



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0156

August 16, 2023

Donna M. Conner

CLAIMANT

v.

Life Rich Publishings aka Author Solutions
Inc. and Readers Digest

RESPONDENTS

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. You have not resolved all of the issues raised in the noncompliance order issued June 14, 2023, and an additional issue explained below also must be resolved for the claim to go forward.

If you wish to proceed with this claim, you must file a second amended claim by **September 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

To make your second 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 amended 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 Registration

A copyright infringement claim must include the copyright registration number and effective date of registration for the allegedly infringed work, if the registration has issued. 37 C.F.R. § 222.2(c)(7)(ii)(C).

After you filed your amended claim, the Copyright Office registered the allegedly infringed work with registration number TX0009287965 and an effective date of registration of April 25, 2023. If you file a second amended claim, please answer “Yes” to the question “Has the work been registered by the Copyright Office?” and provide the registration number and effective date of registration in the “Works infringed” section.

Access

Your amended claim still does not provide enough facts about how the respondents had access to your work. As explained in the noncompliance order issued June 14, 2023, “access” means a reasonable opportunity to view or hear your work before the alleged infringement took place.

The amended claim adds allegations that “[t]he online unauthorized access of my computer occurred at my apartment when living at Colonial Heights Virginia maybe late 2021 or early 2022,” and that IC3 (the FBI’s Internet Crime Compliance Center) has not provided you information about the alleged hacking based on your complaint. Your conclusory allegations about hacking appear to be speculative and are not supported by specific facts that plausibly identify anyone at either respondent with access to your personal computer. As the noncompliance order explained:

Your claim includes allegations that the respondents engaged in “hacking” but does not include any specific information about how the respondents accessed your work. When you submit an amended claim, if you keep that allegation, you must explain it more fully by stating specific and reasonably possible facts about how you believe the hacking occurred, including how the respondents were able to access your work.

Alternatively, you can upload copies of your work and the allegedly infringing work 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 amended claim also still does not include enough facts that explain the similarities between your work and the respondents’ 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 amended claim alleges that, after you began to suspect that your book “had been compromised,” you “began hearing too many words, sentences and subjects” from your book being used by third parties. The only examples you provide are the phrases “rest in peace” (or “RIP”) and “systemic racism.” However, copyright does not protect common short phrases or titles. “The following are examples of works not subject to copyright . . . : Words and short phrases such as names, titles, and slogans[.]” 37 C.F.R. § 202.1(a). You have not identified any copyright-protected expression used in any allegedly infringing work that either respondent prepared or distributed.

If you submit a second amended claim, include more specific allegations that support the element of substantial similarity, for example, by identifying particular scenes and details in the respondents’ work that are similar to copyrightable expression in your work, and describing how they are similar. As explained in the noncompliance order issued June 14, 2023:

[T]he claim does not provide enough information to enable the respondents to understand the claim and respond to it. When you submit an amended claim, it must include factual allegations that support the element of substantial similarity. Please provide more information and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work were taken by the respondents in the allegedly infringing work, or documents that are sufficient to show the similarities.

Relief Requested

The “Describe the harm suffered and the relief sought” section of your amended claim still appears to seek forms of relief that the Board cannot grant. Information about the available forms of relief can be found in the [Damages](#) chapter and on pages 6-7 of the [Starting an Infringement Claim](#) chapter in the CCB Handbook.

Your amended claim still states that “Criminal Charges should be brought for the respondents[.]” The Board cannot grant such relief. Although you state that you are “aware that criminal charges will not be granted” and that “the board does not handle criminal charges,” you still cite several criminal statutes as a basis for “asking that I be granted thirty thousand dollars from Life Rich Publishing and thirty thousand also from Readers Digest.” Criminal statutes are not a basis for relief from the Board. If you submit a second amended claim, do not include references to any criminal charges or criminal statutes.

In addition, the monetary relief requested in your amended claim is still more than the Board can award. As noted above, you request an award of \$30,000 apiece from each respondent, or \$60,000 total. While you appear to acknowledge the statutory limits on the amount of damages the Board may grant, you still state, “I believe the financial relief should still stay at thirty thousand dollars,” and: “This time I seek more than but thirty thousand dollars from Life Rich Publishings but if this is all I can seek then so be it!”

If you seek damages in an infringement claim, you can seek either (1) actual damages, and the respondent’s profits from the infringement, or (2) statutory damages. Actual damages are money damages awarded based on the proven harm or loss you suffered. An example of actual damages may be the amount of lost sales revenue you experienced. Statutory damages are money damages awarded to a successful claimant within a range set by law, without the need to provide proof of the actual amount of harm or loss. The Board cannot award more than \$30,000 in damages in any proceeding. 17 U.S.C. § 1504(e)(1)(D). Further, if you seek statutory damages, then as explained in the noncompliance order issued June 14, 2023, “based on facts included in your claim, it does not appear that the Board may award you more than \$7,500 per infringed work in statutory damages.” See 17 U.S.C. § 1504(e)(1)(A)(ii)(II).

To address this issue, you may file a second amended claim that makes clear what you are asking for and does not state that you are pursuing remedies from the Board that it may not provide.

Final Amendment

This is your third and final opportunity to submit a compliant claim in this proceeding. **If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

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