COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0272
July 7, 2026

April M. Peck	*v.*	Keiry A. Borruel
CLAIMANT		**RESPONDENT**

ORDER DENYING REQUEST FOR RECONSIDERATION

Claimant April M. Peck ("Claimant" or "Peck") initiated this claim on September 12, 2024, alleging copyright infringement of her Research Methods "Canvas" Course shell (the "Work") (Dkt. 1). On February 18, 2026, the Copyright Claims Board ("Board") issued the Final Determination in this proceeding, which found that Respondent Keiry A. Borruel ("Respondent" or "Borruel") did not infringe the Work, and dismissed the claim with prejudice. (Dkt. 95). Peck filed a request for reconsideration on March 18, 2026 ("Request") (Dkt. 96). Borruel submitted a response to the Request on April 13, 2026. (Dkt. 98).

A request for reconsideration of a final determination must identify a clear error of law or fact that was material to the outcome, or a technical mistake. 17 U.S.C. § 1506(w); 37 C.F.R. §§ 230.1-230.2. The Request identifies no technical mistake or clear error and is denied.

While It Is Highly Unlikely Peck Effectively Revoked Permission to Use the Work, The Record Has No Solid Evidence that Borruel Used the Material After Peck's Permission Was Arguably Revoked.

There is no question that Borruel had Peck's permission to use the Work. The Final Determination stated that, other than Peck's complaint that Borruel had her students read certain third-party articles Peck's prior students had read, the record has no solid evidence that Borruel used any of Peck's materials or any of the Work after Peck's October 26, 2023 email asserting Peck did not wish Borruel to use the Work "in perpetuity." Respondent Ex. 3 at KB000047. (Dkt. 79). Further, Borruel has not taught the Psyc 217 class since the Spring 2024 semester. Borruel Decl. ¶¶ 40, 44-45. (Dkt. 80).

The "totality of the parties' conduct" shows that Peck demanded Borruel, a brand-new professor, teach a course that she had never taught before, and that, to put Borruel at ease, Peck provided Borruel with access to the materials Peck used when teaching the course previously (that is, the Work). Borruel reasonably assumed that Peck gave permission (in the form of an implied license)—which she did—to use those same materials and, in fact, to use them for as long as Borruel was teaching Psyc 217, with Borruel developing the materials as she taught new iterations of the class.

Although the Board doubted whether an actual revocation of permission was created by Peck's October 26, 2023, email, the Board stated that it did not need to decide that issue because Borruel did not use the materials in

any infringing way beyond that date. In fact, Peck herself stated, in a February 15, 2024 email to Borruel, that she had reviewed Borruel's course materials for Spring 2024 and that the materials all looked fresh such that she had no issues; furthermore, Peck was so relieved that she said she did not need access to the old Fall 2023 course shell anymore. Respondent Ex. 3 at KB000041. (Dkt. 79). This admission essentially ends the case, especially when combined with all of the other evidence addressed in the Final Determination.[1]

The above also refutes Peck's statement in her Request that Borruel not only used the Work to teach the Psyc 217 course, but also on two personal websites. Request at 2-3, citing Peck Ex. P, S, JJ, & W (Dkt. 53, 39, 66, 31). Peck did not focus on this evidence in her papers, but, even if she had, these exhibits are extremely vague and do not clearly show any infringing use of the Work, even if she was able to and had properly revoked permission. There is simply not enough evidence to show any error to reconsider the Final Determination. Any similarities between the Work and Borruel's materials are because they cover the same subject matter and both use common outside source materials like the "Likert Scale." Borruel, in fact, cites outside source material for the website content. Peck Ex. P; Borruel Decl. ¶ 51.

Peck's other reasons for reconsideration, including the public having access to Borruel's website or Borruel's supposedly incorrect claim that she was inexperienced with Canvas, were not material to the Final Determination, and do not need to be addressed here.

The Board's application of the law, supported by the facts, the Copyright Act, and substantial judicial precedent, was not clearly erroneous. The Request does not identify any legal or factual error that would justify reconsideration of the Final Determination. Therefore, the Board denies the Request.

Copyright Claims Board

[1] To the extent the Board needed to decide whether a revocation of the permission to use the Work occurred on October 26, 2023, it likely was not effectively revoked, especially because not only did Borruel provide consideration for the implied license, but Peck continued to demand that Borruel teach the same Psyc 217 class. It is settled that a nonexclusive license may be irrevocable if supported by consideration because then the implied license is an implied contract. *Unclaimed Prop. Recovery Service, Inc. v. Kaplan*, No. 11-cv-1799, 2012 WL 4195241, at *4 (E.D.N.Y. Sept. 20, 2012) (citations and internal quotations omitted), *aff'd*, 734 F.3d 142 (2d Cir. 2013). *Accord Asset Marketing Systems, Inc. v. Gagnon*, 542 F.3d 748, 757 (9th Cir. 2008). *See also* 3 *Nimmer on Copyright* § 10.02[B][5] (2026) (citing cases). Furthermore, there is the question of whether 17 U.S.C. § 203(a)(3) and (b)(1) barred termination of the license as not ripe for termination or under its "derivative works exception." Finally, as Borruel correctly argues, in her Response to the Request (Dkt. 98, at 2-3), even if a revocation could have been valid, any material that remained on a website for the students would have been there only for a reasonable transition period.