



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0055

March 22, 2023

Langston M Childs

CLAIMANT

v.

Thomas Ivans

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 **April 21, 2023**. 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.

Copyright Infringement – Elements

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. 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. 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, meaning a reasonable opportunity to view or hear your work, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

Your claim does not present clear facts to support the elements of a copyright infringement claim related to the respondents’ infringing activity, access to your work, and substantial similarity, as discussed below.

Copyright Infringement – Infringing Activity

Your claim does not present enough facts to clearly state how the respondent used your exclusive rights in the allegedly infringed work without permission. You name one respondent, Thomas Ivans, but your claim does not include allegations that he engaged in any specific acts that violated your rights. The “Describe the infringement” section of your claim states, “Fly Guy Entertainment committed copyright infringement by using my track ‘Wifin You Beat’ without obtaining a proper license and distributing it on all digital service platforms.” However, your allegations do not indicate any relationship that Mr. Ivans, the respondent, has with Fly Guy Entertainment or with its allegedly infringing acts. Without more specifics, your allegations do not provide sufficient details for the respondent to understand what his allegedly infringing acts were.

If you submit an amended claim, you must include facts in the claim form that more fully explain how the respondent infringed your work. Your allegations against Mr. Ivans should describe infringing activities that he and engaged in personally, and should clarify whether he was acting on behalf of Fly Guy Entertainment when he engaged in those activities. The claim must provide enough information to enable the respondent to understand the claim and respond to it.

Copyright Infringement – Access

Your claim does not provide clear facts about how the respondent had access to your work. “Access” means a reasonable opportunity to hear your work before the alleged infringement took place. Your claim does not state any allegations about the respondent Thomas Ivans, so it does not indicate how he had an opportunity to hear your work before the alleged infringement.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include that your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or the respondent; or (c) is so strikingly similar to the respondent’s work that it could not have been created independently.

Copyright Infringement – Substantial Similarity

Your claim also does not include any facts that identify or explain the similarities between your work and any allegedly infringing work by the respondent. If it is not readily apparent from supplemental materials that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar. You do not provide any information clearly describing or showing your allegedly infringed work, or stating or showing how it is substantially similar to any work by the respondent.

The claim states that your work is a sound recording titled “Wifin You – Montana of 300 – Instrumental,” and you allege that Fly Guy Entertainment used your track “Wifin You Beat” and distributed it without a license. The Copyright Office registration certificate for your work indicates that you created the sound recording and production of a collection of works titled “CHARI\$MA GO HAM Beats.” If you contend that the respondent

(and not just Fly Guy Entertainment) infringed the “Wifin You Beat” track, and that the track is one of the works covered by the copyright registration, then your amended claim must include those allegations. Your amended claim must also identify the respondent’s allegedly infringing work, and describe or show how it is substantially similar to your work. Your claim does not state how much of your work, or describe which elements of your work, is used in the allegedly infringing work. In addition, you have not provided copies of your work or the allegedly infringing work as supplemental documents. As a result, the claim does not provide enough information to enable the respondent to understand the claim and respond to it.

If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity. Please provide more details and background regarding this element, including a clear, detailed statement regarding which portions of your work were taken by the respondents in the allegedly infringing work, 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.

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 supplementary 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