



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0067
May 25, 2023

Buy From Sammy

CLAIMANT

v.

YouTube

RESPONDENT

SECOND 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 **June 26, 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. 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 amended 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.

Copyright Registration

A copyright infringement claim before the Board must include the registration number and effective date of registration for the allegedly infringed work, if the Copyright Office has registered the work. 37 C.F.R. § 222.2(c)(7)(ii)(C). You filed your amended claim on April 30, 2023. In the “Works infringed” section, you list one allegedly infringed work titled “#stellaroseallday,” providing 1-12231248151 as the service request number for your application to register the work. The Copyright Office approved that application on May 1, 2023. If you file a second amended claim alleging infringement of the same work, the “Works infringed” section must state that the work has been registered by the Copyright Office and include the registration number, TX0009253737, and the effective date of registration, February 10, 2023.

Infringed Work

A copyright infringement claim must include the “work of authorship category” of each allegedly infringed work, or a brief description of the nature of the work. 37 C.F.R. § 222.2(c)(7)(ii)(E); see 17 U.S.C. § 102(a) (listing

categories of works of authorship). Your description of the allegedly infringed work in the amended claim does not match the description in the Copyright Office registration records. In the “Works infringed” section, you describe the work as: “Dramatic Work Music or Choreography; Video and Voice.” In the “Describe the infringement” section, you further assert: “My copyright is for hire that includes my dramatic work and choreography.”

However, the registration is for a literary work. According to the registration certificate, Buy From Sammy LLC is the author of the registered work as an employer for hire, and the authorship claimed in the registered work is “text, photograph(s), [and] artwork.” The deposit copy of the work submitted to the Copyright Office with the application for registration is a non-dramatic literary work with 26 chapters, 163 pages long. It does not include any dramatic work, music, choreography, video, or voice recording.

To proceed with a copyright infringement claim, the work identified in the “Works infringed” section of your second amended claim must be the registered work, or another work that was already registered, or subject to a pending application for registration, when you filed the initial claim on February 14, 2023. 17 U.S.C. § 1505(a). If you maintain a claim for infringement of the registered work titled “#StellaRoseAllDay,” your description of the work in the “Works infringed” section must identify or describe it as a literary work or textual work, rather than a dramatic, musical, chorographic, video, or voice work.

Infringing Activity

In the “Describe the infringement section,” you state: “Youtube is infringing on my copyrights.” However, your amended claim still does not present enough facts to clearly state how YouTube engaged in any infringing activity. You have not clearly explained what YouTube did to infringe the copyright in the registered work.

An alleged infringer must have copied your original elements of expression. Stated another way, to be infringing, the respondent’s use of your registered work must be substantially similar to original elements of expression in your work that copyright protects. A copyright only extends to copyrightable subject matter. Your infringement claim must identify some expressive material in the registered work that YouTube used without authorization. Your amended claim does not identify any material used on YouTube that is protected by the copyright registration for “#stellaroseallday.”

The registration claims authorship only in “text, photograph(s), [and] artwork.” For your claim to go forward, it must clearly allege that YouTube used expressive material in the text, photographs, or artwork that appear in the deposit copy. The only photograph or artwork in the deposit copy is an image on its title page, depicting the cover art of a book with the title “HU\$H Money” on the front and back cover and “HU\$H Money The Sequel” on the spine. You do not allege that the image has appeared on YouTube.

The only text in the deposit copy that you seem to claim was improperly used is the title “#stellaroseallday,” which is also a pseudonym and a social media hashtag. In the “Describe the infringement” section of the amended claim, you state: “#StellaRoseAllDay is my pseudo nom de plume.” You contend that YouTube did not take down material posted by its user Panthera La Luna “because they are all making money off my name.” Supplemental documents filed with the claim show Stella Rose as a user name for a @stellaroseallday social media account, and an

“About the Author” section in the deposit copy names Stella Rose as the author and states: “Social Media Handle: #stellaroseallday.”

