



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0011

February 14, 2023

Pilar Menendez

CLAIMANT

v.

Aliza Haftvani and Warner Bros Entertainment

RESPONDENTS

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 **March 16, 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 Registration

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 application. 17 U.S.C. § 1505(a). In your claim, your description of the allegedly infringed works is “Animation TV Program Cow and Chicken and I am Weisel.” You state that the Copyright Office has registered the works and you provide H0061594076 as the registration number. However, that is not a valid number for a Copyright Office registration.

To address this issue, if you file an amended claim, include a valid registration number for the works or a valid service request number for a pending application to register the works you claim to own and which have been infringed. In the “Works infringed” section of the claim, if you claim ownership over any or all episodes of “Cow and Chicken” and/or “I am Weisel,” you must identify the specific episodes that you claim have been infringed, and provide the registration numbers or service request numbers, which must have existed prior to your January 15, 2023 claim filing, for those episodes. If you claim ownership over something else, and that episodes of “Cow and

Chicken” and/or “I am Weisel” infringe your rights, you must identify what it is you own and has been infringed, and provide the registration numbers or service request numbers, which must have existed prior to your January 15, 2023 claim filing, for what you claim to own and was infringed. The Copyright Office has issued multiple registrations for episodes of “Cow and Chicken” and “I am Weasel.” If any of those copyright registrations cover the allegedly infringed works, and you are the legal or beneficial owner of those copyright registrations, you may cite the appropriate registration numbers, which you may find through the [Copyright Public Records Portal](#).

Copyright Infringement – Elements

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 your ownership of the works and the respondents’ infringing activities, as discussed further below.

Legal or Beneficial Ownership

Your claim provides conflicting facts about your status as a legal or beneficial owner of the allegedly infringed works. 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.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

In the “Works infringed” section of the claim, you name David Feiss as the author of the works and list yourself and Mr. Feiss as the co-owners. However, as noted above, while you give an invalid copyright registration number in your claim, the Copyright Office has registered episodes of “Cow and Chicken” and “I am Weasel” in the past. Copyright Office registration records for those episodes do not name you as an author or copyright owner, and the claim does not present facts that indicate that you are a proper claimant.

You allege, “In 2009 I got a court order that granted me 35% of the copyright.” That bare assertion, by itself, is not enough to support your claim of ownership. A [supplemental document](#) filed with the claim, apparently to

support that allegation, seems to contradict it. The undated document looks like a page from a court filing, from an unidentified legal proceeding in an unnamed jurisdiction. However, the page is not labeled or clearly described, and it does not bear a judge's signature, a court stamp, an official seal, a caption, or other elements that would reliably suggest that it is a page from an official court order. The footer of the page reads, "Judgment of Dissolution of Marriage on Reserved Issues – Feiss," which may be the document title. The page does not name or clearly identify the Petitioner or the Respondent as referred to in the document. One clause on that page reads as follows:

Thirty five (35) percent of any and all royalties or residuals from Petitioner's work on the "Cow and Chicken", including the "I am Weasel" spinoff, which shall be paid to Respondent by Petitioner on a quarterly basis, payable by January 31, April 30, July 31 and October 31 each year, along with a quarterly report that Petitioner shall provide Respondent reflecting all receipts for the quarter;

That clause does not clearly support your claim of ownership, as it does not appear that the clause awarded you any ownership of the copyright. A grant of royalties does not create an ownership interest. *Warren v. Fox Family Worldwide, Inc.*, 328 F.3d 1136, 1142-45 (9th Cir. 2003). "[H]olding a royalty interest does not bespeak an interest in the underlying copyright itself – a royalty is simply an interest in receiving money when the owner of the copyright exploits it." *Yount v. Acuff-Rose Opryland*, 103 F.3d 830, 834 (9th Cir. 1996).

To correct this issue, if you file an amended claim, it must include specific allegations about how you own, or have an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the "Describe the infringement" section that explain how you were the owner of exclusive rights in the works at the time of the infringement, or by submitting supplemental documents that more clearly support your asserted rights. For example, you may add allegations that further describe your relationship with Mr. Feiss and detail how you obtained legal or beneficial ownership of copyright. If you maintain your assertion that you co-own the copyrights as a result of a court order, the amended claim must provide greater clarity and detail about that court order, including an explanation of why it gave you an ownership interest, and not just an entitlement to a portion of royalties. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Impermissible Claim

The Board is only authorized to resolve certain types of copyright disputes, including claims of copyright infringement. You appears to present a claim for nonpayment instead. You describe the harm you have suffered as "uncollected royalties," and you state that "Warner keep ignoring my rights." A dispute over an assignment of, or entitlement to, royalties raises purely state-law claims. *Durgom v. Janowiak*, 74 Cal. App. 4th 178, 186 (Cal. Ct. App. 1999); *Golden West Melodies, Inc. v. Capitol Records, Inc.*, 274 Cal. App. 2d 713, 717-18 (Cal. Ct. App. 1969). The Board cannot hear such claims. A claim for nonpayment might be viable in state court, but not before the Board.

Please review [Circular 1: Copyright Basics](#) and the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear. You should only file an amended claim if you can state facts to support a claim under copyright law that can be heard by the Board. For more

information about what is required to support a claim of infringement, please refer to the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Copyright Infringement – Infringing Activity

Your claim names two respondents, but it does not present enough facts to clearly state how either respondent used your exclusive rights in the allegedly infringed works without permission.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly display or perform the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Your allegations do not describe any infringing acts by either respondent. Your allegations in the “Describe the infringement” section of the claim do not mention respondent Aliza Haftvani, and you do not make clear how she engaged in any allegedly infringing activity, or used the allegedly infringed works in any way. A supplemental document filed with the claim appears to be a Warner Bros. Entertainment Inc. royalties statement that itemizes receipts and expenses from distributions of “Cow and Chicken” and “I am Weasel” in 2019 and calculates Mr. Feiss’ share of the adjusted gross receipts. However, your allegations do not describe any alleged infringement by Warner Bros. Entertainment. Instead, the “Describe the infringement” section states, “Warner Bros send to David Feiss a document, to sign and revoke my rights. I never received that document nor I ever signed. They knew I would never sign and they intentionally forge my signature.” Those allegations are about forgery, not infringement. While there are references to lack of payment to you, your allegations do not appear to describe any infringing activity under copyright law.

If you submit an amended claim, it must include facts that describe acts infringing your copyrights, specifying how each respondent engaged in the infringing activity. You should be as detailed as possible, setting forth what each respondent did in relation to each work you allege was infringed. If you cannot state facts to support an infringement claim against any named respondents, you must omit them in the amended claim.

In addition, your claim appears to include a typo in the name of the respondent Warner Bros. Entertainment Inc. Please review the “Respondent” field of the claim form and ensure that you provide the correct name.

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