



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0161
June 10, 2024

Mark Urmos

CLAIMANT

v.

Ghassan's Restaurant

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 **July 10, 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.

Infringing Activity

You have raised a claim of copyright infringement against Ghassan's Restaurant (the "Restaurant"). In the "Works infringed" section of the claim, you list works covered by two copyright registrations: VA0002356812, which covers a group of photographs titled "Ghassan's Restaurant Food Photos," and VA0002357576, which covers two-dimensional pictorial and graphic artwork displayed on a truck, titled "Ghassan's Food Truck Design." You allege that the Restaurant infringed by publicly displaying the works. Specifically, in the "Describe the infringement" section, you allege that the photographs have been "used in in-store display" and in "online media and social media," and that the food truck artwork has been "used in online promotion and during business hours." A document filed with the claim ([IMG 3345.PNG](#)) shows food photographs, apparently on display in one of the Restaurant's locations, and two others ([IMG 3344.PNG](#) and [IMG 3346.PNG](#)) show the food truck. However, it is not apparent how the alleged uses amount to infringing activity by the Restaurant. Those three documents filed with the claim appear to have been posted by non-parties on yesweekly.com or Instagram, not by the Restaurant.

The “Where the infringing acts occurred” section of the claim appears to list the URL of a [yesweekly.com](#) article, but you do not allege that the Restaurant operates that website or is otherwise liable for posting content there. You have not clearly described or shown how the Restaurant, rather than third parties, made any online use of your works.

You seem to contend that the Restaurant is infringing your photographs “in in-store display” on its physical property, or infringing the food truck artwork by publicly displaying the truck “during business hours.” However, it appears that some or all of the allegedly infringed works may have been created—even if by you—for the Restaurant to use. Depending on the circumstances of how the works were created and how the Restaurant gained access to them, the Restaurant may have been given a license to use the works—either an *express license* (in writing or orally) or an *implied license* (based on the parties’ conduct). For instance, the food truck artwork may have been designed for the Restaurant’s truck, and the photographs may have been designed to help market the Restaurant. Information about copyright licenses is available at pages 10-11 of the [Responding to an Infringement Claim](#) chapter of the CCB Handbook.

If you file an amended claim, include more facts that clearly describe or show infringing acts by the Restaurant. Provide more information about how the works were created and made available to the Restaurant. If you contend that it is responsible for infringement online, provide more details about infringement by the Restaurant itself (for example, on its own website or social media accounts), or state facts that indicate why the Restaurant should be held liable for any infringement by third parties.

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.

Access

Your claim does not provide facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view or copy your works before the alleged infringement took place. It appears that some or all of your works may have been created for the Restaurant to use, but you have not clearly alleged that you provided the works to the Restaurant, and your claim does not indicate any other way it may have gained access.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. You must make allegations regarding access for each of the works you claim were infringed. Acceptable allegations of access may include how 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 respondent; or (c) are so strikingly similar to the respondent’s works that the respondent could not have created them independently. Alternatively, you can upload copies or images of your works and the allegedly infringing works if they demonstrate that the works are so strikingly similar that they could not have been created independently. It appears that when you filed the claim, you uploaded images of the allegedly infringing works, but you did not

upload copies of your own 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 Restaurant'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.

You identify your works as "Ghassan's Restaurant Food Photos" and a "Ghassan's Food Truck Design," and you filed what appear to be images of allegedly infringing uses along with the claim. However, you do not provide enough information describing or depicting your works. No allegations in the "Describe the infringement" field 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 do not appear to have provided copies of your 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, 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, then, as stated above, 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 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