



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0043

United States Copyright Claims Board

Michelle Shocked

CLAIMANT

v.

Tunecore, Inc

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 23, 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 – Clarity

Your claim does not make clear enough factual allegations about the wrongful activities that you accuse the respondent of doing.

A claim can be unclear if it does not include enough detail. The “Describe the infringement” field of your claim form states only: “non-compliant compulsory mechanical streaming license.” That is a legal conclusion, not a factual allegation. If you submit an amended claim, you must include facts in the claim form that more fully explain how the respondent infringed your work. If your amended claim maintains that there was a non-compliant compulsory license, you must include facts that more fully explain what made it non-compliant. 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.

A claim can also be unclear if the claimant selects options in the eCCB claim form that the rest of the claim does not support. Think carefully about which options in the claim form actually apply in your case. Your claim alleges copyright infringement of a musical composition, registered as a musical work, entitled “God is a Real Estate Developer.” A copyright registration for a musical composition covers the music and any lyrics embodied in the composition, but it does not extend to a recorded performance of that composition, which requires a sound recording registration. See [Circular 56A: Copyright Registration of Musical Compositions and Sound Recordings](#). You selected, from the “Wrongful Activities” listed in the dropdown menu on the claim form, “publicly perform the work through digital audio transmission.” That right applies only to sound recordings, not musical compositions. 17 U.S.C. § 106(6).

The “Please list the co-owners” field of your claim indicates that you also own a “sound recording released on Best of Mountain Stage, Vol. 2.” If you have a registration for, or a pending application to register, a sound recording copyright that you accuse the respondent of infringing, you may include that work in the “Works infringed” section of your amended claim and further describe that infringement. Otherwise, in your amended claim, please select only options from the “Wrongful Activities” dropdown menu that apply to musical works.

Copyright Infringement Claim – Element of Unauthorized Use

Your claim must make enough factual allegations to support each “element” of the claim. The elements of a copyright infringement claim are:

1. You own a valid copyright in the work, or have been given an exclusive license to the copyright rights at issue in the work,
2. The respondent used one of your exclusive rights in the work without permission,
3. The respondent had access to your work, and
4. The respondent’s work is identical or substantially similar to your work.

Your claim does not provide enough facts about how the respondent is responsible for using one of your exclusive rights in the copyrighted work without permission. While your claim alleges a non-compliant compulsory license, the respondent does not appear to be the compulsory licensee on the supplemental documentation you attached, or the entity that requested the compulsory license. Please provide more details and background regarding this element in your amended claim to more fully explain what the allegedly infringing acts were, and which person or entity committed those acts. 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.

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 your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page.
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 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 24, 2022