



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0124  
June 28, 2023

---

chad J carriker  
CLAIMANT

v.

---

UMG Recordings, Inc.  
RESPONDENT

---

## 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 **July 28, 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. There is no additional filing fee for an amended claim. If you file a second amended 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 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 Claim – 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 provide enough facts about the ownership of the work, does not include enough facts about how the respondent had access to your work, and does not detail how the respondent’s work is substantially

similar to your work. Please provide more details and background regarding these elements in your amended claim.

### **Copyright Infringement Claim – Legal or Beneficial Ownership Clarity**

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner of the allegedly infringed work. 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. The claim does not present facts that indicate that you are a proper claimant for the work and registration listed in this claim.

In your amended claim, you list two conflicting registration numbers for the allegedly infringed work, *Man in a Suitcase* “3391v129” and “PA-89-745.”

The first registration number, “3391v129,” is not a valid copyright registration number. Further, the “Works infringed” section asserts that “Sting” is listed as a co-owner of the copyright in the work. This information is not consistent with Copyright Office records.

The second registration number, “PA-89-745,” is not a valid number for a Copyright Office registration for the work “*Man in a Suitcase*.” The registration number corresponds to another work “*De do do do de da da da*” Copyright Office records indicate that this work was authored by Sting and owned by Virgin Music (Publishers) Ltd. A Board search of Copyright Office records did not show a valid registration number in your name regarding “*Man in a Suitcase*.” The work appears to be registered as “PA0000089746” and lists Sting as the author and Virgin Music (Publishers) Ltd. as the owner. Therefore, your claim does not list a valid registration number and includes unclear statements about your status as a legal or beneficial owner of the work.

To address these issues, you must first include a valid registration number for your claim to ownership or authorship of the work or a valid service request number for a pending application to register your claim to the work. Either the registration must have been issued or the application must have been delivered to the Copyright Office before you filed your claim on April 1, 2023. If your work was neither registered nor subject to a pending application at that time, this claim cannot be successfully amended and cannot proceed. Instead, you would need to apply to register the copyright for the allegedly infringed work before you could refile your claim as a new claim. For more information on registration, please refer to the [Copyright Office Registration Portal](#).

Second, your second claim 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 explaining how you were the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between yourself and Sting and Virgin

Music (Publishers) Ltd. and describe how that relationship makes you an owner of the copyright or of any of the relevant exclusive rights under the copyright law. Or you may detail how you obtained legal or beneficial ownership of copyright. More information about legal and beneficial ownership is available at page 4 of the **Starting an Infringement Claim** chapter of the CCB Handbook.

### **Copyright Infringement Claim – Access**

Your claim does not provide facts about how the respondent had access to your work. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. 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 allegations of facts showing 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 respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. While your claim includes allegations of surveillance and theft, it does not provide specific details about how the respondent had access to your work. 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. 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.

### **Substantial Similarity**

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

Your claim states that the respondent “The Police, infringed on my work by saying they wrote the song. Man in a suitcase.” This is an insufficient allegation of substantial similarity, as it does not specifically allege that the respondent is distributing complete and unaltered copies of the work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or specifically state how they are identical or substantially similar. In addition, you have not provided a copy of your work or the allegedly infringed 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. When 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 in your amended claim, including a clear, detailed statement regarding which portions of your work were taken by the respondent 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.

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 Claim – No misrepresentation**

You are bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). Your claim must make enough factual allegations to support each “element” of the claim. That kind of misrepresentation has a very specific meaning under copyright law, which involves false statements made to an online service provider related to a copyright-protected work posted online. 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). To violate section 512(f), a statement must misrepresent “that material or activity is infringing, or . . . that material or activity was removed or disabled by mistake or misidentification.” 17 U.S.C. § 512(f)(1)(2).

You do not allege that the respondent sent a false takedown notice or counter-notice to an online service provider, and your claim does not identify or describe any misrepresentation in connection with a takedown notice or counter-notice to an online service provider. Instead, your claim states that “Shown to the Respondent Wherein Service is sufficient to claimant for Notice of Authorship.” These allegations indicate this is not the type of misrepresentation claim that can be heard by the Board. You should only file a misrepresentation claim if you believe you actually have a misrepresentation claim under copyright law that could be heard by the Board. To support a claim of misrepresentation, you must provide additional facts to show that the respondent sent a takedown notice or counter-notice to an online service provider and that the takedown notice or counter-notice included a false or incorrect statement of fact, and you must show or explain why the statement was false or incorrect. If you submit an amended claim, you must state facts in support of each element of the claim set forth

above, including allegations that describe a false or incorrect statement of fact by the respondent that would violate section 512(f), and indicating what words were false or incorrect and how they were false or incorrect.

## Supplemental Materials

It is not clear how the tax documents added to your claim support or relate to a copyright claim. When you submit an amended claim, please include only documents that directly pertain or relate to the claim, and provide an explanation of their relevance.

## Final Amendment

Your amended claim did not resolve of the compliance issues raised in the May 9, 2023, Order to Amend Noncompliant Claim. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

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 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](mailto: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