



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0102
April 4, 2024

Nadine Hokayem

CLAIMANT

v.

Alex Brecher

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 6, 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 about the four allegedly infringed works. The titles of your four works listed in the “Works infringed” section of the claim indicate that they are pictorial or graphic works depicting various products:

- Image for Multinutrients from Nutri-Patch®;
- Image for Energy B12 from Nutri-Patch®;
- Image for Joint & Inflamm from Nutri-Patch®; and
- Image for Sunshine D from Nutri-Patch®.

To describe each work in the “Works infringed” section, you provide hyperlinks to the Shopify website for *two* image files apiece. It is not clear which of those image files may be your allegedly infringed works. When reviewing claims, the Board will not take into account material that is solely referred to in hyperlinks and not uploaded as supplemental documents, in part because hyperlinks can lead to material that is no longer available online.

Supplemental documents filed with the claim include screenshots of three pages on the Nutri-Patch website that feature images of three of the four products named in the “Works infringed” section:

- [Screenshot Nutri-Patch Multinutrients 2024-03-26 at 8.07.44 PM.png](#)
- [Screenshot Nutri-Patch Energy B12 2024-03-26 at 8.08.42 PM.png](#)
- [Screenshot Nutri-Patch Joint&Inflamm 2024-03-26 at 8.10.40 PM.png](#)

It is not clear which, if any, of those screenshots and image files depict your works. In addition, your allegations related to the work titled “Image for Sunshine D from Nutri-Patch®” are not supported because you do not describe or provide documents that appear to show that work, or any allegedly infringing use of that work by the respondent. If you include copies of the works at issue as supplemental documents in your amended claim, they must be clearly labeled and identified so they can be properly compared to each other.

Other allegations suggest that you are claiming infringement of literary or textual material, including “registered brand names,” not just visual images. In the “Works infringed” section, you identify all four works as “literary” works, and in the “Description of harm suffered and relief sought” section, you state, “I request that the respondent stop any activities that infringe on my website’s literary work.” In the “Describe the infringement” section, you allege that “[t]he work is on my website, images, text, and registered brand name,” and that the respondent “accessed my website’s online links, including original images, text, and registered brand names, without my consent and publicly displayed them to retail and sell products.” However, your claim does not identify any particular written material as infringing. Moreover, as stated in the March 26, 2024 noncompliance order in one of your other Board claims against the same respondent, Claim No. 24-CCB-0096: “Brand names are not protected by copyright and so allegations regarding such names cannot be brought before the Board.”

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. The works must have been included in the deposit copies submitted to the Copyright Office with the application for registration. 17 U.S.C. § 1505(a). In the “Works infringed” section, you state that the works have not yet been registered and are subject to a pending application, Service Request No. 1-13581590241. The deposit for that application consists of seventeen .jpg image files, not text files. It is not clear which literary or textual material you allege was infringed.

If you submit an amended claim, you must include facts in the claim form that more clearly explain or identify which works are the allegedly infringed works. The claim must provide enough information to enable the respondent to understand the claim and respond to it. Provide additional facts that describe the respondent’s alleged infringing activity, for example, by specifically identifying the copyright-protected works, within a deposit previously submitted with an application for registration, that the respondent used without authorization. You must also describe or show how your works were used.

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