



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0089
May 1, 2024

Lauren S. Chalas

CLAIMANT

v.

Forager Vintage LLC

RESPONDENT

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **May 31, 2024**. 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

To make your second 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.

Substantial Similarity

Your amended claim still does not include enough facts for the Board to find substantial similarity between your work and the allegedly infringing work. While you have provided copies of the works as supplemental documents, there does not appear to be substantial similarity between aspects of the works that copyright protects.

Copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original elements of expression by the author, not ideas or concepts that are common or necessary to a particular subject matter, and not standard expressions that naturally follow from the idea for a work of authorship. Information about copyrightable authorship is available in Sections 302, 308, and 313 of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition* (“*Compendium*”).

You identify your work as a pictorial, graphic, or sculptural work titled “The Roving House Snail,” which you describe as “2-d artwork” of a “non-anthropomorphized snail carrying a bundle on a stick.” That description fits a

snail depicted in front of the words “The Roving House” in an [exhibit](#) filed with the amended claim. The exhibit’s file name refers to your copyright registration for “The Roving House Snail” and states, “Copyright covers the snail art in logo.” Thus, the snail in that image appears to be your registered work. The allegedly infringing work is a hard enamel pin that also depicts a snail carrying a bundle on a stick. It is shown marketed on the respondent’s website in an exhibit filed with the amended claim, labeled [Forager Vintage relisting the item with timestamp](#).

Those exhibits do not show substantial similarity between aspects of the works that copyright protects. Copyright only protects original elements of expression, and your allegations do not identify substantial similarities that relate to copyrightable expression. The idea of a snail carrying a bundle on a stick is not protectable under copyright law. Only the creative expression of that idea is. At this stage, you have not described or shown enough protected expressive elements of your work that are substantially similar to the respondent’s work to support an infringement claim.

If you submit a second amended claim, it must include more specific allegations that support the element of substantial similarity, for example, by identifying particular details in the respondent’s work that are similar to copyrightable expression in your work, and describing how they are similar. Your description should help the respondents and the Board understand the similarities you see between the respondent’s allegedly infringing work and the protectable aspects of your work.

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