



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0038

March 8, 2023

Jermaine Simmons

CLAIMANT

v.

The Corvette National Museum

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 **April 7, 2023**. 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 allegations are unclear because they appear to intertwine the actions of respondent, The Corvette National Museum, with the actions of a third party, General Motors, which you have not named as a respondent. In your claim, you state “[i]n 2020, General Motors introduced the all new Corvette C8 Stingray that looks very similar to my visual artwork. I did not give permission or authorization for it to be used.” These allegations indicate that you believe General Motors is infringing your work. Nothing in your claim shows that The Corvette National Museum is not a separate entity from General Motors. When you submit an amended claim, you must clarify what activities the respondent, The Corvette National Museum, engaged in and whether it was acting on behalf of General Motors when it engaged in those activities.

If you include General Motors as a respondent in your amended claim, you should still clarify the actions taken by The Corvette National Museum (unless you replace The Corvette National Museum with General Motors). Please note that if you include General Motors as a respondent, your claim must make enough factual allegations to support each “element” of copyright infringement, including how General Motors obtained access to your work. 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 – 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. 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 also 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 documents 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 “Corvette C8 Stingray that looks very similar to my visual artwork” and further alleges that “[t]he all new Corvette Z06, the new E-Ray are all some form of reproduced or copy from my visual artwork.” However, you do not provide enough information describing or depicting the respondent’s copyright protected work. This is an insufficient allegation of substantial similarity. No allegations in the “Describe the infringement” field of the claim compare your work to the allegedly infringing work, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of the allegedly infringing work (as an image or otherwise) 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.

When you submit an amended claim, it must include more specific 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 specifically stating which portions of your work were taken by the respondent in the allegedly infringing work. 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.

When filing your amended claim, please keep in mind a few copyright principles. A valid copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original to the author. Familiar symbols and designs including standard industry designs are not copyrightable, either in two-dimensional or three-dimensional form. 37 C.F.R. §202.1(a). Further, copyright does not extend to “any idea, procedure, process, system, method of operation, concept, principle, or discovery.” 17 U.S.C. § 102(a), (b).

Please review [Circular 1: Copyright Basics](#) and [Section 900](#) of the Compendium of U.S. Copyright Office Practices, Third Edition for more information about copyright and visual arts works.

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 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