



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0153
June 7, 2023

Silverline Custom Homes, a protected series of
J.A. Holdings and Development, LLC

v.

Townsville Realty LLC and Hazael Milan

CLAIMANT

RESPONDENTS

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 7, 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.

Access

Your claim does not provide facts about how the respondents had access to your work. “Access” means a reasonable opportunity to view your work before the alleged infringement took place.

You describe the allegedly infringed work, titled “Duluth SFR,” as a “Residential Building.” A [supplemental document](#) filed with the claim, labeled “Original Architectural Design_Duluth SFR.pdf,” appears to show floor plans and other technical drawings for a residential building. You allege that the claimant created the design in April 2021 and submitted it to the city of Dallas to obtain a building permit, which issued on June 16, 2021. You also allege that respondent Townsville Realty LLC (Townsville) reproduced your design, and used copies “submitted to the Dallas permit office” to obtain its own building permit for a home in Dallas with the allegedly infringing design.

However, the claim does not include allegations about where or how the respondents had an opportunity to see your work before the alleged infringement. 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. For example, if you contend that submitting your design to the city of Dallas made it available as a public record at the permit office, where the respondents would have been able to find and reproduce it, you should amend your claim to include factual allegations that explain that your work was publicly available through the Dallas permit office.

Infringed Work

You describe the allegedly infringed work as a "Residential Building," and also identify it as an "architectural" work. In the "Describe the infringement" section of the claim, you refer to the allegedly infringed work as the "original design." In the "Description of harm suffered and relief sought" section, you state that the reproduction caused "loss of revenue from the home design service and the construction of the building," and you discuss certain allegedly "unique features of the original building." Most of the supplemental documents filed with the claim are photographs with labels that indicate that they are images of the "original building." It is not clear whether you are alleging that the infringed work is the technical drawing for the Dallas home or the building itself as an architectural work.

An architectural work and a technical drawing for an architectural work are separate works. Information about architectural works and technical drawings under copyright law is available in Section 926 of [Chapter 900](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition* and in [Circular 41: Copyright Registration of Architectural Works](#). The Copyright Act defines an architectural work as "the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings." 17 U.S.C. § 101.

Your copyright, Registration No. VAu001494723, is registered as a technical drawing, not as an architectural work. The Copyright Office issues registrations for architectural works separately from registrations for technical drawings, even when the same deposit copy is submitted with each application. "A registration for a technical drawing covers the drawing itself, but it does not cover the architectural work depicted therein." *Compendium* § 926.1. A registration for an architectural work embodied in a technical drawing could "be used in an infringement action involving the unauthorized reproduction of that work in any material object (including the construction of an actual building)." *Id.* However, it is not clear that your registration for the technical drawing would support an award of damages based on the construction of an allegedly infringing building, as distinguished from any reproduction, distribution, or public display of the technical drawing.

It appears that you may be interested in bringing a claim for infringement of not only the registered technical drawing, but also the building as an architectural work. If that is the case, and you want to include the architectural work in this claim, you would need a separate copyright registration for the architectural work, based on an application for registration completed and filed before the claim was filed. 17 U.S.C. § 1505(a). If you file an amended claim, please include allegations that clarify whether it is based on infringement of the technical drawing, the architectural work, or both. If you need to submit an application for registration of the architectural work, then you will need to start a new claim after the application is filed.

Infringing Activity

For each respondent you name as an alleged infringer, you must state allegations regarding that respondent's allegedly infringing activity. The "Describe the infringement" section describes how Townsville allegedly infringed your work. However, your claim does not state facts about how the other respondent, Hazael Milan (Milan), used any of your exclusive rights in the work without permission. A [supplemental document](#) filed with the claim, labeled "Bldg. Permit issued_Unauthorized reproduced design.pdf," indicates that Milan applied to obtain the building permit for the home with the allegedly infringing design on Townsville's property in Dallas. However, the claim allegations do not mention Milan.

If you choose to leave Milan as a respondent in an amended claim, you must include more details in the claim to describe how that respondent personally engaged in infringing activity. In the alternative, you may file an amended claim that names only Townsville as a respondent.

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