



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0014

January 26, 2024

The King of War, Rayodrick Lilly-Parrish

CLAIMANTS

v.

Mr. Zachary Killian, WowSuchGaming

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 **February 26, 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.

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 *each* respondent allegedly infringed your work, how the respondents accessed your work, and how the respondents’ work is substantially similar to your work. Please provide more details and background regarding these elements in your amended claim.

Infringing Activities

You allege that two respondents, Zachary Killian and WowSuchGaming, have displayed, distributed, and reproduced your works. However, your claim does not present facts that clearly state how *each* respondent used your exclusive rights in the allegedly infringed work without permission. The law treats business entities separately from individuals that may own them. Meaning “WowSuchGaming” may have its own legal status. Your allegations do not describe any specific acts that it engaged in that violated your rights, or explain the relationship between the two respondents.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly display 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.

When you submit an amended claim, you must more fully explain how *each* respondent infringed each of your allegedly infringed works. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe (1) acts infringing your copyrights in the works, specifying the infringing works and how the respondents engaged in the infringing activity, and (2) the infringing acts of each respondent, specifying the allegedly infringed and infringing works for each respondent. You should be as detailed as possible, setting forth what each respondent did in relation to each work you allege was infringed. If you cannot state facts to support an infringement claim about any particular works, or against any named respondents, you must omit them in the amended claim.

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 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. In your claim, you do not give any additional information how the respondent had access to your animation work. You have included supplementary documents that appear to show either your work or the respondents’ work, but it is hard to tell what is attached. 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 respondents' 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 animation. You have included conflicting allegations that the respondent “puts my Copyrighted Content in his video sum 6 times” and “[d]id not make any significant changes or add any new value whatsoever his use serves for the same purpose as my original video as he just blatantly copy and paste my video in his.” However, it is unclear how much of your work or which elements of your work are used in the respondents' work. As noted above, you have included supplementary documents that appear to show either your work or the respondents' work, but it is hard to tell what is attached. Several of the supplementary videos you have uploaded appear to be trying to describe the copying/similarities, but it is hard to decipher because the clips are only a couple of seconds long. Additionally, you do not provide enough 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 clearly state or show how they are identical or substantially similar. 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 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.

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.

The Board also notes that you have attached over 50 supplemental documents to your claim. If you file an amended claim, you should only attach relevant material and clearly label the material. This will make it easier for both the Board and the respondents to understand what you are claiming.

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