



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0283

November 20, 2023

Amanda Johnson

CLAIMANT

v.

Edward Mekbel

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 20, 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.

Registration Number

You have brought a copyright infringement claim before the Board. The claim must include the registration number and effective date of registration of the allegedly infringed work, if it has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(C). The work at issue was not yet registered at the time the claim was filed. The Copyright Office has since approved your application for registration and issued Registration No. VAu001511335, with an effective date of September 7, 2023. If you file an amended claim, include that registration number and date in the “Works infringed” section of the claim.

Substantial Similarity

Your claim does not include enough facts that explain the similarities between your work and the allegedly infringing work. The allegedly infringing work must be substantially similar to copyright-protected elements in the allegedly infringed work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide more specific allegations about how the allegedly infringing work is similar to expressive material in your work that copyright protects.

A copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original to the author. Original components must be independently created by the author, without copying from other works, and must possess at least some minimal degree of creativity. *See Feist Publications, Inc. v. Rural Telephone Serv. Co., Inc.*, 499 U.S. 340, 346 (1991) (“originality requires independent creation plus a modicum of creativity”). More information about copyrightable authorship is available in Sections 302, 308, 311, and 313 of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*.

The allegations in the “Describe the infringement” section of the claim do not sufficiently describe what portions of your work were used in the allegedly infringing work, or state or show how the respondent’s work is identical or substantially similar to material in your works that copyright protects. You allege:

I created an original design to make vinyl stickers, which I listed for sale on Etsy. After my listing gained popularity, another seller took my design, very slightly altered it (horizontally flipped the background), and started selling shirts featuring my design.

A [supplemental document](#) filed with the claim appears to be a copy of your work, titled “You Guys Ever Think About Dying.” You describe the work in the “Works infringed” section as a “pink, orange, yellow, and blue shooting star with navy blue and pink text that says ‘You guys ever think about dying?’” That quote is well known to the general public as dialogue from the movie *Barbie*, and we take administrative notice of that fact. *See* 37 C.F.R. § 224.1(f). Therefore, your copyright does not protect the quoted text because you did not create it independently. While the registration certificate states that you created “2-D artwork,” it is not apparent from the claim which aspects of that artwork contain your own creative expression.

Your allegations that the respondent “very slightly altered” your design and “horizontally flipped the background” do not clearly describe the unauthorized use of any specific, protectible expressive material. Those descriptions are not clear enough to indicate how the allegedly infringing work is similar to independently created, expressive material in your work. In addition, while you include a supplemental document that shows your work, you do not include a copy of the allegedly infringing work. As a result, you do not provide enough information to enable the respondent and the Board to understand the nature of the claim.

If you submit an amended claim, it must include factual allegations that indicate that the respondent’s work is substantially similar to protectible matter in your work. Please provide more information regarding this element in your amended claim, including a clear, detailed statement regarding which original 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.

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