



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0407
December 18, 2023

IVILIIA MILLIONIC IT Sp. z o.o.
and Serhii Osadchyi

CLAIMANTS

v.

Ilia Mazur

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 **January 17, 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.

Copyright Infringement – Elements

You have brought a claim of copyright infringement 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, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

Your claim does not provide enough clear facts to support any of those elements, as described below. If you file an amended claim, it must include enough details about the elements for the Board and the respondent to understand the facts of the alleged infringement.

Legal or Beneficial Ownership

Your claim does not present facts that indicate that the named claimants are both proper claimants because it is not clear that each claimant is a legal or beneficial owner of the allegedly infringed works.

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

Your claim lists two claimants, IVILIIA MILLIONIC IT Sp. z o.o. (“Iviliia”) and Serhii Osadchyi (“Osadchyi”). In the “Works infringed” section, you identify claimant Osadchyi as the author of the four allegedly infringed works. Copyright Office registration records for the works, filed as supplemental documents with the claim also identify Osadchyi as the author of each work, and indicate that ownership was transferred to Iviliia by written agreement. Those records indicate that Iviliia is a legal owner of the copyrights, but that Osadchyi’s rights may have been transferred to Iviliia. The claim does not present clear facts that indicate that Osadchyi has the right to bring a claim of infringement for the work as either a legal or beneficial owner.

To correct this issue, your amended claim must include specific allegations about how each claimant owns, or has an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining how both claimants were the owner of exclusive rights in the works at the time of the infringement or by submitting supplemental documents. That may include explaining the relationship between the claimants: for example, Osadchyi could be considered a beneficial owner of the works if Osadchyi retains certain rights in each of the four works, including the rights to receive royalties. In the alternative, if the information in the claim identifying the claimant or the author of the works is inaccurate, you may correct that information in an amended claim.

Infringing Activity

Your claim does not present enough facts to clearly state how the named respondent, Ilia Mazur (“Mazur”), used any exclusive rights you have 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.

Your claim does not provide enough facts about infringing activity by the respondent. The “Where the alleged infringing acts occurred” section of the claim alleges infringing activity on an “app on google play.” The “Describe the infringement” section accuses Mazur of “[u]sing our 4 (four) copyrighted characters without our authorisation.” The “Description of harm suffered and relief sought” section accuses “[t]his developer” (presumably Mazur) of “[s]elling a paid subscription in their app that utilises the above 4 characters.” Those allegations do not sufficiently describe the extent of the allegedly infringing use of each character.

To address this issue in an amended claim, please provide more details and background regarding Mazur’s allegedly infringing activity. Include facts in the “Describe the infringement” section that describe acts infringing your copyrights, specifying how the respondent engaged in the infringing activity. You should be as detailed as possible, setting forth what the respondent did in relation to the works you allege were infringed. For example, if you contend that the works were used in an app, you should describe how they were used, or show the extent of the use in supplemental documents. Your description should make clear how your actual creative expression was copied and not merely an idea, as ideas are not protectible under copyright law.

Access

Your claim does not provide facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view your works before the alleged infringement took place.

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 works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or were available to the public or respondent; or (c) are so strikingly similar to the respondent’s works that they could not have been created independently.

Alternatively, you can upload copies of your works and the allegedly infringing works if those images 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 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 works and the allegedly infringing work are similar.

You allege that the respondent used four copyrighted characters in an app, but you do not describe how much of your works were used, or how they appeared within the app. Your allegations do not describe the allegedly infringing app, or state or show how it appears identical or substantially similar to your works. In addition, you have not provided a copy of your works, or images from the allegedly infringing app, 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 include a clear, detailed statement regarding which portions of your works were taken by the respondent in the allegedly infringing work, or documents that are sufficient to show the similarities. As mentioned above, 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 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