Short phrases, titles of works, personal names, and pseudonyms, including pen names and stage names, are not protected by copyright. 37 C.F.R. § 202.1(a). See *Downing v. Abercrombie & Fitch*, 265 F.3d 994, 1004 (9th Cir. 2001) (“A person’s name or likeness is not a work of authorship within the meaning of 17 U.S.C. § 102.”), *Peters v. West*, 692 F.3d 629, 636 (7th Cir. 2012) (“the name alone cannot constitute protectable expression”). More information about copyright law related to names and short phrases is available in Section 313.4(C) of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition* and in [Circular 33: Works Not Protected By Copyright](#). Both sources provide “the name of an individual (including pseudonyms, pen names, or stage names)” as an example of an uncopyrightable short word or phrase.

Nevertheless, several supplemental documents filed with the claim show social media posts and messages in which Stella Rose, with a @stellaroseallday user account, appears to assert copyright or trademark protection over “#stellaroseallday” as a hashtag, short phrase, name, or pseudonym. See [IMG-7947.PNG](#) (message from Stella Rose to YouTube; “You can’t use my hashtag[,] it’s copyrighted”), [IMG-7938.PNG](#) (message from Stella Rose to @badboybreeze_: “If [you’re] using my name and [you’re] not licensed to use it on another platform you need to remove it because I’m not getting compensated for those views.”), [IMG-7943.PNG](#) (message from Panthera LaLuna to Stella Rose: “Are you insinuating that I am writing a hashtag Stella Rose All Day? . . . You state it is copyright and or trademark infringement?”), [IMG-7946.PNG](#) (message from Stella Rose to YouTube: “Final notice to remove my name from this channel. . . I own the trademark for my name[,] for my hashtag[,] and for my face.”). Trademark law may protect short phrases and pseudonyms, but copyright law does not, and the Board cannot hear trademark infringement claims. 17 U.S.C. § 1504(d)(1). The “Describe the infringement” section discuss several videos posted or reposted to YouTube, but it does not identify any material in those videos that would infringe the *copyright* in the registered work.

To address this issue in a second amended claim, you must identify some expressive content in your work that the respondent copied, displayed, or distributed. “#stellaroseallday” is not expressive content in the work.

Online Service Provider

Your amended claim identifies YouTube as an online service provider (OSP) and asserts that the infringement claim is “due to their storage of or referral to infringing material posted by others,” and that you sent YouTube a takedown notice to take down third-party material as required by section 512 of the Copyright Act, but that it did not “expeditiously remove or disable access” to that material. However, you have not provided enough information in the claim or in supplemental documents to support those contentions. It is not clear from your amended claim that you sent YouTube a takedown notice that properly identified any infringing material.

“Safe harbors” in section 512 shield certain OSPs from being responsible for damages, if any, resulting from copyright infringement claims provided, among other things, the OSPs take steps to quickly remove or disable access to infringing material when a copyright owner notifies them about the infringement through a proper

takedown notice. To avoid liability, OSPs must follow procedures specified in section 512 when they receive takedown notices alleging infringement, and counter-notices seeking the re-posting of the allegedly infringing material. An infringement claim against an OSP that is eligible for a section 512 safe harbor must state facts that demonstrate that the respondent did not follow those procedures.

Under section 512, a proper takedown notice must include, among other things, “[i]dentification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.” 17 U.S.C. § 512(c)(3)(A)(iii). The takedown notice must also include statements that “the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law,” and that “the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.” 17 U.S.C. § 512(c)(3)(A)(v)-(vi). Your amended claim does not indicate that you complied with these requirements.

In the “Describe the infringement” section, you describe a livestream, reposted from Stream Yard to YouTube by the Panthera La Luna channel, in which you discussed your investigations into the death of Aaron Carter. You contend that it was reposted without your permission, and that Panthera La Luna then made a slanderous, 4½-hour long video about you. You also allege that YouTube user In Slime We Trust was in the audience for that video, and that he then made a video of his own that “used my Facebook posts about the case” in which he falsely asserted that you had posted certain information on Wikipedia. However, you do not identify any material from the registered work that appeared in Panthera La Luna’s livestream, the 4½-hour video, or In Slime We Trust’s video.

