



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0257

August 21, 2023

Keith F. Bell

CLAIMANT

v.

Larry A. McKenzie

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 **September 20, 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.

### Work Infringed – Clarity

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).

In your claim, you list a poster (Registration No. TX0008503571) as the work infringed. However, in the description of the work, you state that the allegedly infringed poster is an “abridgement” of *Winning Isn’t Normal*, a book originally published in 1982. You also state that the text of the abridgement is “near-identical” to the text that appears on page 8 of the of that book. A Board search of Copyright Office records shows that you completed the limitation of claim section of the registration for the poster. The limitation section lists “text” in the Material Included section *and* in the Material Excluded section. Such limitations indicate that while you created some new text, there is also some preexisting text from the original book that you did not claim as part of this registration. Because registration for the poster (TX0008503571) covers only the new material not previously published or registered, it is unclear from the information included in the claim what textual differences exist between the poster

and the book (TX0002672644), if any. It is also unclear whether you are alleging that the respondent infringed only the new text included in the registration for the poster.

To correct this issue, please include more information in the “Describe the infringement” section of the claim describing the textual differences, if any, between the poster and page 8 of the Introduction to the book. If, as stated in the description of the work, the text of the abridgement in the poster is identical to the text that appears on page 8 of the book, then you cannot state a claim for infringement of the copyright in the poster. In that case, you should identify the infringed work as the 1982 book covered by Reg. No. TX0002672644.

### Impermissible Claim

The Board is only authorized to resolve certain types of copyright disputes. Three particular kinds of claims are permitted:

1. claims of copyright infringement;
2. claims seeking a declaration that activity is not infringement; and
3. claims about misrepresentations in connection with a takedown notice or counter-notice under the Digital Millennium Copyright Act (DMCA).

17 U.S.C. § 1504(c)(1)-(3). In your claim, you state that the poster contains “Copyright Management Information (CMI)” and that you believe respondent’s post violated the DMCA by “disseminating respondent’s copyrighted text without including any of claimant’s CMI DMCA while knowing or should have known that my CMI had been removed.” Because the Board cannot hear an action for the knowing removal of CMI under 17 U.S.C. § 1202(b), these allegations are not the kind of claim that the Board is permitted to hear. 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. To correct this issue, you should remove any facts and allegations concerning issues where the Board cannot provide relief such as those relating to CMI. You should only include information and facts that support a claim under copyright law that can be heard by the Board.

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 Attorney