



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0157
July 5, 2023

Kraton Corporation

CLAIMANT

v.

Brian Sartin and Soft-Science

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 **August 4, 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. 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.

Registration Number

A copyright infringement claim before the Board must include the registration number and the effective date of registration for the allegedly infringed work, if it has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(C)-(D). In your claim, filed on May 2, 2023, you stated that the allegedly infringed work had not been registered, and you provided a service request number for a pending application for registration. Copyright Office records show that your application was approved on June 2, 2023, with an effective date of registration of April 28, 2023. If you file an amended claim, please include the registration number TX0009269377 and the April 28, 2023 effective date.

Pleading Form

The Board claim form is a standardized form, available on [eCCB](#). [37 C.F.R. § 222.2\(a\)\(1\)](#). The allegations provided in the claim form should provide sufficient information to state a claim for infringement. Supplemental material, including material that sets forth additional facts beyond the claim form, is acceptable, but attachments that take the form of a separate “complaint” or other formal pleading are not acceptable. You submitted, as supplemental material, a [document](#) styled as a “Complaint for Copyright Infringement” (Complaint), which appears to be patterned on a complaint that might be filed in federal court. Submitting a separate “Complaint” is

not an acceptable way to plead a claim before the Board. If you file an amended claim, you should include a statement of the relevant facts in the claim form. If a full recitation of the facts does not fit well on the claim form, you may also attach a separate document that is limited to a recitation of the relevant facts and is not in the form of a pleading.

Even if everything that is stated in the Complaint was stated in the claim form, the claim would not be compliant. As discussed below, one respondent's allegedly infringing activity is not sufficiently stated in the claim form or in the Complaint. To address this issue, you may file an amended claim that includes sufficient factual allegations.

Infringing Activity

For each respondent you name as an alleged infringer, you must state allegations regarding that respondent's allegedly infringing activity. Your claim does not present any facts about how one respondent, Soft-Science, used your exclusive rights 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 describe the allegedly infringed work as "text and graphics published as a website." You allege that the infringing website at www.kra-wp.com is identical to your website. A [document](#) filed with the claim indicates that respondent Brian Sartin controlled the allegedly infringing website while he worked for your corporation in January 2023. Another [document](#) filed with the claim indicates that he registered the domain name of the allegedly infringing website while using a softsciencetech.com email address, which may be associated with Soft-Science. However, your allegations and supplemental documents do not describe any specific acts that Soft-Science engaged in that violated your rights.

If you submit an amended claim, you must include facts in the claim form that more fully explain how each respondent infringed your work. The claim must provide enough information to enable the respondents to understand the claim and respond to it. If you contend that Soft-Science infringed your work in the course of its business, then your allegations should describe its infringing activities. If you contend that Mr. Sartin caused, directed, or engaged in Soft-Science's infringing activities, your amended claim should state facts that explain how.

Improper Relief Sought

The "Relief Requested" section in the Complaint indicates that you are seeking \$30,000 in statutory damages for copyright infringement in one work. You are seeking a larger damages award than the Board can grant for this type of claim. The maximum amount of statutory damages available from the Board is \$15,000 for each work that was infringed. 17 U.S.C. § 1504(e)(1)(A)(ii)(I). In addition, for any works that were (1) unpublished and the copyright

was registered after the infringement started, or (2) published and the copyright was registered both after the infringement started and more than three months after the publication of your work, the maximum statutory damages is \$7,500 per work. *Id.*; 17 U.S.C. § 412(1). When you amend your claim, you will need to limit your request for damages to an amount the Board can grant. Because the certificate of registration, effective April 28, 2023, states that the date of publication of your work was September 1, 2022 and because the claim alleges that the infringement commenced on April 24, 2023, it appears that the maximum award of statutory damages available is \$7,500.

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.