



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0101  
March 27, 2024

Jaclyn R. Horton

CLAIMANT

v.

Gaaaays In Spaaace and Dan Deevy

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 **April 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 claim of copyright infringement 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, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

Your claim does not provide clear facts to support the elements of the claim related to the respondents’ access to your works and substantial similarity, as described below. If you file an amended claim, it must include enough details about the elements for the Board and the respondents to understand the facts of the alleged infringement.

## **Access**

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

You identify the allegedly infringed works as photographs titled “Philadelphia D&I Convention.” You allege that the respondents infringed the works on their website and on social media platforms. Your claim does not include any details about where or how your works were available to the respondents before you allege the infringement began in 2023.

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 works (a) were sent directly to a respondent or a close associate of a respondent; (b) were widely disseminated or were available to the respondents; or (c) are so strikingly similar to the allegedly infringing works that the respondents could not have created them independently. Alternatively, you can upload copies of your works and the allegedly infringing works if they 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 works and the respondents’ allegedly infringing works. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how the allegedly infringing works are substantially similar or identical to your works.

You allege that “multiple photo galleries” of your works were posted on the respondents’ website, and that respondent Dan Deevy “reproduced my work by editing it and adding logos” without permission. However, no allegations in the “Describe the infringement” section describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. Your claim does not indicate how much editing occurred or how much it altered your works. In addition, you have not provided copies of your works or the allegedly infringing works as supplemental documents. Your claim includes hyperlinks to sites where you allege infringing material appeared. However, when reviewing claims, the Board will not take into account material that is solely referred to in hyperlinks and not uploaded as supplemental documents, in part because hyperlinks can lead to material that is no longer available online. As a result, the claim does not provide enough information to enable the respondents to understand the claim and respond to it.

If you submit an amended claim, it must include 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 elements of your works were taken by the respondents in the allegedly infringing works, or documents that are sufficient to show the similarities. If you include copies of the works at

issue as supplemental documents, then as discussed above, 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](mailto: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