



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0148

United States Copyright Claims Board

Mikhail Glabets Photography LCC

CLAIMANT

v.

Island entertainment dba Spring House Hotel

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 19, 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.

Respondent Address

When you submitted your application, you checked the box that the respondent's address was unknown at the time but you had a good faith belief that the Copyright Act's three-year statute of limitations for your claim was likely to expire within 30 days of the date you filed the claim. You affirmed that you would provide the address within sixty days of filing.

You provided an address to the Board via email on October 31, 2022. Please include this address when you submit your amended claim. Note that even if your claim is eventually found compliant and you provide a U.S. address for the respondent, the Board may still order you in the future to provide your basis for affirming that you had a "good faith belief" that the three-year statute of limitations was about to expire when you filed your claim.

Legal and Beneficial Ownership

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner of the copyright rights in the allegedly infringed work. To bring a copyright infringement claim before the Board, the claimant must be "the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement [.]". 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work.

When the claim was submitted, you certified that the claimant was the legal or beneficial owner of rights in the work identified in the infringement claim, providing a registration number of "10917727671." This number is part of an application service request number. A Board search of Copyright Office Records shows Mikhail Glabets, an individual, listed as author and copyright claimant in the registration of the allegedly infringed work ("VA 2-272-967"). When you submit an amended claim, please provide the correct registration number: VA 2-272-967.

A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. To correct this issue, you must add additional information to the "Describe the infringement" section of the claim that explains how the listed entity ("Mikhail Glabets Photography LCC") either (1) obtained ownership of the exclusive rights allegedly infringed, or (2) was the author or other legal or beneficial owner of the exclusive rights at the time of the infringement, notwithstanding the fact that the certificate of registration identifies Michael Glabets as the author and copyright owner.

More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Copyright Infringement Claim – Substantial Similarity

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 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 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 the respondent "took a photograph of mine and used it in 2 magazine print advertisements" and it appears that you have included the allegedly infringing works as supplemental documents. However, you do not provide any information describing or showing your work apart from describing it as "photo of bride and groom." 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, and you have not provided a copy of your allegedly infringed work as a supplemental document.

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 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 works, 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.

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 18, 2022