state or show its state of incorporation or principal place of business. If the respondent is not a United States resident, jurisdiction may be proper in federal court. *See, e.g., Complaint, Falconer v. Tin The Thao and Luna Lan*, Case No. 2:23-cv-02358-DWL (D. Ariz. filed Nov. 9, 2023) (alleging two residents of Vietnam, including Luna Lan, made an infringing copy of plaintiff’s works “by recording the Audible audio book version” and uploading them onto YouTube, then issued a counter-notice falsely claiming authorization by Tokybook). But the Board could not hear the claim. 17 U.S.C. § 1504(d)(4). You may only file a second amended claim if the respondent resides in the United States.

## Final Amendment

Your amended claim does not resolve the issues raised in the November 15, 2023 noncompliance order. **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](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