



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0304  
December 20, 2024

Brendyn T Fastinger

CLAIMANT

v.

James A Colwell

RESPONDENT

## SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (Board) finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **January 21, 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); [37 C.F.R. § 224.1\(d\)](#).

To make your second 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 amended 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.

### Registration

The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a). Either the registration must have been issued or the application must have been delivered to the Copyright Office for each work before you filed your claim on October 11, 2024. If a work was neither registered nor subject to a pending application at that time, it cannot be included in the claim.

Your claim alleges infringement of two works “FAZZULOUS Pilot Visual Work and Comedy” and “FAZZ OC Work for Story and Comedy.” A Board search of Copyright Office records indicates that the registration application (SR 1-14347569471) included in your supplementary materials includes both works. This is

impermissible on the standard application. As a general rule, a standard registration applications cover one individual work, and an applicant should prepare a separate application, filing fee, and deposit for each work that is submitted for registration. See Section 511 of [Chapter 500](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*.

To correct this issue, you should contact the Copyright Office and select one video to register with the application (SR 1-14347569471) and amend your claim to include only that video. If you would like to include both works in a single claim, you would need to apply to register the copyright for the other allegedly infringed work before you could refile your claim as a new claim. As the Board and the Copyright Office’s registration division are separate, for additional information or help, you can contact the Copyright Office online here:

<https://help.copyright.gov/contact/s/status-form>. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

### **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 how the 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 these elements in your amended claim.

### **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 do not include any allegations about how the respondent had access to your videos.

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 work that the respondent could not have created them independently. Alternatively, you can upload copies of your works and the allegedly infringing works 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.

In your claim you state "Mr. Colwell downloaded the videos from my Twitter and uploaded the videos on YouTube." However, it is unclear if you mean these are identical copies and you do not detail how the respondent allegedly used your works or how much of your works were used. No allegations in the "Describe the infringement" field of the claim state or show how they are identical or substantially similar. In addition, you have not provided a copies of your works or the allegedly infringed works 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.

### Final Amendment

Your amended claim resolved none, of the compliance issues raised in the October 29, 2024, Order to Amend Noncompliant Claim. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

To submit a second 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](mailto: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 Board