



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0176  
July 1, 2024

Hollis L. Nelson, Laverne L. Nelson

CLAIMANTS

v.

Kindle Direct Publishing of Amazon, et al

RESPONDENTS

## ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **July 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. 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.

### Claimant Representation

Each of the claimants has listed a representative; however, it appears that the listed representatives cannot represent the claimants.

The claim was filed by Hollis L. Nelson who has registered for eCCB as a "Self Represented Party." However, in the claim form you have listed an attorney from the Board's pro bono representation directory as the representative. The Board received correspondence on June 12, 2024, that indicates that no attorney-client relationship between the two parties exists.

Additionally, Hollis L. Nelson is listed as the "authorized representative" for Laverne L. Nelson. While a self-represented claimant may be given permission by other claimants to file the claim on their behalf, each individual claimant needs to represent themselves or have an attorney or law student represent them for the rest of the proceedings. 17 U.S.C. § 1506(a)(d). Accordingly, if Hollis L. Nelson is not an attorney, they are not eligible to represent Laverne L. Nelson.

In your amended claim, you will need to correct the authorized representative information for Hollis L. Nelson and Laverne L. Nelson and indicate whether they will have representation for the rest of the proceeding or

will be representing themselves.

## **Legal or Beneficial Ownership**

Your claim provides unclear information about one of 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.

The claim states that the author of the work is Chesley K. Nelson, who is not named as a claimant. There is nothing alleged in the claim to indicate that Hollis L. Nelson is a proper claimant. However, copyright office records state that Hollis Nelson is listed as the “copyright claimant” on the registration for the work by means of a written transfer agreement. While Hollis Nelson will need to show that she is properly listed on the registration, that information is enough to allow Hollis Nelson to be a claimant at this stage of the proceeding.

However, the claim does not present facts to indicate that Laverne L. Nelson is a proper claimant and Laverne Nelson is not listed on the copyright registration for the work. As mentioned above, 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. To correct this issue, your amended claim 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 the claimant was the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between Chelsey K. Nelson or Hollis Nelson and Laverne Nelson in relation to the work) or detail how the claimant obtained legal or beneficial ownership of copyright. 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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) 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 provide enough clarity about the three elements further detailed below. Please provide more details and background regarding these elements in your amended claim.

### **Infringing Activity — Clarity**

Your claim does not present enough facts to clearly state how *each* respondent used any exclusive rights you have in the allegedly infringed work without permission. Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner's permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

You have brought a claim alleging that multiple respondents infringed your work; however, the claim does not include enough information to provide a basis to hold each respondent liable for infringement. In your claim, you state that “I have seen my books and e-book posted on online marketplace websites, and on Amazon's website by my books and e-book's product profile, Ingram's name posted on websites by my property and on 20 other USA marketplace websites.” and “[o]ther websites I saw my property on will be in the documentations with images.” However, you have not included enough facts in the body of the claim to show that *each* respondent personally copied, distributed, performed, or prepared derivative works based on your work, or participated in any such infringing activity.

If you submit an amended claim, you must more fully explain how each respondent infringed your allegedly infringed work. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe the infringing acts of each respondent. Specifically, you need to include more information than a screenshot of each respondent's website. You should be as detailed as possible, setting forth what each respondent did and how each respondent acted together to infringe your work. If you cannot state facts to support an infringement claim about against any named respondents, you must omit them in the amended claim.

### **Access**

Your claim does not provide facts about how each respondent had access to your work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. In your claim, you state that “print ready files were up-loaded to Create Space printers of Amazon in 2016 by my bookmaker Will Roberson.” However, you have not clearly detailed what it means to upload a document to “printers” or how *each* respondent had access to your work. Not all parties need to have had access to your work, to the extent that they

were involved in the infringement of the work with persons who did have access, but your claim must have facts that clearly link the respondents that did have access to the work and the other respondents.

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 how your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the respondent; or (c) is so strikingly similar to the respondent's work that the respondent could not have created it independently. Alternatively, you can upload copies of your work and the allegedly infringing work if they demonstrate that the works are so strikingly similar that they could not have been created independently—however, this must still show access as described above related to the respondents in your claim. 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 work and the respondent's allegedly infringing work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar.

Your claim states that your work is an illustrated children's book. However, you do not provide enough information describing or showing your work. No allegations in the "Describe the infringement" field of the claim describe the allegedly infringing works, or state or show how they are identical or substantially similar. As noted below, due to the volume of supplementary documents included with the claim it is unclear if you have uploaded your work or the allegedly infringing works as supplementary 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, including a clear, detailed statement regarding which portions of your work were taken by the respondent in the allegedly infringing work, 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. However, you should only upload the documents necessary as the Board and the respondent cannot be expected to go through dozens of attachments to find the relevant information. More 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.

### **Supplemental Documentation**

You uploaded numerous screenshots and documents as supplementary documents. Many of these filings have not been and will not be reviewed by the Board or considered a part of your claim unless you specify how they relate to the allegations in your claim. Please make sure that any attachments to your amended claim are relevant to

the claim and that it is clear to the Board and to the Respondent why you are including them. If you submit an amended claim, please include only documents that directly pertain or relate to the claim, and provide an explanation of their relevance if it is not clear.

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