



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0032

February 12, 2024

Eugene J. Koprowski

CLAIMANT

v.

Laura A. Grochocki

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 **March 13, 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 Registration

You have brought a claim of copyright infringement before the Board. The claim must include the effective date of registration for the allegedly infringed work, if it has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(C). You list the work as registered with Registration Number VA0002367332 and an effective date of registration of May 1, 2023. However, Copyright Office registration records list May 1, 2023 as the first date of publication for the work, and state that the effective date of registration is instead September 27, 2023. If you file an amended claim, include the correct effective date.

### Copyright Infringement – Elements

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 respondent's infringing activity, access to your work, 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 respondent to understand the facts of the alleged infringement.

### **Proper Respondent**

A person or entity who engages in infringing activity is a proper respondent for an infringement claim. It is not apparent how the respondent you named is a proper respondent.

You allege that the respondent committed infringement by reproducing your photograph online, publishing it on a WordPress website without a license, continuing to publish it after you sent a takedown notice, and creating a derivative work based on your photograph without a license.

You have not stated facts that describe or show why you believe the named respondent, rather than someone else, is responsible for the alleged infringing acts. The information you have provided indicates that the respondent may be an attorney. Therefore, it is unclear whether you believe the respondent is actually the person who committed the alleged infringing acts or if they are just the attorney for the person you believe committed the allegedly infringing acts. If you file an amended claim, include additional information that indicates your basis for raising your claim against this respondent.

### **Access**

You allege that the respondent reproduced your work on a WordPress website. However, your claim does not provide facts that indicate how the respondent had access to your work. "Access" means a reasonable opportunity to see or copy 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 work that appeared on the respondent's website that they could not have been created independently.

Alternatively, you can upload a copy 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. You included an image file with the claim you filed last year (*Koprowski v. Grochowski*, 23-CCB-0323), labeled [IMG-1227.jpg](#), which appears to be your work, but you have not provided a copy of that work or any allegedly infringing work that appeared on WordPress in this proceeding. 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 allegedly infringing work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide more specific allegations about how your work and the allegedly infringing work are similar.

In the “Works infringed” section of the claim, you list your work as a photograph titled “Koprowski Family Photo.” However, you have not described the work further or included it in this proceeding. The claim also does not clearly describe the allegedly infringing work or include it as a supplemental document. As a result, your claim does not provide enough information to enable the Board to understand the similarity of the works.

If you submit an amended claim, it must include more 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 statement regarding which portions of your work were used on the WordPress site, 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