



COPYRIGHT CLAIMS BOARD

Docket number: 25-CCB-0017
January 17, 2025

Troi Torain

CLAIMANT

v.

Michael Winters

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 **February 18, 2025**. 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

A copyright infringement claim before the Board must include the registration number for the allegedly infringed work and the effective date of registration, if it has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(C). In the “Works infringed” section of the claim, you list the effective date of registration as January 3, 2025. However, the Certificate of Registration that you filed as a supplemental document with the claim states the effective date for that registration as September 26, 2019. If you file an amended claim, you must include the correct date.

Allegedly Infringed Works – Clarity

The Certificate of Registration covers a group of 57 photographs. Your allegations are unclear because you do not identify which of those photographs, or how many of them, the respondent used. A copyright infringement claim before the Board must include the title of each allegedly infringed work. 37 C.F.R. § 222.2(c)(7)(ii)(A). In the “Works infringed” section of the claim, you list “Photographs” as the title of your work, which you describe as “[m]ultiple copyrighted photographs.” If you file an amended claim, it must be more specific about which works you claim were infringed. List each allegedly infringed work separately in its own entry in the “Works infringed” section, including the title and all specified information requested about each work. When you describe the alleged

infringement, to the extent different uses were made of different photographs or they were used in different videos, you should be clear how and where each was wrongfully used by the respondent.

Access

Your claim does not provide facts about how the respondent had access to your work. “Access” means a reasonable opportunity to view your work before the alleged infringement took place. You describe the allegedly infringed works as a “[m]ultiple copyrighted photographs” and you indicate that the respondent displayed the photographs in a YouTube video. However, you do not detail how the respondent had a reasonable opportunity to view or copy your photographs.

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 how 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 respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. Alternatively, you can upload copies of your works and the allegedly infringing work if they demonstrate that the works are so strikingly similar that they could not have been created independently. 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.

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 documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are substantially similar.

You allege that your photographs were infringed on YouTube. Your claim does not provide detailed information describing your works or the allegedly infringing work, or how they are substantially similar. For example, you do not indicate how many of your photographs appeared in the allegedly infringing video, or for how long. You also have not provided copies of your photographs or of the allegedly infringing 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.

When 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 of your works 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. 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.

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.

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