(Your Letterhead)

March 28, 2018

Attn: Name of Contact

Company Name

Address Line 1

Address Line 2

Re: Your Copyright Infringement Claim is Unfounded

Alleged Work: Describe title of work being alleged

Dear Name:

I am in receipt of your letter dated \_\_\_\_\_\_\_\_\_\_\_ alleging that I have infringed on your copyright over your work described as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “Your Work”). Your claim is unfounded and briefly in this letter I will outline why my work, described as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter “My Work”) does not infringe on Your Work and is its own separate and independently valid copyright.

Should you seek to escalate with further legal action, I will be retaining legal counsel to defend my claims and I am confident that I will prevail. My Work does not infringe on Your Work for the following reasons, among others:

Your Work is not a valid copyright. Upon study of Your Work, strong arguments can be made that it is not sufficiently original to be protected as a valid copyright.

Your Work is not a valid copyright because what you are alleging as copyrighted work is, at substance, an idea, not an expression. You claim that I copied your idea. Ideas are not copyrightable. My expression of that idea is distinctly different from your expression of it and therefore no copyright infringement will be found.

The content of Your Work is in the public domain and therefore freely availed to all. Therefore, you do not have a valid claim of copyright infringement since the nature of the work you’re alleging as proprietary to you is in fact already in the public domain.

The doctrine of independent creation is a defense against alleged copyright infringement and despite your claims of similarity between Your Work and My Work, I hereby inform you that I developed My Work independently, without any access to Your Work, and so there was no actual copying of Your Work. Under the doctrine of independent creation, I am innocent of copyright infringement.

On any presumption that you may hold a valid copyright, which I reserve the right to contest, My Work is protected under fair use because it is used within the scope of educational purposes and was not used for profit /or/ within the scope of social and political commentary, and/or news reporting /or/ beyond the scope of your alleged copyright, as my work bears independent transformative value. Furthermore, my work does not have any measurable or substantial adverse impacts on the profitability of your work and therefore no effect on the market value of your work, which strengthens my fair use defense.

I am confident that upon review of the foregoing, you will abandon your allegations. Nonetheless, I offer to compromise and settle this dispute in the sum of $1.00 (One Dollar) and therefore pursuant to Rule 408 of the Federal Rules of Evidence, this letter is inadmissible as evidence in a court of law because it is a statement made during compromise negotiations over the claim. In the event this matter escalates, I reserve the right to amend or modify anything I have said herein should my legal counsel determine such an amendment or modification.

Sincerely,

Your Name

Your Company Name

|  |
| --- |
| **NOTES**  Text in green font are the various defenses you would cite in response to the infringement claim. Keep all the paragraphs that are applicable and delete the paragraphs that are not applicable.  Text in blue font are factors for consideration in a fair use defense. Keep the ones that are applicable and delete the ones that are not, then edit accordingly so it reads like a complete sentence.  Note the final paragraph of your response letter offers to settle the dispute for $1.00. I presume you would be okay with making the dispute go away for $1.00. The reason for adding this paragraph is because by offering to settle the case for $1.00, this letter becomes an offer to settle, and statements made in the scope of settlement offers are protected against admissibility in court. So in the event you wrote something you shouldn’t have in this letter, it can’t be admitted in a court of law against you anyway because it was made within the scope of trying to settle the dispute.  Once your draft is finalized, make sure all font color is restored to black. You should probably not send out a color-coded business letter. |