



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0187
July 3, 2024

Michael Walz

CLAIMANT

v.

Jeremy Mercer

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 **August 2, 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.

Substantial Similarity

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

You identify your work as a sound recording titled “GYATT4GYATT” that you describe as a “parody song.” You state that the work has not been registered by the Copyright Office and you list 1-13970512121 as the service request number of your application for registration. In the “Describe the infringement” section of the claim, you allege that “GYATT4GYATT” has been published on TikTok and music platforms, and that you have also posted derivative versions on TikTok that you call “character covers” videos in which “GYATT4GYATT” is sung in the voice of various popular characters. You allege that the respondent created “capcut templates with his own audio” that enable TikTok users to create their own derivative versions of your character covers. However, you do not allege or show that the respondent’s capcut templates, or any subsequent TikTok user-created variations, are substantially similar to the allegedly infringed “GYATT4GYATT” sound recording.

Copyright Office records for your 1-13970512121 application list you as the copyright claimant and author, and

indicate that you claimed authorship in the “sound recording, lyrics, and performance” of the work. A sound recording is a series of musical, spoken, or other sounds fixed in a recording medium, such as a CD or digital file. Sound recordings are usually created by the performer and the producer of the recording. You allege that the respondent is “substituting my audio with their own in capcut templates,” so you do not appear to contend that the respondent infringed the actual sounds or performance fixed in your “GYATT4GYATT” sound recording. To the extent your claim is based on infringement of the sounds or performance in your sound recording, you must clearly allege that sounds captured on your sound recording itself appear in the allegedly infringing work. To bring a claim of copyright infringement of a sound recording, the allegedly infringing work must contain actual sounds recorded in the allegedly infringed sound recording. If you maintain that the infringing activity is the creation of a derivative work based on your sound recording, your amended claim must allege facts that show that the respondent rearranged, remixed, or in other ways reproduced and altered the actual sounds embodied in your sound recording, because for sound recordings, the right to prepare derivative works is limited to such acts. *See* 17 U.S.C. § 114(b) (the exclusive rights to make copies and derivative works of a sound recording “do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording”).

To the extent that your claim is instead based on infringing use of the lyrics of your work, your amended claim must include more factual allegations that describe or show how the allegedly infringing work includes material that makes up a substantial part of the original, creative expressive material in your work. You have not identified particular lyrics from “GYATT4GYATT” that you claim the respondent infringed. Supplemental documents filed with the claim include a “[Parody Production Overview.mp4](#)” file that seems to include excerpts of your sound recording at various stages of production, along with several “TikTok Audio Template Infringement” .MOV files that appear to share only the phrase: “We can go gyatt for gyatt, fuck that, we can go rizz for rizz.” If that is the basis of your claim, you must identify which parts of that phrase are original to you and are not, for example, lyrics to a song that “GYATT4GYATT” parodies. *See* 37 C.F.R. § 202.1(a) (“Words and short phrases such as names, titles, and slogans” are “not subject to copyright”). More information about copyright law related to short phrases is available in Section 313.4(C) of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition* and in [Circular 33: Works Not Protected by Copyright](#). More information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Alternatively, you can upload copies of your work and the allegedly infringing work if they demonstrate that the works are so strikingly similar that they could not have been created independently. You appear to present only excerpts of your work in the “Parody_Production_Overview.mp4” file, not the entire work; and only short, third-party works derived from the respondent’s allegedly infringing work, not the respondent’s work itself. Those supplemental documents do not demonstrate that the two works are substantially similar. 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.

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