



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0021  
March 9, 2023

The Velaris Company LLC

CLAIMANT

v.

Justina Beagnyam

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 **April 10, 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.

### Authorized Representative

In your claim, you indicated that the claimant’s representation is unknown. For your claim to move forward, you will need to identify the “authorized representative” of The Velaris Company LLC (“Velaris”). A business entity appearing before the Board, including a limited liability company, must appear through a lawyer, authorized law student, or an “authorized representative” who is an owner, partner, officer, member, in-house attorney, or authorized employee of the business entity. [37 C.F.R. §§ 232.6\(a\)-\(b\)](#). An authorized representative must:

- certify that they are an authorized agent of the business entity and may bind that entity in the proceeding pending before the Board, [37 C.F.R. § 232.6\(c\)](#);
- include the representative’s name, mailing address, email address, and phone number in the claim, [37 C.F.R. § 222.2\(c\)\(3\)](#); and
- maintain an eCCB user account that includes the same information, [37 C.F.R. § 232.5\(a\)](#).

If you submit an amended claim, you must provide all information and certifications required of an authorized representative. If Sidney Helton (“Helton”), who filed the claim, is Velaris’s authorized representative, the amended claim must identify Helton as the representative and include Helton’s phone number, mailing address, and email

address as well as a certification that Helton is Velaris’s authorized agent who can bind it in this proceeding. More information about the requirements for representing a party is available in the [Representation](#) chapter of the CCB Handbook.

### **Copyright Infringement – 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 present clear facts to support the elements of a copyright infringement claim related to copyright ownership, the respondent’s access to the allegedly infringed works, and substantial similarity, as discussed below.

### **Legal or Beneficial Ownership**

Your claim raises questions about the claimant’s status as a legal or beneficial owner of the allegedly infringed 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 an exclusive license to use, the exclusive rights at issue. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

The claim does not present facts that indicate that Velaris is a proper claimant. The claim describes the allegedly infringed works as graphic art prints and names Helton as their author, and the pending application for registration of the copyrights lists Helton as the author and the copyright claimant, not Velaris. The claim does not describe or show any relationship between Helton and Velaris or indicate how Velaris obtained any exclusive rights in the allegedly infringed works.

To correct this issue, if you file an amended claim, it must include specific allegations about how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the

“Describe the infringement” section explaining how Velaris was the owner of exclusive rights in the works at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between Velaris and Helton, or state how the claimant obtained legal or beneficial ownership of copyright. If you decide to include supplemental documents such a license or assignment, they must be clearly labeled and identified.

Alternatively, if the information in the claim identifying the claimant or the authors of the work is inaccurate, you may correct that information in an amended claim. For example, if Helton owns the copyright and Velaris does not, the amended claim should name Helton as the claimant instead.

## **Access**

Your claim does not provide clear facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. Your claim does not clearly state allegations about how the respondent had an opportunity to see your works before the alleged infringement. Your allegations do not offer enough detail about where or how your works were available to the respondent.

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 the respondent; or (c) are so strikingly similar to the respondent’s works that they could not have created their works independently. 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 must make allegations regarding access for each of the works you claim were infringed.

## **Substantial Similarity**

Your claim also does not include enough facts that explain the similarities between your works and the respondents’ allegedly infringing works. If it is not readily apparent from supplemental materials submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar. You do not provide enough information clearly describing or showing your allegedly infringed works, or stating or showing how they are substantially similar to the respondent’s allegedly infringing works.

The claim describes your works as graphic art prints. However, you do not provide enough information describing or showing your works or the allegedly infringing works. No allegations in the “Describe the infringement” section of the claim describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of your works or the allegedly infringing works 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.

If 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 for each of the works you claim were infringed, 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. 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.

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 supplementary 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