



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0369

November 15, 2023

Dennis T Nixon

CLAIMANT

v.

A24 Films, LLC; AMC Networks, Inc; et al.

RESPONDENT

## 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 **December 15, 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

A copyright infringement claim before the Board must include the copyright registration number and effective date of registration for the allegedly infringed work, if it has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(C). Your claim alleges infringement of a registered work, and you provide a registration number of 1-12657241331. The number you provided was your application number. The correct registration number is TXu002378274. If you file an amended claim, please include this registration number.

### Respondent Clarity

The Board can only hear claims asserted against multiple respondents if all claims in the proceeding “arise out of the same allegedly infringing activity or continuous course of infringing activities[.]” 17 U.S.C. § 1504(c)(6). Your claim does not state how the activities of each respondent infringed your work. Specifically, you have brought a claim against approximately one dozen respondents including large public and private corporations within the media industry. You include one general allegation that *The New Yorker* distributed your work to the other respondents and that the respondents “misappropriated content from my manuscript” for fifteen productions you list in the claim.

This general allegation is vague and insufficient. An amended claim must make clear what role each respondent played in infringing your work and provide information about the relationship between them. Include these facts in the “Describe the infringement” section that specify in detail what infringing activities each respondent engaged in. Lastly, the amended claim must also detail the relationship between each respondent and include facts that indicate that all respondents jointly engaged in the same allegedly infringing activities, and state how they acted together in the same course of conduct. Any respondent that didn’t act together with the others should be removed from the claim.

If you amend your claim to include the respondents acted together in a continuous course of infringement, list them separately in the claim form. Each respondent needs to have their own separate mailing address. 37 C.F.R. § 222.2(c)(6). Supplemental documents you attach to your claim should also relate only to named respondents. Do not include documents relating to companies that are not named in your claim.

### **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.

Except for *The New Yorker*, your claim does not provide enough facts about how each respondent had access to your work and how the respondent’s works are substantially similar to your work. Please provide more details and background regarding this element in your amended claim.

### **Access**

Your claim does not provide facts about how the respondents 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 works that the respondents could not have created them independently. For example, you allege that your work was submitted to *The New Yorker* in July 2022. This is sufficient to allege access as to *The New Yorker*, but you will need to establish access for the other respondents.

You can also upload copies of the allegedly infringing works in addition to your work to assist in demonstrating

that respondents' 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 work 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 your work and the allegedly infringing works are similar.

Your claim states that the respondents "misappropriated content from my manuscript for their productions including scenes, dialog, and in some instances characters' names." The claim then only includes the names of television productions, sometimes referring to a whole season. You neither allege which scenes or dialogue from your work were taken nor explain or show which portions of the respondents' works are infringing. If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity, for example, by identifying particular scenes and details in the respondents' works that are similar to the copyrightable expression in your work, and describing how they are similar. Your description should help the respondents and the Board understand the similarities you see between the respondents' allegedly infringing works and the protectable aspects of your work. Include a clear, detailed statement regarding portions of your work that 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, they must be clearly labeled and identified so they can be properly compared to each other.

When amending your claim to address substantial similarity, please note that the respondents must have used the original expression that you created. Phrases, names, and factual information, in and of itself, are not protected by copyright and are insufficient on their own to establish substantial similarity. For more information, see Works Protected by Copyright ([Circular 33](#)).

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 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