



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0017
January 31, 2024

Kelly Green

CLAIMANT

v.

Brooke A. Graham

RESPONDENT

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. Your copyright infringement claim is still not compliant because it relies on applications for registration for the allegedly infringed works that were incomplete when the claim was filed. Without timely applications or registrations, this claim cannot proceed. Additional issues identified below must also be addressed for the claim to move forward *in a new proceeding*, if you file one.

If you wish to proceed with *this* proceeding, you must file a second amended claim by **March 1, 2024** that is based on registrations that issued, or applications for registration that were completely submitted (including the necessary deposit copies), *before* you filed your January 17, 2024 claim. 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 amended 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 Registration

You filed your claim on January 17, 2024, alleging copyright infringement of two works, titled “well lets talk about my sons claims and why he all of a sudden hates me/Juelz/Jy/Sly/Jayjay” and “the 3 stooges brown liquor brooke, temu teeth and momo are the only ones lying to everyone.” The claim was not compliant because it did not identify previously issued registrations or complete applications for registration for those works. Instead, the claim relied on pending applications for which you had not yet submitted deposit copies of the works.

As the noncompliance order issued January 22, 2024 explained:

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).

(Emphasis added.)

Your amended claim provides Service Request numbers 1-13413805450 and 1-13413805369 for applications to register the works. Copyright Office records indicate that both applications were filed on January 17, 2024, but the deposits were not uploaded until January 18, 2024 and January 24, 2024. While you may file a *new* infringement claim based on those applications in a new proceeding, the deposits were submitted too late to support an the infringement claim filed on January 17, 2024, even if amended. As the January 22, 2024 noncompliance order further explained:

The Board cannot hear this claim because deposit copies of the works were not delivered to the Copyright Office before this claim was filed. Because your works were neither registered nor subject to complete pending applications at that time, this claim cannot be successfully amended and cannot proceed. Instead, you would need to refile your infringement claim as a new claim **in a new proceeding** after complete application packets are filed. You should not submit a new claim alleging infringement of both works until after you submit the deposit for 1- 13413805369, or submit a new application, deposit, and fee.

(Emphasis added.)

It does not appear that the works had been registered, or that you had completed applications for registration of the works, before you filed this claim on January 17, 2024. If you file a second amended claim in *this proceeding*, it will be dismissed unless you list, for each allegedly infringed work, either a Service Request number for an application for registration that was completed before that date, or a Registration Number issued for the work based on an application completed before that date.

Alternatively, now that complete applications for both works are pending before the Copyright Office, you may refile your infringement claim as a new claim *in a new proceeding*, listing the Service Request numbers in the “Works infringed” section. If you file a new claim, you must also address the issues of ownership and substantial similarity addressed below or the new claim will also be found noncompliant.

Legal or Beneficial Ownership

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). Your claim presents unclear information about your status as a legal or beneficial owner of the allegedly infringed works.

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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook. 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.

In the “Works infringed” section, you list Siwa Moon as the author of both works. The pending applications for registration list Siwa Moon as the author and copyright owner of both works. Your amended claim does not explain any relationship between you and Siwa Moon, or indicate how you have the right to bring a claim of infringement of works authored by Siwa Moon.

To address this issue, you must file an amended claim (if you have resolved the registration issue described above), or a new claim in a new proceeding, with allegations that indicate how you are a legal or beneficial owner of the copyrights. For example, if Siwa Moon is your alias or pseudonym, you may add that name in the “Alias” field of the “Claimant” section; or if Siwa Moon has transferred the copyrights to you, include allegations that describe when and how the transfer happened, or add documents that show the transfer. Alternatively, if you are not a legal or beneficial owner and Siwa Moon is, then any amended or refiled claim must remove you as the claimant and name Siwa Moon as the claimant instead.

Substantial Similarity

Your amended claim also does not include facts that explain the similarities between your works and the allegedly infringing works. If it is not readily apparent from supplemental materials submitted with the claim, you must provide specific allegations about how your works and the allegedly infringing works are substantially similar.

You do not provide enough information describing or showing your works, or stating how they are substantially similar to the respondent’s allegedly infringing use of the works. You describe each of your works as “[m]y Youtube livestream and artwork.” You allege that the respondent “has played the majority of my work in each instance,” and that the infringing acts occurred on YouTube and Rumble, with “no edits made to any of my original artwork or images.” However, no allegations in the “Describe the infringement” section describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar in any detail beyond saying that the “majority” was copied. In addition, you have not provided copies of your works or the allegedly infringing works as supplemental documents. As a result, you do not provide enough information to enable the respondent to understand the claim and respond to it.

If you submit an amended claim, or refile the claim in a new proceeding, include more factual allegations that support the element of substantial similarity, including a clear, detailed statement regarding which portions of your works were taken by the respondent in the allegedly infringing works, or documents that are sufficient to show the similarities. If you include copies of the works at issue as supplemental documents, they must be clearly labeled and identified so they can be properly compared to each other. However, the factual allegations must be submitted in the claim itself, not in a supplemental document attached to the claim.

Final Amendment

You have not resolved the issues raised in the January 22, 2024 noncompliance order, and additional issues discussed above must also be addressed for the claim to move forward. You may refile the claim *in a new proceeding*, addressing the issues raised in this order.

Alternatively, this is your third and final opportunity to submit a compliant claim *in this proceeding*. If you file a second amended claim in this proceeding that remains noncompliant, the entire proceeding will be dismissed. 17 U.S.C. § 1506(f)(1)(B).

To submit a second 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