



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0048

United States Copyright Claims Board

Danny A Shabazz and Danny Amen Valentine Shabazz

CLAIMANTS

v.

Sovereign Sweets, Entertainment One, and BET/Viacom

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 properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **November 18, 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. There is no extra filing fee for a second amended claim. If you amend your 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 a second amended claim. 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.

Claimant Information

The two listed claimants appear to be the same individual. The amended claim lists Danny A Shabazz and Danny Amen Valentine Shabazz as claimants with identical contact information. This appears to be a mistake. To correct the mistake please remove one of the two entries.

Respondent Information

The claim lists the phone numbers and email addresses for Entertainment One, Sovereign Sweets, and BET/Viacom as the same email address for Danny Amen Valentine Shabazz. If you do not have a telephone number or email address for each respondent, please leave those particular fields blank. To correct this issue, please either provide the correct phone number and email address for each respondent or leave the field blank.

Additionally, one of the respondents you have named, BET/VIACOM, has designated a service agent, listed in the [CCB Designated Service Agent Directory](#), to accept service of claims brought before the Board. If you file an amended claim, you must put [the name and address listed for the service agent](#) in the Directory into the claim form for the respondent's address. 17 U.S.C. § 1506(g)(5)(A). If the CCB finds your amended claim compliant and authorizes service, you will need to have the claim served on the service agent, using the service method specified in the Directory. [37 C.F.R. § 222.5\(b\)\(2\)](#).

Copyright Infringement Claim-Clarity

Your amended claim remains non-compliant because your claim does not make clear enough factual allegations about the wrongful activities that you accuse each respondent of doing.

The allegations in the "Describe the infringement" section of your claim do not clearly describe infringing acts. Copyright infringement occurs when a copyrighted work is reproduced, distributed, publicly performed or displayed, or made into a derivative work (such as a translation of a book or its adaptation into a movie) without the permission of the copyright owner. Someone who does or authorizes somebody else to do one of those activities without the copyright owner's permission may be infringing the copyright, unless they have a legitimate defense. The allegations in your amended claim describe several business meetings and what appears to be a contractual dispute; they do not detail or discuss any copyright infringement or wrongful activity that violates a claimant's exclusive rights. The Board cannot consider claims for breach of contract. 17 U.S.C. § 1504(d)(1). Violation of a term in a copyright license can result in an infringement claim only if the respondents engaged in acts within the scope of your exclusive rights that go beyond what you gave permission to do. You have listed Sovereign Sweets as a respondent; however, this appears to be because Sovereign Sweets is the location of the alleged business dealings, which is not a basis for liability. If you believe that Sovereign Sweets is liable for copyright infringement, you must allege particular actions Sovereign Sweets engaged in that constituted infringing activity. Please note that you may remove respondents from the claim if needed.

In your amended claim you must include allegations in the "Describe the infringement" section of the claim that specifically describe, state, or show how the respondents engaged in infringing acts under the copyright law. The claim states that respondents infringed your copyright in a pictorial, graphic, or sculptural work entitled "Impact ATL In The City with Ari the Don," but the claim's description of the infringement says

nothing about that work and makes no allegations about any acts of copyright infringement.

The amended claim must provide enough information for each respondent to understand what that respondent's allegedly infringing acts were. 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.

Misrepresentation- Elements

Your amended claim remains non-compliant because your claim does not make enough factual allegations to support each "element" of the claim. The elements of a misrepresentation claim are that:

1. The respondent sent an online service provider either
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying infringement and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The misrepresentation was important to the online service provider's decision to take down or repost the content,
5. The online service provider relied on the misrepresentation, and
6. You were harmed as a result.

17 U.S.C. § 512(f). Your amended claim is not compliant because it does not provide enough information about how the respondent made a misrepresentation in a takedown notice or counter-notice to an online service provider. Misrepresentation under copyright law has a specific meaning in copyright law dealing with false statements made to an online service provider related to a third-party's posting of a copyright-protected work.

In your amended claim, you answered "yes" to the question asking who sent the DMCA (section 512) takedown notice, and "No" to the question about whether a counter-notice was sent. You must identify the entity that sent a takedown notice. In addition, you responded that several individuals – Bob Bakish, Brian Jones, Vincent Watson, and Gennifer Gardner– are the online service providers who received the takedown notices. These individuals do not constitute online service providers under section 512. You describe the content of the takedown notice as "Standard one page letter" and the words that made up the misrepresentation and explanation of the misrepresentation as "[i]mpact Atl and Ari in The City. This is a copyright infringement with The Conductor Coca Cola with Ari Lennox. We also own the copyright to Impact Atl. They also never turned over the additional footage or pictures to be fully copyrighted." A letter to individuals who are not online service providers is not a takedown notice under section 512. The statements in your claim do not appear to describe any misrepresentations and do not support a claim of liability for misrepresentation under section 512.

Your misrepresentation claim cannot proceed unless you file an amended claim that includes factual allegations that explain in what way the respondent made a misrepresentation in a DMCA takedown notice or counter-notice to an entity that qualifies as an online service provider. It must also include factual allegations describing the role the misrepresentation played in the online service provider's decision to take down or repost the content. More information about the elements required to assert a claim of misrepresentation is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook.

Final Amendment

Your amended claim resolves some, but not all, of the issues raised in the September 7, 2022, noncompliance order. If you file a second amended claim, it must state enough facts in support of the claim alleged. **This is your third and final opportunity to submit a compliant claim in this proceeding. If you raise any claims that your allegations do not support, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B). In the alternative, you can delete any unsupported claim allegations in your second amended claim.

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 your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the "**Documentation**" page. *Please include only documents that are directly related to your claim.*
4. Once you have completed your edits, continue to click through the fillable 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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.