The supplemental documents that show correspondence with YouTube also do not show that you clearly identified any specific infringing material in a proper takedown notice to YouTube. It appears that Panthera La Luna sent a message to Stella Rose on January 24, 2023, questioning the basis for your claim, stating: “It is puzzling to see your email. Are you insinuating that I am writing a hashtag Stella Rose All Day? You do know that YouTube encourages the use of all # / @ for SEO engagement purposes. . . You state it is copyright and or trademark infringement? I have not posted your photo on my channel NOR will I ever. I did use the @ symbol which is within You Tube TOS.” [IMG-7943.PNG](#). Stella Rose wrote, in a response dated January 24, 2023, which may also have been sent to YouTube, “2nd Notice. YouTube MUST legally remove these videos off this channel.” [IMG.7945.jpg](#). Later that day, Stella Rose wrote to YouTube Copyright: “Attention Legal Department!! Final notice to remove my name from this channel. After this it’s a lawsuit and I will win. I own the trademark for my name[,] for my hashtag[,] and for my face.” [IMG-7946.PNG](#). Apparently that same day, YouTube responded, and Stella Rose replied by email: “Here are all my copyrights that are attached. I have three.” A document attached to that email appears to be a page from the “#stellaroseallday” manuscript, with text added in bold: “You can’t use my hashtag[,] it’s copyrighted.” [IMG-7947.PNG](#). As discussed above, the “#stellaroseallday” hashtag is not protected by copyright, so under section 512, communications to YouTube asserting copyright infringement based on use of that hashtag could not be a basis to hold YouTube responsible for infringement damages.

An email from Dionne Lang to YouTube dated two weeks later, on February 8, 2023, stated, “Reporting video defamation of character,” referring to a video posted by In Slime We Trust. [IMG-7932.PNG](#). In online comments apparently related to that email and the In Slime We Trust video, Stella Rose stated, “This video has been reported for defamation violation” and “I’m reporting your page on YouTube for posting false information”—not for infringing the copyright. [IMG-7933.PNG](#). An email from “YouTube Legal Support Team” dated February 9, 2023, stated, “If you believe you hold the copyright to the content in question, you may wish to file a copyright complaint,” and provided a link to a YouTube page “about how to file a copyright complaint.” Dionne Lang wrote, in a response dated March 6, 2023, “I don’t understand why you’re allowing people to repost my work. I own three copyrights and nobody has the right to post my name, my photos, my information[.] . . . My information is out on the internet and I never authorized it . . . and by law you have to remove it, regardless if I own the copyright or not. Nobody is allowed to use my photo, my name, or reveal personal information on the internet and you have to remove it simply as that.” [IMG-7936.PNG](#). None of those communications appear to satisfy section 512.

Your amended claim alleges that you had extensive communication with YouTube about the Panthera La Luna and In Slime We Trust videos. You allege:

I contacted YouTube and let them know that both of my copyrights were being infringed upon and I provided them with the serial numbers and the dates that I started the work. I showed them how I sent them cease and desist letters and that both of the parties responded, and all that YouTube did was say “they needed more information by email.” During the month of February and March there were over one hundred emails exchanged between me and YouTube Legal, YouTube Copyright, and email relays. I sent YouTube a cease and desist on all the above and they never took any action on any of it. YouTube did not take it down even after I did all I could to remedy the situation.

However, you have not shown that you alerted YouTube to any acts of copyright infringement on its website. Emails about trademark infringement, defamation, or uses of the “#stellaroseallday” hashtag or pseudonym would not be enough, unless you also provided notice of specific copyright infringing activity. If YouTube did not receive a takedown notice that substantially complied with the requirements of section 512, it cannot be liable for damages for copyright infringement based on its actions as an OSP.

To address this issue, if you file a second amended claim, you must describe or show some specific infringing activity. To maintain a claim against YouTube for failing to “expeditiously remove” material, you must describe or show how a takedown notice sent to YouTube complied with section 512 and sufficiently identified the allegedly infringing material. Please include enough information to explain or show what copyright-protected material in your registered work was used in each allegedly infringing video at issue.

Final Amendment

The amended claim does not resolve all of the compliance issues raised in the April 18, 2023 noncompliance order, and raises further issues, explained above, that also must be resolved for the claim to go 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.

Copyright Claims Attorney