



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0001

March 28, 2023

Roy Miller

CLAIMANT

v.

Meta Platforms

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 **April 27, 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.

Copyright Registration Number

A copyright infringement claim before the Board must state the registration number for each allegedly infringed work, if registration has issued. [37 C.F.R. § 222.2\(c\)\(7\)\(ii\)\(C\)](#). Your claim states that both allegedly infringed photographs have been registered by the Copyright Office and provides 1193056 as the registration number. Copyright Office records, and supplemental documents filed with the claim, list the complete registration number as VAu001193056. If you file an amended claim, include the complete number in the “Works infringed” section.

Copyright Infringement – Elements

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, meaning a reasonable opportunity to view or hear your work, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

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 claim does not present enough facts to support the elements of a copyright infringement claim related to access and substantial similarity, as discussed further below.

Copyright Infringement – Access

Your claim does not provide enough facts about how the Facebook user who uploaded the allegedly infringing photographs to Facebook had access to your photographs. “Access” means a reasonable opportunity to view your work before the alleged infringement took place. In the “Describe the infringement” section of your claim, you state, “a number of my copyrighted photographs are used on the Meta platform on the following Facebook page,” with a link to a Facebook user page. However, you do not identify any place where your photographs were available to that Facebook user before the alleged infringing use.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include that your photographs (a) were sent directly to that Facebook user, or a close associate of the Facebook user; (b) were widely disseminated or were available to the public or to that Facebook user; or (c) are so strikingly similar to the photographs uploaded to that Facebook user’s page that the Facebook user could not have created them independently.

Alternatively, you can upload copies of your photographs and the allegedly infringing photographs if those images demonstrate that the works are so strikingly similar that they could not have been created independently. You must make allegations regarding access for each of the works you claim were infringed.

Copyright Infringement – Substantial Similarity

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

You allege that a number of your photographs “are used” on a particular Facebook page, but your allegations do not describe the extent of that use. You do not provide any information describing or showing your photographs. No allegations in the “Describe the infringement” field of the claim describe your photographs or the allegedly infringing photographs, or state or show how they are identical or substantially similar. In addition, you have not provided copies of the photographs 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 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 photographs were used on the Facebook page, or documents that are sufficient to show the similarities. If you include copies of your original photographs and the allegedly infringing copies as supplemental documents, they must be clearly labeled and identified so they can be properly compared to each other.

Supplemental Documentation

It is not clear how two of the supplemental documents filed with your claim, named [1 white new court order 82020 Order.pdf](#) and [10.22.21 Letter version of email to Google.pdf](#), support or relate to your claim before the Board. The first document appears to be a court order in a defamation case you brought against a someone who is not a party to this proceeding, and the other document appears to be a letter from your counsel to Google about certain DMCA notices. Neither document appears to relate to any use of your photographs on Facebook. If you submit an amended claim, please include only documents that directly pertain or relate to the claim, and provide an explanation of their relevance if it is not clear.

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 supplementary 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.