



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0232

August 21, 2024

Peter Chang and Custom Family Gifts LLC

CLAIMANTS

v.

Raymond Harper and Dominick Mattiello

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 **September 20, 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.

Legal or Beneficial Ownership

You have raised a claim of copyright infringement before the Board. In the “Works infringed” section of the claim, you list allegedly infringed pictorial or graphic design works titled “R & M On the Road Together 1030” (On the Road) and “Wanderlust Map 3 and 8 and other unpublished works” (Wanderlust). You identify Peter James Chang (Chang) as the author of the On the Road work and Custom Family Gifts LLC (Custom) as its co-owner, while you name Custom as the sole author of Wanderlust. The copyright registrations you list for those works name Custom as the only copyright claimant.

The claim does not present clear facts that indicate how Chang personally, rather than Custom, is a proper claimant to bring this infringement claim. If you submit an amended claim, it must clarify the discrepancy.

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 a 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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

When submitting the claim, Chang certified that the claimants are legal or beneficial owners of rights in the allegedly infringed works. However, the Copyright Office registered both works under Custom's name. The registration certificate for On The Road lists Chang as an author, but Custom is the only copyright claimant listed, and the certificate notes that Custom obtained its rights to the work by written agreement. The registration certificate for Wanderlust lists Custom as the copyright claimant, and as the author as "employer for hire." For legal purposes, the author of a "work made for hire" is not the individual who actually created the work. Instead, the party that employed or commissioned the individual to create the work is considered both the author and the copyright owner of the work.

If information in the claim identifying the claimant or the author of the registered works is inaccurate, you may correct that information in an amended claim. For example, if Custom is the sole owner of the works, your amended claim should omit Chang as a claimant and name Custom as the only claimant, as you did in the August 12, 2024 amended claim in *Custom Family Gifts LLC v. Mattiello and Harper*, Claim No. 24-CCB-0231.

However, if Chang personally is a copyright owner, the amended claim must include specific allegations about how Chang owns, or has an exclusive license to use, the exclusive rights at issue in either work. You can do this either by adding facts to the "Describe the infringement" section explaining how Chang owned exclusive rights in the work at the time of the infringement, or by submitting supplemental documents. For example, you may describe Chang's relationship with Custom and state how Chang became a *legal* owner or co-owner of copyright, such as by assignment or exclusive license; or how Chang remained a *beneficial* owner after transferring legal ownership, such as by retaining a right to receive royalties from use of the work. Alternatively, you may include supplemental documents demonstrating Chang's legal or beneficial ownership. If you include copies of an assignment or exclusive license as a supplemental document, it must be clearly labeled and identified.

Proper Respondents

You allege that infringing acts occurred through listings on the TravelBuffs shop on Etsy. Your claim does not indicate how either named respondent is responsible for those acts. Your allegations do not link the respondents to the Etsy account or the alleged infringements. The "Describe the infringement" section includes allegations about a single respondent, without specifically identifying either of the named respondents. The "Description of harm suffered and relief sought" section refers to prior litigation with one of the respondents, but does not describe any relation between that litigation and this claim. If you file an amended claim, include more specific allegations that state how each respondent committed or is responsible for the allegedly infringing acts. For example, you may amend the claim to indicate that the respondents are TravelBuffs' proprietors, if that is the case (as you did on

August 12, 2024, when you amended Claim No. 24-CCB-0231 to indicate that the same respondents are proprietors of the MapGala shop on Etsy).

Substantial Similarity

Your claim does not include enough facts to indicate how any allegedly infringing work is substantially similar to original, expressive elements of the On the Road work that copyright protects and that is covered by the registration for On the Road. That registration certificate, filed along with the claim as [copyright reg on the road cert.pdf](#), states that the registered work was completed in 2019 and first published December 26, 2019. You describe the On the Road work as a “creative arrangement of triangles . . . All the shapes share the same baseline, so the design itself can invoke an overall triangular shape.” Another document filed with the claim, [TravelBuffs Infringing \(1\).pdf](#), shows copies of the registered work on pages 4 and 7, while pages 5 and 8 show what you identify as certain of your derivative works based on that work dated January 4 and 5, 2020. In that document, you appear to contend that the allegedly infringing works on the TravelBuffs Etsy shop infringed elements of those derivative works, but not of On the Road itself. The allegedly infringing works shown in supplemental documents filed with the claim do not appear to be substantially similar to On the Road.

Copyright protection only extends to the specific creative expression in a work that is original to the author. Information about copyrightable authorship is available in Sections 302, 308, and 313.4 of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*. Not all elements of a creative work are protected by copyright. For example, copyright law does not protect ideas, facts, systems, or methods of operation. Copyright can only protect the particular way that such things are expressed. Copyright also does not protect common geometric shapes, such as lines, triangles, diamonds, and trapezoids, unless the author’s use of those shapes results in a work that, as a whole, is sufficiently creative. See Section 906.1 of [Chapter 900](#) of the *Compendium*.

Not all similarities are infringing. When two works only share similarities in unprotectable elements they are not “substantially similar” under copyright law. The similarities you describe in the amended claim do not show substantial similarity in copyrightable expression, only in unprotectable elements of the On the Road work.

If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide specific allegations about how your registered work is substantially similar to an allegedly infringing work. Any alleged infringement of On the Road must be based on substantial similarity to the registered work, not simply to derivative works. If there are such areas of substantial similarity that you did not already present in your claim, you must provide specific allegations that detail the similarity. To address this issue in an amended claim, it must include more specific factual allegations that identify how different particular elements in the allegedly infringing works were copied from specific copyrightable subject matter in On the Road, not just to unregistered works derivative of On the Road.

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