



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0198
July 20, 2023

ERIC LIN

CLAIMANT

v.

Hank Chang

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 **August 21, 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.

Registration Number

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); 37 C.F.R. § 221.1(a). The claim must include the registration number and effective date of registration for the allegedly infringed work, if it has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(C).

In your claim, you state that the work is registered, providing 1-6929884071 as its registration number and an effective date of registration of September 6, 2018. A Board search of Copyright Office records indicates that the correct registration number is VAu001349988. If you file an amended claim, please enter the correct registration number and date in the “Works infringed” section.

Copyright Ownership

Your claim provides incomplete information about the claimant’s status as a legal or beneficial owner of the allegedly infringing work. To bring a copyright infringement claim before the Board, the claimant must be “the

legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has the exclusive license to use, the exclusive rights at issue.

In this proceeding, Eric Lin is listed as the claimant, while the registration record states that CHD International d.b.a. CHD Design Groups Inc. (CHD International or CHD) is the claimant and author of the work as an employer for hire. Lin is not listed as the author or copyright owner in the registration record. If you file an amended claim, you will need to explain how Lin is the legal or beneficial owner of the work. Alternatively, if CHD International is the legal or beneficial owner, the claim can be amended to show that CHD International is the proper claimant.

Impermissible Claims

The Board is only authorized to resolve certain types of copyright disputes. 17 U.S.C. § 1504(c)(1)-(3). You checked the box on the claim form to state that your claim is for copyright infringement, which is a type of claim that the Board can address. However, you include allegations that are unrelated to copyright. For example, you refer to “harm to my business and profession” as well as your reputation. You also refer to the respondent using the CHD International name without permission. These allegations are not related to a copyright infringement cause of action, as further described below. If you file an amended claim, you should limit your allegations to facts that support a claim under copyright law that can be heard by the Board.

Please review [Circular 1: Copyright Basics](#) and the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear.

Copyright Infringement Claim - 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 two works are substantially similar. 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 work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. 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 that 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 public or respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. Alternatively, you can upload copies of your work and the allegedly infringing work if those images demonstrate that the works are so strikingly similar that respondent could not have created their work independently.

Substantial Similarity

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 respondent used “CHD’s plan drawings in a permit plan without CHD’s / my consent or authorization.” You also state that the respondent obtained “a building permit and starting constructions . . . with the forged architect stamp and CHD’s Plan drawings.” These allegations do not describe the allegedly infringing work, or state or show how it is identical or substantially similar to your work. In addition, you do not include a copy of your work and the infringing work 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 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

Relief Sought

The “Description of harm suffered and relief sought” section of the claim indicates that you are seeking \$30,000 in “punitive damages” for copyright infringement. That is a type of award that the Board cannot grant. 17 U.S.C. § 1504(e)(1)(D). A claimant may choose to seek either (1) actual damages and the respondent’s profits from the infringement, or (2) statutory damages within a set range. *Id.* § 1504(e)(1)(A). The Board cannot award punitive

damages. The most that respondent can be ordered to pay in damages in a single Board proceeding is \$30,000. The maximum amount of a statutory damages award available from the Board is \$15,000 for each work that was infringed. *Id.* § 1504(e)(1)(A)(ii)(I). In addition, if the work was unpublished, and the copyright was registered after the infringement started, the maximum statutory damages award is \$7,500 per work. *Id.* § 1504(e)(1)(A)(ii)(II); 17 U.S.C. § 412(1). More information about the damages the Board may award in a copyright infringement claim is available at pages 6 and 16-17 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

You allege that the infringement began in July 2017. The certificate of registration for the allegedly infringed work states that September 6, 2018 is the effective date of registration and that the work was unpublished at that time. Therefore, if you seek statutory damages, it appears that the maximum statutory damages award allowed will be \$7,500. You are not required to choose between actual or statutory damages at this point. 17 U.S.C. § 1504(e)(1)(B). You are not required to request damages at all. *Id.* § 1504(c)(1) & (e)(1)(B)(ii). If you file an amended claim, you may include a request for damages without giving a specific amount. If you include a request for a specific amount of damages, it cannot be more than the Board can grant.

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.

Copyright Claims Attorney