



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0200

United States Copyright Claims Board

Michael L McBride

CLAIMANT

v.

Emily Thompson

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 **December 8, 2022**. 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.

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. 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 intertwines many extraneous allegations with any possible copyright infringement claims, with the result that your copyright infringement claim is not clear enough for the Board and the respondent to understand. If you file an amended claim, you must clearly set forth allegations making each element of a copyright infringement claim clear and not mixing those allegations with allegations unrelated to your infringement claim.

Copyright Infringement 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. 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.

Your claim states that the respondents “have hacked into my devices” but does not include any additional 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 reasonably possible facts about how you believe this occurred, including how the respondent got access to what is on your devices.

Copyright Infringement Claim – Substantial Similarity

Your claim also 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 materials 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 was “distributed on their own devices and try to claim it as their own, including artwork that was not included in the original copyright.”

However, you do not provide any information describing or depicting your work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of your allegedly infringed work or of the allegedly infringing 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 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.

Participant Conduct

All participants, including parties and their representatives, in a CCB proceeding, are required to meet certain basic standards of conduct. 37 C.F.R. § 232.1. These standards include acting with the highest degree of respect for others. If you fail to meet these standards and instead act in bad faith, the CCB may impose financial penalties on you or even ban you from bringing new CCB claims. 37 C.F.R. § 232.4.

Bad-faith conduct includes violating those standards of conduct or making a claim or taking any actions in support of a claim (1) for some inappropriate purpose, such as to harass someone, (2) without a reasonable factual or legal basis, (3) despite knowing that such claim, counterclaim, or defense cannot be heard at the CCB, or (4) to avoid CCB requirements.

Your claim includes allegations unrelated to copyright that attack the reputation of the respondent and their family. In your amended claim, please only include allegations related to your copyright infringement dispute. You can only submit a document or other information to the CCB, make a claim, counterclaim, or defense, or take a position before the CCB if you have a legitimate reason for doing so. Your reason for filing a claim or submitting information cannot be to harass, intimidate, or annoy another participant.

Issue – Copyright Infringement Claim – Permissible Remedies

In the “Description of harm suffered and relief sought,” your claim refers to “ongoing distractions” and to attacks on your work that have “complicated my life (I’m disabled and live with my 71 year old mom), caused me to lose sleep, reputation, security, and stagnate the work, not to mention having to spend a duplicate amount of money on additional copyright updates since I had originally registered the work before I completed it, after the recommendation during a phone call with one of the nice librarians there. This is also cutting into my time- I could’ve been using my spare time for promotion, advertising and marketing etc. since the book is now available from Amazon and for pre-order on Apple Books store.” Such emotional or reputational harm is not taken into account in awarding damages in a copyright infringement suit.

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. You can also request both in your claim, but you will have to decide, before the Board makes its final determination, which form of damages you wish the Board to award. 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.

If you amend your claim, you should refocus your description of harm suffered and relief claimed to address the issues of economic loss that are relevant to such damages.

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 your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page. Please include only documents that are directly related to your claim.
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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.