



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0094  
April 3, 2023

Hollis L Nelson, Hollis Nelson

CLAIMANT

v.

Kindle Direct Publishers of Amazon and  
Ingram content  
Ingram content had access to  
my print ready files  
and gram content group

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 **May 3, 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.

### Claimant Information

Your claim lists Hollis L Nelson and Hollis Nelson as claimants with the same contact information. If these are the same individual, please review the “Claimant Information” field and remove the duplicate claimant information. If these are two individuals or if the situation is otherwise, please explain in the “Describe the infringement” section of the claim.

### Respondent Clarity

Your allegations are unclear because they appear to intertwine the actions of two separate respondents that you have listed as one entity.

In your claim, you list ““Kindle Direct Publishers of Amazon and Ingram content  
Ingram content had access to  
my print ready files  
and gram content group” as one respondent and this indicates that you believe *both*  
IngramSpark and Amazon are infringing the work. However, the allegations included with your claim do not clearly present facts that state how either entity used that work without permission.

When you submit an amended claim, you must remove the descriptive information from the “Respondent” information field and list IngridSpark, Amazon, or both businesses as separate organizations. If you include both IngridSpark and Amazon as respondents in your amended claim, your claim must make enough factual allegations to support each “element” of copyright infringement *for each respondent*, including how each respondent obtained access to your work and what each respondent did with your work. 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.

## **Work Infringed**

In the claim, you identify the allegedly infringed work as a book titled “My Dancing Tap Shoes, all 4 formats.” However, it is unclear from the allegations included in the claim if the “[m]y Dancing Tap Shoes e-book, coloring book, color hardback, color paperback” are all the same work or are derivatives of the original registration (“tx9185877”) listed in your claim.

Your claim and a Board search of Copyright Office records indicate that a physical hardback copy was deposited during the registration process. However, the allegations in your claim allege that the respondent is infringing on four separate works including an “e-book, coloring book, color hardback, color paperback.” If the books are the same work that was deposited, your amended claim must specify that clearly in the “Describe the work” field in the claim.

On the other hand, if the works are derivative of the hardback, you must add additional information, including the application number or registration numbers for each of the derivative works.. A derivative work is a work based on or derived from one or more already existing works. Derivative work authorship can include annotating, editing, translating, modifying or making other types of changes to the work. Common derivative works include translations, musical arrangements, motion picture versions of literary material or plays, art reproductions, abridgments, and condensations of preexisting works.

The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

To address this issue, if you file an amended claim alleging infringement of derivative works, please provide the registration number(s) for the work(s) or the service request number(s) for the application(s) to register the derivative works.

Either the registration(s) must have been issued or the application(s) must have been delivered to the Copyright Office before you filed your claim on February 28, 2023. If the derivative works were neither registered nor subject to a pending application at that time, your claim must be limited to the alleged infringement of the hardcopy of the

work. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

### **Copyright Infringement Claim – 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 present clear facts to support the elements of a copyright infringement claim regarding any of those elements, as discussed below.

### **Legal or Beneficial Ownership**

Your claim includes conflicting statements about Hollis Nelson’s status as a legal or beneficial owner of “My Dancing Tap Shoes.”

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 an author or 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.

The registration and allegations included with your claim include conflicting information about the legal and beneficial ownership of the work. The registration (“tx9185877”) lists Chesley Kameko Nelson as author and copyright claimant of the text and 2-D artwork in “My Dancing Tap Shoes.” However, this is in conflict with other information in your claim. In your claim, you allege that “I was looking for something on-line and saw that my daughter's and my property was being sold on many sites when I didn't sign up for expanded distribution or ever

gave any third parties permission to sell them or had not ever given them our files.” This indicates that you may have some ownership interest in the work.

If that is the case, then to correct this issue, your amended claim must include specific allegations about how you own, or have an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining how you were the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between yourself and Chesley Nelson or state how you obtained legal or beneficial ownership of copyright. On the other hand, if the information in the claim identifying the claimant or the authors of the work is inaccurate, you may correct that information in an 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 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.

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**

Lastly, your claim does not include enough facts that explain the similarities between your work and the respondent’s 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 “e-book, coloring book, color hardback, color paperback” that is currently for sale online. However, you do not provide enough information, in the “Describe the infringement” field or elsewhere in the claim, describing or depicting your work or the respondent’s allegedly infringing work, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of your work or the allegedly infringed work as supplemental documents. 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 additional factual 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.

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 supplementary 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.