



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0170
June 12, 2024

Christopher MacDonald

CLAIMANT

v.

Cyndy Dale

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **July 12, 2024**. 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 Clarity

Your copyright infringement claim does not present any facts to state how Cyndy Dale, an individual, 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.

In the Respondent Information section of the claim, you list “Course for Job” as the alias of Cyndy Dale. Later in the claim you refer to the respondent as “this company.” Your claim includes no mention of how Cyndy Dale herself infringed your work. Even though Cyndy Dale may be the owner of Course for Job, the law considers most business entities to be separate from the individuals who own them.

To correct this issue, you can either (1) amend the claim to name Course for Job as respondent or (2) provide additional information about how Cyndy Dale infringed your work as an individual or is otherwise responsible for

the infringement. If Cyndy Dale is simply “doing business as” Course for Job without it being a separate company, you will need to state that information in the claim.

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. 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. 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 provide enough facts about the ownership of the work, how respondent had access to your work, and how the respondent’s work is substantially similar to your work. Please provide more details and background regarding this element in your amended claim.

Legal or Beneficial Ownership

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner of 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. A claimant who is not a 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.

The claim does not present facts that indicate that Christopher MacDonald is a proper claimant. A Board search of Copyright Office Records shows Christopher MacDonald and Film Editing Pro Inc, as coauthors of the works. However, Film Editing Pro Inc, an entity, has been named as copyright claimant on the certificates. This indicates that the owner of the works is Film Editing Pro Inc. A claimant asserting an infringement claim who is not an author or named copyright owner in the registration of the allegedly infringed work must support the claimant’s appropriate ownership of the copyright. As noted above, even though you may be the owner of Film Editing Pro Inc, the law considers corporations to be separate legal entities from the individuals who own them.

Because the copyright claimant listed on the registration certificate is not the entity named as claimant in the proceeding and you have not included any additional information about the ownership of the copyright rights, your

claim may not proceed. To correct this issue, you can either (1) amend the claim to name Film Editing Pro Inc as claimant instead of Christopher MacDonald or (2) provide additional information about how the copyright is actually co-owned by Christopher MacDonald or was exclusively licensed to Christopher MacDonald. To name an organization as claimant, you will need to change your eCCB user type from “self-represented party” to “authorized company representative” before amending your claim and re-entering the information. In the alternative, if you actually own the material or exclusively licensed or had transferred to you the exclusive rights at issue as an individual, your second amended claim must add additional information to the “Describe the infringement” section of the claim that explains how you (1) obtained ownership of the exclusive rights allegedly infringed, or (2) how you are the legal or beneficial owner of the exclusive rights at the time of the infringement. You may also choose to include supplementary documentation such as an assignment or license that explains how these rights were transferred you.

Access

Your claim does not provide facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. In your claim, you state that “[t]his company gathers and resells online courses from many companies, including mine” but you do not detail where your works are publicly available. 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 works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or was available to the respondent; or (c) are so strikingly similar to the respondent’s works 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 works and the respondent’s allegedly infringing works. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar.

Your claim states that your work is an “online course teaching video editing.” It appears that you are alleging that the respondent is providing your videos for distribution but you have not included any 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, you have not provided a copy of your work or the allegedly infringed 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 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. 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.

Copyright Claims Attorney