



COPYRIGHT CLAIMS BOARD

Docket number: 25-CCB-0068

February 25, 2025

Xandria S Browning

CLAIMANT

v.

Yuanyuan Shen

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 **March 27, 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. 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 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 or how your work and the respondent’s work are substantially similar. Please provide more details and background regarding this element in your amended claim.

Access

Your claim does not provide facts about how the respondent had access to your work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. In your claim, you do not state how the respondent had access to the Wizard Frog Crochet Pattern. As described below, the respondent must have actually accessed your pattern instructions and copied and sold a substantially similar version of the copyrightable expression in those instructions. You cannot satisfy the access component of a copyright infringement allegation by stating that the respondent had access to a picture of or a physical copy of the wizard frog and created their own instructions on how to make it.

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 work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. For example, you could include allegations that the respondent purchased the Wizard Frog Crochet Pattern or that the Wizard Frog Pattern was widely published.

Alternatively, you can upload copies of your pattern instructions and the allegedly infringing pattern instructions if the 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 the text of your crochet pattern booklet and the text of the respondent’s allegedly infringing crochet pattern. 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 your work is a literary work that contains “detailed, step-by-step instructions for crocheting a plush frog character dressed as a wizard. The pattern includes written instructions, stitch counts, and assembly details, along with original photographs demonstrating the process.” You separately filed what appears to be side by side comparison of two crochet wizard frogs, not a comparison of the instructions (your work and the allegedly infringing work) themselves. One of your attachments does seem to show that respondent is selling pattern instructions on how to make a wizard frog, but even if the end result was a similar looking wizard frog, that does not mean that the copyrightable expression in your instructions was copied—just as if a baker could look at an apple pie and instruct someone how to make a similar apple pie without looking at the first baker’s recipe. Therefore, you do not provide enough information describing or depicting the similarities between the text in your pattern booklet and the text in the respondent’s pattern. No allegations in the “Describe the infringement” field of the claim compare the text in your work to the text in 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 pattern 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. Keep in mind that copyright does not protect the idea of a wizard frog or the process of making a crochet wizard frog, only potentially the creative expression in your copyrighted work, which here are the instructions you provided as a deposit copy in registering your 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. 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.

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