



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0395  
December 12, 2023

Terrell Lipscomb

CLAIMANT

v.

David Ellison, Dana Goldberg, and Amazon Prime

RESPONDENT

## ORDER DISMISSING CLAIM WITHOUT PREJUDICE

The Copyright Claims Board (Board) issued orders that notified Claimant on December 1, 2023 and December 11, 2023 that the claim and amended claim, respectively, did not comply with the applicable statutory and regulatory requirements for filings before the Board. On December 11, 2023, Claimant filed a second amended claim, which was the final opportunity to file a compliant claim. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

A Copyright Claims Attorney reviewed the second amended claim and determined that the claim is still noncompliant because it does not provide enough facts about how Respondents had access to Claimant's work before the alleged infringement began, or how copyright-protected material in that work and in the allegedly infringing work are substantially similar. The Copyright Claims Attorney referred the claim to a Copyright Claims Officer to confirm that it does not comply with the applicable requirements and that this proceeding should, therefore, be dismissed without prejudice. 17 U.S.C. § 1506(f)(1)(B). The Copyright Claims Officer reviewed the second amended claim and concurs with the finding of noncompliance.

Claimant alleges that his screenplay, titled "The War Hero," was submitted to a talent agency in November 2020 and won a screenwriting award in March 2021, before the April 2021 release of Respondents' film *Without Remorse*. The claim does not articulate a chain of events by which Respondents had a reasonable opportunity to access the screenplay at any time. "Bare corporate receipt, . . . without any allegation of a nexus between the recipients and the alleged infringers," does not create a reasonable possibility of access. *Loomis v. Cornish*, 836 F.3d 991, 996 (9th Cir. 2016) (quoting *Jorgensen v. Epic/Sony Records*, 351 F.3d 46, 48 (2d Cir. 2003)). "Rather, it must be reasonably possible that the paths of the infringer and the infringed work crossed." *Id.* at 995-96 (quoting *Towler v. Sayles*, 76 F.3d 579, 582-83 (4th Cir. 1996)).

In addition, an infringement claim must plausibly identify specific expressive content protected by copyright that was copied. The few allegedly shared elements by "The War Hero" and *Without Remorse* are that the main character in each loses his wife and then goes back to war, meeting a new female companion along the way. Such abstract, general plot premises are unprotectable by copyright and do not support substantial similarity. See *Benay v. Warner Brothers Entertainment, Inc.*, 607 F.3d 620, 625 (9th Cir. 2010); *Berkic v. Crichton*, 761 F.2d 1289, 1292-93 (9th Cir. 1985).

Accordingly, the Board dismisses the claim without prejudice and closes this case. Dismissal without prejudice means that any allegations that are not barred may be raised again by filing a new claim, if there is no agreement with the respondent to the contrary.

Copyright Claims Board