



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0358

November 28, 2023

Pamula P Barcelou

CLAIMANT

v.

ZHANG ZHIPING

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 28, 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.

Respondent Address

A claim must include the respondent's mailing address. Your claim provides the address for Amazon Corporate Headquarters in Seattle, Washington. Although you allege that the respondent's infringing activities occurred on Amazon's website, that does not mean Amazon's address is a proper address for the respondent for purposes of this claim. To address this issue, your second amended claim must include a United States mailing address for the respondent ZHANG ZHIPING. The Board cannot hear a claim asserted against a person or entity residing outside the United States. 17 U.S.C. § 1504(d)(4). You should only amend your claim if you are raising it against an individual or entity residing in the United States.

Registration

The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

In your claim, claim you give a recordation number (“00491075570”) for the assignment of “PA0000645535.” Although the recordation number corresponds to a registration number for the work, you must include a registration number in the claim form. To address this issue, please provide the registration number for the work in the “work infringed” section of the claim.

Work Infringed — Clarity

Your claim does present enough facts to clearly illustrate that the allegedly infringed work “the movie poster for the film The Legend of Boggy Creek depicting a Bigfoot creature” is covered by the recordation and registration numbers listed in your claim. A claim may be noncompliant if it does not provide enough information to enable the respondent to understand the claim and respond to it.

A Board search of Copyright Office records shows that “PA0000645535” corresponds to the motion picture “The legend of Boggy Creek /produced and directed by Charles B. Pierce.” It is unclear if the registration covers the “movie poster” or “movie art” that you allege has been infringed. In your amended claim you must provide additional information that shows that the “movie poster” or “movie art” that you allege was infringed is covered by the registration. In the alternative, to the extent that such a registration exists, you should provide a separate registration number for the movie poster.

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 facts about how the respondent had access to your work and how the respondent’s work is substantially similar to your work. Please provide more details and background regarding this element in your amended claim.

Legal and Beneficial Ownership

Your claim does not allege whether the claimant is 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 does not alleged in the claim form itself that indicate that Pamula P Barcelou is a proper claimant. As noted above, in the claim you give a recordation number (“00491075570”) for the assignment of “PA0000645535.” You have separately uploaded recordation information including a contract that indicates that you may have received rights through an assignment. But there is no allegation in the claim itself that you are the legal or beneficial owner of the copyright..

To correct this issue, your amended claim must allege that you are the owner of the copyright in the allegedly infringed work. Based on the information in the copyright assignment that you uploaded with the claim, an allegation that you are the owner, by assignment, of the copyright would be sufficient. More information about legal and beneficial ownership is available at page 4 of 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 work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. 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 work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or 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 those images demonstrate that the works are so strikingly similar that they could not have been created independently. 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 “The movie poster for the film The Legend of Boggy Creek depicting a Bigfoot creature.” However, you do not provide any information describing or showing your work. No allegations

in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. The only reference to the infringing work is “they are selling cheap posters and they are undercutting my price point with their shoddy merchandise.” In addition, you have not provided a copy of your work or the allegedly infringed work 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. When 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 work and the extent to which the allegedly infringing work is similar to the works that you allege have been infringed. Alternatively, you may upload or documents or videos 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.

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.

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