



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0211
July 5, 2023

Joseph Rooney

CLAIMANT

v.

Route One Apparel, LLC and Alexandra Von Paris

RESPONDENTS

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 **August 4, 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.

Permissible Claim

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, your allegations appear to describe a breach of contract dispute, not a copyright infringement. In the “Describe the infringement” section of the claim, you state that you “created a slogan for a product” and that you originally intended to work with the respondents “to bring this product to market on their website,” and that respondent Alexandra Von Paris “pulled out of our agreement,” yet the respondents used “the slogan/product description that I wrote for use on their website.” Based on that description, your allegations may relate to a breach of contract rather than an infringement claim, and, because of this, the Board needs more information.

A breach of contract is a violation of any of the agreed-upon terms and conditions of a binding contract. While it is not clear from the allegations in your claim, the facts stated in the claim suggest that your work may have been specifically created for the respondents’ use, as per a contract or agreement between you and the respondents. “[A]

breach of contract is not by itself a tort or copyright violation.” *SAS Inst., Inc. v. World Programming Ltd.*, 874 F.3d 370, 390 (4th Cir. 2017). If a party to a contract does not fulfill an obligation stated in the contract, it is typically considered a breach of contract. The Board is not authorized to hear claims for breach of contract. 17 U.S.C. § 1504(d)(1).

As a general rule, an infringement claim may be asserted against a licensee of a work if the claim is based on a licensee failing to satisfy a “condition precedent” of a license from the copyright owner, or if the licensee’s use of the work went beyond the scope of the uses permitted under the license. A “condition precedent” is an act or event that must occur to trigger certain contract obligations. For example, if an author agrees that a licensee may publish her book “if, and only as long as” the licensee makes monthly payments to the author, then the payments may be a “condition precedent” to the licensee’s right to publish. If a copyright license depends on the licensee first satisfying a condition precedent, and the licensee does not satisfy it before using the work, then the license is not effective and the licensor may raise a copyright infringement claim.

If you can state facts that identify such a condition precedent included in your agreement that the respondents did not satisfy, or that the respondents used your work beyond what was by permitted by your agreement, or that the agreement was no longer in effect at the time of the alleged infringement—because, for instance, it had been terminated—the Board may be able to hear your claim. If you submit an amended claim, it should include allegations that clearly state the relevant terms of your agreement with the respondents and show that the agreement required them to satisfy a condition precedent, and that they did not satisfy that condition; or describe how the respondents used your work beyond what your agreement permitted; or explain how the agreement was no longer in effect. Alternatively, you can allege facts that clearly show there was no agreement between the parties in the first place.

Please provide more details regarding your agreement with the respondents sufficient to understand the nature of the obligations that the respondents failed to satisfy, including a clear, detailed statement regarding any condition precedent included in that agreement. Please state additional facts about how the respondent “pulled out of the agreement,” including whether the agreement was officially terminated. In addition, if the respondents engaged in reproduction or distribution of your work in ways that went beyond the scope of the uses permitted under your agreement, you should describe those uses and explain why they were beyond the scope of your agreement. It may also be helpful to include the agreement, the termination of the agreement, or correspondence that plays a significant role in your allegations, as supplemental documentation in support of your claim.

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. You should only file an amended claim if you can state facts to support a claim under copyright law that can be heard by the Board. For more information about what is required to support a claim of infringement or misrepresentation, please refer to the CCB Handbook chapters on [Starting an Infringement Claim](#) and [Starting a Misrepresentation Claim](#).

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