



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0293

October 9, 2024

Julie A. Schwartzman

CLAIMANT

v.

Mel Cooper

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **November 8, 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.

Allegedly Infringed Work – Clarity

A copyright infringement claim before the Board must state specific information about each allegedly infringing work including its title, author(s), and Copyright Office registration number or, if it is not registered, the service request number for a pending application for registration and the application date. 37 C.F.R. §§ 222.2(c)(7)(ii)(A)-(D). The “Works infringed” section of your claim confusingly lists two literary works—titled *Loanshark* and *Wiseguys, Rabbis, and the FBI* (*Wiseguys*)—in a single entry, without all the information required. Under “Title of work” you list only the title of *Wiseguys*. Yet, you provide the registration number for only *Loanshark*. You state that an application to register *Wiseguys* is pending but its service request number is shown only in a supplemental document filed with the claim, not in the “Works infringed” section. You discuss both works in the “Describe the work” section, stating:

Non-fiction, true crime/memoir originally registered at the US Copyright Office as a draft called “Loanshark.” Updated copyright for a changed work is currently pending for “Wiseguys, Rabbis, and the FBI.”

As a result, it is not clear if you mean to claim infringement of just one of those works or of both works. If you file an amended claim, if you are alleging infringement of only one of the works, make that clear, and if of both, list

each allegedly infringed work separately in its own entry in the “Works infringed” section and include all specified information requested. However, please see below regarding the status of the application for *Wiseguys*.

Copyright Registration

The Board can only hear a copyright infringement claim if, *before* the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a). The Board can only determine that a work has been infringed after the Copyright Office registers the work. 17 U.S.C. § 1505(b)(1)(A).

Loanshark has been registered. You indicate that the copyright for *Wiseguys* has not been registered, and a document filed with the claim shows an application for registration of the work was opened on July 17, 2024, with Service Request No. 1-14055080531. However, Copyright Office records indicate that the application has been closed. While the Board handles its cases independently from the Copyright Office and is not related to the Copyright Office’s registration division, the Board can see from the records that you did not respond to a Copyright Office examiner’s email dated August 2, 2024, that asked you to more clearly distinguish the previously registered material in *Loanshark* from the new authorship claimed in *Wiseguys* (“please give us permission to describe the excluded material as ‘previous version’ and the new authorship as ‘new and revised text,’ if correct, in both the Author and Material Included spaces of the application”). That email noted that if you did not respond to the message within 45 days, your application would be closed without processing your registration or notifying you further. The Office did not receive a reply by the specified deadline and the application was closed as a “No reply” on October 3, 2024, about an hour after you filed this infringement claim.

If *Wiseguys* has not been registered and is not subject to an open application that was pending when you filed this claim, you cannot successfully amend this claim to allege infringement of that work. If you file an amended claim, then in the “Works infringed” section you must either (1) omit *Wiseguys*; (2) provide a copyright registration number for *Wiseguys*, or (3) provide a Service Request number for an application to register *Wiseguys* that was filed before you filed this claim on October 3, 2024, and that is still pending. Providing Service Request No. 1-14055080531 would only be appropriate if the Copyright Office reopens that application.

For more information on registration, please refer to the Copyright Office [Registration Portal](#).

Substantial Similarity

If your amended claim alleges infringement of *Loanshark*, it must present enough facts to indicate how the allegedly infringing work is substantially similar to original, expressive elements of *Loanshark* that copyright protects.

Your allegations indicate that you wrote *Wiseguys* with the cooperation of respondent Mel Cooper (Cooper) based on his life story, and that he distributed copies of *Wiseguys* that credit him as the author instead of you. In the “Works infringed” section, you indicate that *Wiseguys* is an updated, “changed version” of *Loanshark*. However, to the extent that you are alleging that *Loanshark* was infringed by respondent’s use of *Wiseguys*, you do not state or

show how any creative elements of *Wiseguys* are substantially similar to elements of *Loanshark*. No allegations describe how *Loanshark* and the allegedly infringing work may be identical or substantially similar. In addition, you have not provided a copy of either work as a supplemental document. As a result, the claim does not provide enough information to enable the respondent to understand and respond to it.

To address this issue, if your amended claim alleges that *Loanshark* is infringed, you should include more information about how creative elements of *Loanshark* and *Wiseguys* are similar, including a clear statement of whether *Wiseguys* includes all of *Loanshark* or only portions (and if so, which portions), or documents that are sufficient to show substantial similarity in material that copyright protects. If you include copies of the works at issue as supplemental documents, then they must be clearly labeled and identified so they can be properly compared to each other.

Co-ownership

An infringement claim cannot proceed against a co-owner. Information about joint ownership of a copyright is available at pages 9-10 of the [Responding to an Infringement Claim](#) chapter of the CCB Handbook.

In the “Works infringed” section of the claim, you list Cooper as a co-owner of the copyright in the allegedly infringed work. In the “Description of harm suffered and relief sought” section, you state that Cooper is “the co-owner of the work.” That assertion is incompatible with a claim of copyright infringement against Cooper because an owner or co-owner of a copyright in a work cannot be liable for infringement of that copyright. You reinforce that statement, alleging that he “participat[ed]” in the creation of the work and you “planned to publish it sharing credit.” However, contrary to that assertion, you state, “I am the sole author and copyright holder,” and a document filed with the claim lists several files described as “proof of Julie Schwarzman ownership.”

If you file an amended claim against Cooper, you must, if truthful, omit your allegations that he is a co-owner of the copyright, and you must also clearly present facts to explain why your prior statement that he was a co-owner was incorrect. For example, you may state additional facts, or attach any agreement between you and Cooper related to the copyright ownership of *Loanshark* or *Wiseguys*.

If Cooper is a co-owner of the copyright in only *one* of those two works, you cannot maintain a claim against him for infringement of that work, and any amended claim of infringement of merely the other work must present facts that indicate why he is not a co-owner of that other work.

Relief Sought

The “Description of harm suffered and relief sought” section of the claim includes a statement that you are seeking “punitive damages” for copyright infringement. However, the Board cannot award punitive damages. If you file an amended claim, it must not include a request for relief that the Board cannot grant. Information about the types of damages the Board may award in a copyright infringement claim is available at pages 6 and 16-17 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

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.

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