



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0271  
February 6, 2023

## United States Copyright Claims Board

Michelle Shocked

CLAIMANT

v.

Eric Strauss

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 8, 2023**. 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 Infringement Claim – Legal or Beneficial Ownership

Your claim provides unclear information about your status as a legal or beneficial owner of the allegedly infringed works. To bring a copyright infringement claim before the Board, the claimant must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

Your claim does not specify how you are the legal or beneficial owner of the allegedly infringed work, and information in the copyright registration identified in your claim appears inconsistent with your ownership status. The allegedly infringed work is a sound recording of your album “Short Sharp Shocked.” The claim identifies you

personally as the sole author. However, the copyright registration you identify for the sound recording, Registration No. SR0000100138, was issued to Polygram Records, Inc., which identified itself as both the copyright claimant and the author of the recording, as an “employer for hire.” “Work made for hire” has a special meaning under the law and often indicates that an employee of the named author created the work within the scope of their employment.

The registration records leave unclear who is the legal and beneficial owner of the copyright. To correct this issue, your amended claim must include specific allegations about how you own, or have an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining your ownership in exclusive rights in the work at the time of the infringement, or by submitting supplemental documents that demonstrate your ownership. For example, you may describe your relationship with Polygram Records and state how you obtained legal or beneficial ownership of the copyrights. You may also state facts or provide documents to support your allegation of exclusive rights to grant synchronization licenses for the allegedly infringed works. For example, after filing your second amended claim in *Michelle Shocked v. James Billington*, No. 22-CCB-0058, you also filed copies of copyright assignments to support your claim of exclusive rights relevant to that proceeding. When you file the amended claim, if you choose to file supplemental documents, please upload them on the Documentation page of the claim form rather than submitting them as separate entries on the docket.

### **Copyright Infringement Claim – Infringing Activity**

Your claim does not clearly state how the respondent used any exclusive rights you have in the allegedly infringed work without permission. Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Your claim describes the allegedly infringing activity as an unlicensed synchronization of your work in a video work, and alleges that the infringing acts occurred in two places: a YouTube page, and a .flac file on archive.org. However, your claim does not state that the sound recording was played on YouTube; a [document](#) filed with the claim indicates that a textual description accompanying the YouTube video included the URL of the .flac file. The video on the YouTube page has been removed, so the Board cannot determine whether the video used your work or only included a link to the work in the accompanying text. Moreover, an allegedly infringing .flac audio file would seem to implicate unauthorized distribution and public performance of the work, but not unauthorized synchronization.

If you submit an amended claim, you must include facts in the claim form that more fully explain what activity the respondent engaged in that infringed your rights. If the video on YouTube included the sound recording, or portions of the sound recording, your amended claim should specifically allege that fact. The claim must provide enough information for the respondent to understand what their allegedly infringing acts were.

## Improper Pleading Form

The Board claim form is a standardized form, available on [eCCB](#), where claimants must enter all relevant allegations. [37 C.F.R. § 222.2\(a\)\(1\)](#). Allegations in support of the claim must be made through the standard form. [37 C.F.R. § 222.5\(a\)](#). You submitted, as supplemental material along with the claim, a [document](#) labeled “Eric Strauss YouTube and Internet Archives copyright infringement and circumvention of standard technical measures.pdf,” which includes extensive factual assertions not raised in the claim itself. Asserting facts only in a supplemental document is not an acceptable way to plead a claim before the Board. To address this issue, you may file an amended claim that includes all of your factual allegations in the claim form. You may attach evidence as supplemental documentation, but you may not use attachments to make additional allegations.

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 supplementary 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.