



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0125
May 16, 2024

Amschel M de Rothschild, II

CLAIMANT

v.

DistroKid LLC, Google LLC, Spotify USA
INC, and TuneCore, Inc.

RESPONDENTS

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still 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 a second amended claim by **June 17, 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

To make your second 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.

Noninfringement Claim – Clarity

You have filed a claim for a declaration of noninfringement, which asks the Board to find that your actions do not amount to an infringement of the respondent's copyrighted work. If someone has accused you of infringing their copyright, a noninfringement claim requests an official declaration that you did not infringe. In the "Work(s) respondent says you have infringed" section of the claim, you are required to list certain information about each work that the respondent alleges that you infringed, if known. 37 C.F.R. § 222.2(c)(8)(ii). Instead, you list information about your own work titled "Dreamin," which you describe as a "musical song that I composed, wrote and performed." If you file a second amended claim, revise that section to provide the requested information about the work that the respondents claim you infringed, if you know it, not about your own work.

Proper Respondent

There must be an “actual controversy” between you and the respondents over whether you infringed the respondents’ copyrights, for example, if the respondents are accusing you of infringement. 28 U.S.C. § 2201(a); see 17 U.S.C. § 1504(c)(2). The claim must describe the reasons why you believe that no infringement occurred, and the reasons why you believe that there is an actual controversy between you and the respondents about the requested declaration of noninfringement. 37 C.F.R. §§ 222.2(c)(8)(iv)-(v).

Your amended claim names DistroKid, Google, Spotify, and TuneCore as respondents; your allegations about YouTube seem related to Google. In any case, none of them appear to be proper respondents, because your allegations do not indicate how those entities, rather than third parties, are accusing you of infringement. In the “Describe dispute with respondent(s)” section, you state: “I am being extorted by Mexican gangs and cartels who have been making threats, taking my music down via false copyright claims and attempting to upload in via online distributors.” In the “Describe the allegedly infringing activity” section, you allege: “They are making false claim that my music is copyrighted by Malteh Malthe Jensen, Partynextdoor and others.” Your amended claim appears to describe a variety of disputes over alleged infringement claimed not by the listed entities but by third parties.

Supplemental documents filed with the claim indicate that Spotify and YouTube are online service providers (OSPs) that did not themselves accuse you of infringement; instead, it appears that they responded to takedown notices in which third parties accused you of infringement. If that is the case, they are not proper respondents for a noninfringement claim. Your documents indicate that one or more non-parties told Spotify that “Dreamin” was infringing their copyright and Spotify took down the work as a result. See [Screenshot 2024-04-23 9.06.17 AM.png](#) and [Screenshot 2024-04-23 9.11.24 AM.png](#). Your documents also indicate that TuneCore issued a takedown notice to YouTube regarding your video for “Dreamin,” and initially maintained that its copyright claim was valid when you disputed it. See [Screenshot 2024-04-23 9.04.57 AM.png](#) and [Screenshot 2024-04-23 9.05.32 AM.png](#). These documents appear to show that YouTube and Spotify received takedown notices for your track “Dreamin” from third parties and removed or disabled access to the track. However, you have not shown that YouTube or Spotify themselves accused you of infringement. Simply complying with valid takedown notices would not make them proper respondents for your noninfringement claim.

As stated in the May 2, 2024 noncompliance order:

Without more, an OSP informing you about a takedown notice it received does not mean that the OSP itself accused you of infringement. The Board cannot hear a noninfringement claim against an OSP if it has not claimed to own the copyright for the allegedly infringed work. Only a person or entity claiming to own the copyright in a work and alleging that you have infringed that copyright can be a proper respondent for your noninfringement claim because only a copyright owner could bring a claim for infringement against you. If there is an actual controversy over whether you committed copyright infringement, it seems to be between you and whoever issued the takedown notices. If the legal rights of the OSPs are not at stake in that dispute, a noninfringement claim against them would not present an actual controversy that the Board can resolve.

TuneCore apparently issued a takedown notice to YouTube in early 2023, as discussed above, but it no longer appears to be disputing that you own the copyright for “Dreamin.” It appears that on July 11, 2023, YouTube informed you that TuneCore had “decided to release their copyright claim on your YouTube video.” See [Screenshot 2024-04-23 9.05.58 AM.png](#). Because there does not currently appear to be an “actual controversy” between you and TuneCore about whether your work is infringing, TuneCore does not appear to be a proper respondent.

No supplemental documents appear to relate to Distrokid. Its involvement in any copyright dispute is not shown or pleaded. As a result, Distrokid also does not appear to be a proper respondent.

If you file a second amended noninfringement claim, it must specifically describe an actual dispute between you and the named respondent(s) over whether your activities infringed their copyright. This claim may not proceed against the identified respondents unless, in a second amended claim, you provide facts indicating that they claim an ownership interest in the copyright or control the copyright of a work or works you allegedly infringed, and that you reasonably anticipate that the respondents may sue you for infringement. You must clearly allege how the accusations of infringement were made against you, and by whom.

More information about what is required to support a claim for a declaration of noninfringement is available in the [Starting a Noninfringement Claim](#) chapter of the CCB Handbook.

Final Amendment

Your amended claim resolves some, but not all, of the issues raised in the May 2, 2024 noncompliance order. **This is your third and final opportunity to submit a compliant claim. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

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.

Copyright Claims Attorney