



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0027

United States Copyright Claims Board

Louis D. Alfieri, S

CLAIMANT

V.

John M. Hill

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 **September 22, 2022**. 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 extra 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.

Copyright Infringement Claim – Registration

Your claim did not include a valid registration or service request number. 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 registration. 17 U.S.C. § 1505(a). In your claim, you provided a service record number for a 2018 recordation. To address this issue, please provide the registration number for the work or the service request number for the application to register the work. If you need to submit an application in order to proceed with a claim, please refer to the Copyright Office [Registration Portal](#).

Copyright Infringement Claim – Clarity

A claim is not compliant if it does not provide enough information to enable the respondent to understand the claim and respond to it. In particular, the claim identifies the allegedly infringed work as a literary work entitled “No One Can Hear You Cry.” However, the wrongful activity the respondent is accused of doing is publicly performing the work through a digital audio transmission, which is an exclusive right that only applies to sound recordings, not literary works. Moreover, the claim does not allege any facts concerning activities by the respondent that appear to constitute copyright infringement. In addition, a document recorded by the Copyright Office on April 3, 2018, (which your claim identifies as the “effective date” of the copyright registration) appears to be an agreement dated May 20, 1965 between Alfieri Music and the respondent John M. Hill that purports to assign rights to a musical composition entitled “No One Can Hear You Cry,” not a sound recording or a literary work. It is unclear from the allegations in the claim which work is at issue, which of the copyright owner’s exclusive rights you claim to own (and that the respondent does not co-own), and which of those rights you claim was infringed. In your amended claim, please specify whether the work you are alleging was infringed is a sound recording or a musical work, what rights you hold, and how the respondent infringed your rights. Your copyright infringement claim must provide enough information for the respondent to understand what his allegedly infringing acts were.

Copyright Infringement Claim – Legal or Beneficial Ownership

Your claim provides conflicting facts about the claimant’s status as a legal or beneficial owner. 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 for which the claimant seeks damages, if any[.]” 17 U.S.C. § 1504(c)(1). When the claim was submitted, you certified that the claimant was the legal or beneficial owner of rights in the work identified in the infringement claim.

As mentioned above, your claim does not include an eligible application or registration number, and the respondent is one of the two stated co-authors of the work. A Board search of Copyright Office records led to a document recorded on April 3, 2018, in Vol. 3544, Doc. No. 027. This agreement, dated May 20, 1965, between Alfieri Music and the respondent, appears to assign rights to a musical composition entitled “No One Can Hear You Cry.” The copyright registration for that composition was issued on April 22, 1965, under registration number EU0000879079 to Beatrice K. Hill and respondent John M. Hill. Works that first secured copyright in 1965 were subject to an initial term of copyright of 28 years, through 1993, followed by a renewal term of 67 years, from 1994 through 2060. 17 U.S.C. § 304. Ownership of the copyright in the renewal term would have reverted to the author by default in 1994, if the author was alive; otherwise it reverted to an eligible party identified in copyright law. *Id.* Your claim alleges that infringing activities happened “From 2005 to 2019 – Present,” which is during the copyright’s renewal term. The Copyright Office does not appear to have records of a renewal registration or transfer during the renewal term, and your claim does not provide any information to support allegations of your legal or beneficial ownership during the time

encompassed in your claim. Because the authors identified in the registration are Beatrice K. Hill and John M. Hill, and because the claim asserts that John M. Hill has infringed the copyright “from 2005 To ... the Present,” the claim must be construed as alleging that respondent was alive in 1994 and therefore that he (along with Beatrice K. Hill, if she was alive in 1994) are the copyright owners during the current, renewal term of copyright.

These facts appear to be in conflict with your certification. To correct this issue, you must add facts to the “Describe the infringement” section of the claim that explain how you were the legal or beneficial owner of the exclusive rights at the time of the infringement.

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 – Permissible Remedies

1. Your claim includes, in the “Description of harm suffered and relief sought” section, a request for relief that includes “nothing less than the full, CCB amount of, \$30,000 plus attorney's fees and full control of the copyrights.” This request includes relief that the CCB cannot grant. The CCB cannot order a respondent to transfer control of copyrights to you.
2. You selected “Yes” to the “smaller claims” option in the claim form. The smaller claims option is for claimants who wish to seek a maximum of \$5,000 in a proceeding. In order to seek damages above \$5,000 you must change your selection to “no.” If you want this claim to proceed under the smaller claims option, you must reduce your demand for damages from \$30,000 to an amount no greater than \$5,000.

To address these issues you must file an amended claim that does not request any remedies from the CCB that it cannot provide. Information about permissible remedies is available at pages 6 and 15 of the CCB Handbook chapter on [Starting an Infringement Claim](#) and on the [Claimant Information](#) page of ccb.gov.

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. On the “**Claim Type**” page you may change your Smaller Claims designation by amending your answer to the “**Would you like to proceed as a ‘smaller claims’ proceeding**” question.
4. Make any necessary edits on the “**Infringement**” page.
5. If your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the “**Supplemental documents**” page. You also may choose to add other documents in your amended claim.
6. 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.
7. 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 CCB is unable to provide legal advice. We can only provide legal information and assistance concerning CCB procedures and requirements. You may also refer to the [Compliance Review](#) chapter of the Copyright Claims Board Handbook for more assistance.

Copyright Claims Attorney

August 23, 2022