



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0222

United States Copyright Claims Board

Michael L McBride

CLAIMANT

v.

Leann M Thompson

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 **December 12, 2022**. 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.

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.

Your claim intertwines your allegations about copyright infringement with many unrelated and inflammatory assertions about the respondent and the respondent’s family, with the result that the elements of your infringement claim are not stated clearly enough for the Board and the respondent to understand. If you file an amended claim, it must clearly set forth allegations that support each element of the infringement claim without mixing those allegations up with unrelated allegations. 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.

Copyright Infringement Claim – Access

Your claim does not provide facts about how the respondent had “access” to your work. “Access” means a reasonable opportunity to view or hear your work. 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 work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently.

Your claim includes allegations that the respondent engaged in “hacking via passwords and iCloud online.” but does not include any specific information about how the respondents accessed your work. When you submit an amended claim, if you keep that allegation, you must explain it more fully by stating *specific* and reasonably possible facts about how you believe this occurred, including how the respondent got access to the work at issue on your devices.

Copyright Infringement Claim – Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work and the allegedly infringing work. If it is not readily apparent from supplemental materials that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar. Your claim states that your work “is for sale on both Amazon and Apple Books [and] the passwords are being used to change the content and cover art[.]” However, you do not provide any information describing or depicting your work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. In addition, it is not clear if you have provided a copy of your allegedly infringed work or of the allegedly infringing work as part of the claim. Supplemental documents filed with the claim, with the file names “Oz project backup 5-12-22.txt” and “Oz project 5-13-22.txt,” may be copies of your work or of the allegedly infringing work, but it is hard to tell. 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 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 work 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.

Participant Conduct

All participants in a Board proceeding, including parties and their representatives, are required to meet certain basic standards of conduct. [37 C.F.R. § 232.1](#). These standards include acting with the highest degree of respect for others. If you fail to meet these standards and instead act in bad faith, the Board may impose financial penalties on you or even ban you from bringing new claims before the Board. [37 C.F.R. § 232.4](#).

Bad-faith conduct includes violating those standards of conduct, or making a claim or taking any actions in support of a claim (1) for some inappropriate purpose, such as to harass someone, (2) without a reasonable factual or legal basis, (3) despite knowing that the claim cannot be heard by the Board, or (4) to avoid Board requirements.

Your claim includes allegations unrelated to copyright that attack the reputation of the respondent and their family. In your amended claim, please only include allegations related to your copyright infringement dispute. You can only submit a document or other information to the Board, make a claim, or take a position before the Board if you have a legitimate reason for doing so. Your reason for filing a claim or submitting information cannot be to harass, intimidate, or annoy another participant.

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 that are directly related to your claim.
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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney

November 10, 2022