



# COPYRIGHT CLAIMS BOARD

Docket number: 25-CCB-0105

April 21, 2025

Bryan Bratt

CLAIMANT

v.

Matthew Amescua

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 **May 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. 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.

### Proper Respondent

Your copyright infringement claim does not include enough information or clarity about allegedly infringing acts committed specifically by the respondent, Matthew Amescua. You allege infringement of an “image of a betta fish” titled “Watery Wonders logo 1,” which you describe as a logo for your aquarium business Watery Wonders. A document filed with the claim shows your [logo](#), while another document that includes a similar [image](#) indicates that it was posted by Betta Trading Co. However, the claim does not clearly indicate that the Betta Trading Co. image is an allegedly infringing work, and the claim does not state or show that Matthew Amescua has any relationship with Betta Trading Co. If you file an amended claim, you must describe in as much detail as possible how Amescua allegedly infringed your work.

### Infringing Activity

Your claim must include facts that indicate that the respondent engaged in some activity infringing your copyright, such as reproducing, distributing, or publicly displaying your work, or making a “derivative work,” which is a work based on the original work. Your only allegation of supposed infringement is: “Registered essentially the same fish as mine to the USPTO.” While submitting an allegedly infringing work to the U.S. Patent & Trademark

Office (USPTO) for the purpose of registering that work may violate USPTO regulations or trademark law, it does not constitute copyright infringement. If you submit an amended claim, it must more fully explain how the respondent infringed the copyright in your work. You should be as detailed as possible, specifying what the respondent did in relation to the work you allege was infringed.

### **Access**

Your infringement claim does not provide facts that indicate how the respondent had access to your work before the alleged infringement. “Access” means a reasonable opportunity to see or copy your work before the alleged infringement took place. You assert that the respondent “[r]egistered essentially the same fish as mine to the USPTO” and “[s]howed me where he purchased the work.” However, you do not indicate when or where the respondent purchased his work, or how he obtained a copy of your work before the alleged infringement. Your claim does not describe anywhere that your work has been published, or present enough information to indicate how it is reasonably likely that the respondent had access to your work before he created his work.

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 to a close associate of the respondent; (b) was widely disseminated or available to the respondent; or (c) is so strikingly similar to the allegedly infringing work that the respondent’s work could not have been created independently. Alternatively, you can upload copies of your work and the allegedly infringing work if they demonstrate that the works are so strikingly similar that they could not have been created independently. You uploaded a copy of your work with the claim, but you did not clearly identify any other image presented with the claim as the respondent’s 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.

### **Substantial Similarity**

Your infringement claim 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 respondent’s work are substantially similar.

You assert that the respondent’s work is “essentially the same fish as mine.” However, your claim does not provide detailed information describing how the respondent’s image is substantially similar to your image. In addition, as discussed above, you provided a copy of your registered work as a supplemental document labeled [IMG\\_5417.jpeg](#), but you have not clearly provided the respondent’s work for comparison; your claim includes other images of betta fish, but none of those images are clearly labeled or identified as the respondent’s work. As a result, the claim does not provide enough information for the Board to evaluate the similarity of the works.

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 how much of your work was 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, then as discussed above, 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.

## Harm Suffered

Your infringement claim must include a statement describing the harm you suffered as a result of the alleged infringement. 37 C.F.R. § 222.2(c)(10). In the “Description of harm suffered and relief sought” section of the claim, you state: “Lost two USPTO applications. Needing to buy updated marketing material and make new logo. Stressful to deal with if fraud is involved. Yet uncertain of what actually happened here.” You do not describe how those alleged harms are based on the alleged copyright infringement of your image. To address this issue, your amended claim must indicate how some harm is attributable to the alleged infringement of your copyright.

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](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