



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0225

United States Copyright Claims Board

Renee Moncada

CLAIMANT

v.

Aubrey Williams

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 **December 19, 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. 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 issue 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.

Infringement Claim – Access

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. The elements of a copyright infringement claim are:

1. You own a valid copyright in the work, or have been given an exclusive license to the copyright rights at issue in the work,
2. The respondent used one of your exclusive rights in the work without permission,
3. The respondent had access to your work, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

More information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Your infringement claim does not provide enough facts about how the respondent had “access” to your work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. The “Describe the infringement” section of your claim states only: “The infringement occurred when the work was publicly posted without written or verbal permission and also original author was not cited along with misrepresenting original author of the work.”

To address this issue, if you file an amended claim, include allegations that 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 the respondent could not have created it independently. Please provide more details and background in your amended claim describing how the respondent had access to your work.

Infringement Claim – Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work and the respondent’s allegedly infringing work. If it is not readily apparent from supplemental materials that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar.

The “Works infringed” section of your infringement claim states that your work is a musical short film titled “Buss It Open Music Video.” In your misrepresentation claim, you add that the allegedly infringing work was a “re-creation of the original work[]” that was “re-edited by another person who had nothing to do with the original production.” However, you do not provide enough information describing or showing your work. No allegations in the “Describe the infringement” section of the infringement claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. In addition, you have not provided copies of either work as supplemental documents. 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. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work were taken by the respondent in the allegedly infringing work, or documents that are sufficient to 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.

Misrepresentation Claim – Insufficiency

A claim of misrepresentation under 17 U.S.C. § 512(f) must include enough factual allegations to support each “element” of the claim. The elements of a misrepresentation claim are that:

1. The respondent sent an online service provider either
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying infringement and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the online service provider’s decision to take down or repost the content,
5. The online service provider relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). More information about the elements required to assert a claim of misrepresentation is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook.

Your misrepresentation claim does not assert that the respondent made a misrepresentation in a takedown notice or counter-notice to an online service provider. Instead, you allege that a takedown notice was sent to, and by, YouTube, and that no counter-notice was sent. In the section of the claim form that asks you to provide the words of the misrepresentation, and explain why it was false, you stated as follows: “The misrepresentation was deliberately incorrect or missing author: Production company, Editor, cinematographer and Director. All parties listed in the ‘re-creation’ of the original works were knowingly false and did nothing to contribute to the project. The video was also re-edited by another person who had nothing to do with the original production.” Your allegations about inaccurate credits in a YouTube video do not identify the sort of misrepresentation that could violate section 512(f) because they do not concern false statements that were made in a takedown notice or counter-notice.

Your allegations are not sufficient to state a misrepresentation claim. If you submit an amended claim that includes a misrepresentation claim, you must state facts in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by the respondent in a takedown notice or counter-notice to an online service provider that would violate section 512(f), which indicate what words were false or incorrect, and how they were false or incorrect.

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

November 18, 2022