



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0385

November 20, 2023

Syed Naqvi

CLAIMANT

v.

Monk Cables

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 **December 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.

### Clarity – Allegedly Infringed Works

It is not clear from your copyright infringement claim which particular works you claim have been infringed. Some of your allegations seem to describe infringement of only a single work (for instance, “there is our work and they used it without our permission”). In the “Works infringed” section of the claim, you describe the allegedly infringed work, titled “CAT6 PLENUM PATCH PANEL,” as a “picture of design of our box for products.” You list Registration No. VA0002358615 for the work, and you include a record of your application for that copyright registration as a [supplemental document](#) filed with the claim. That registration issued for a group of twelve photographs, and other supplemental documents filed with the claim show three of the twelve photographs. Your application for registration stated the following titles and file names for those three photographs:

- “CAT6 PLENUM SOLD COPPER 100FT” (file name “Main-BC”),
- “CAT6 PLENUM 1000FT BLUE” (file name “Main-CCA”), and
- “CAT6 PATCH PANEL” (file name “Patch-Panel”).

It may be that you contend that the respondent infringed all twelve photographs within the registration, or the three photographs listed above, or just one photograph, but it is not clear from the claim.

If you file an amended claim, you must clarify these issues so that the Board and the respondent can understand which of your works is at issue. Make a separate entry in the “Works infringed” section for each allegedly infringed work, including the particular work’s title. For example, if you contend that the respondent infringed the three photographs shown in your supplemental documents, you may identify them by the titles included in the application for registration. Include the registration number for the registered work in each entry, even if all allegedly infringed works are covered by the same registration.

## **Access**

Your claim does not provide facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view your works before the alleged infringement took place.

Your claim does not state allegations about where or how your works were available before the alleged infringement so that the respondents had an opportunity to see the works. You allege that the respondent has “become our competitor on online market places.” However, you do not clearly identify any online marketplace or other forum where the respondent might have seen your works.

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 works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or were available to the public or respondent; or (c) are so strikingly similar to the respondent’s works that the respondent could not have created them independently. You must make allegations regarding access for each work that you claim was infringed.

Alternatively, you can upload copies of your works and the allegedly infringing works if those images demonstrate that the works are so strikingly similar that they could not have been created independently. You uploaded images of three of your photographs when you filed the claim, but you did not upload copies of any allegedly infringing works. 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 claim also does not include enough facts that explain the similarities between your works and the respondent’s allegedly infringing works. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar.

Supplemental documents show three of your photographs. In the “Describe the infringement” section of the claim, you state, “the respondent use[d] my picture work by labeling [their] logo on my box picture,” and you include hyperlinks to pages on three websites where you contend the alleged infringing acts occurred: amazon.com, ebay.com, and monkcables.com. However, your allegations do not describe state or show how your works and the allegedly infringing works are identical or substantially similar. In addition, you have not provided copies of the

allegedly infringing works as supplemental documents. In part because hyperlinks can lead to material that is no longer available online, the Board will not take into account material that is solely referred to in a hyperlink and not uploaded as supplemental documentation. As a result, the claim does not provide enough information to enable the respondent to understand the claim and respond to it.

If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity, including a clear, detailed statement regarding which portions of your works were taken by the respondent in the allegedly infringing works, or documents that are sufficient to show the similarities. As mentioned above, if you include copies of the works as supplemental documents, they must be clearly labeled and identified so they can be properly compared to each other. Attach any supplemental materials that you want the Board to consider by uploading them as part of the claim rather than referring to them only with hyperlinks.

### Counter-Notice

You have also raised a claim under 17 U.S.C. § 512(f) that the respondent made a misrepresentation in a counter-notice to an online service provider (OSP). The claim must identify “the recipient of the counter notification.” 37 C.F.R. § 222.2(c)(9)(v)(B). It is not clear from your claim which OSP or OSPs received a counter-notice containing the alleged misrepresentation.

In the “Wrongful activities” section of your misrepresentation claim, you indicate that you sent takedown notices to amazon.com, monkcables.com, and ebay.com on September 11, 2023, and that one or more counter-notices were sent on September 22, 2023. Your response to the question, “What online service provider(s) received the counter notice(s)?” is simply “DMCA.” It is not clear which OSP or OSP you claim received a counter-notice that included a misrepresentation. If you file an amended claim, include the name of the OSP or OSPs that received counter-notices in that section.

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