



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0049

United States Copyright Claims Board

Danny A. Valentine Shabazz

CLAIMANT

v.

Robert Diggs

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 **November 10, 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.

Copyright Infringement Claim – Co-owner

Your amended claim is still not compliant because the “Works infringed” section still asserts that the respondent Robert Diggs (RZA) is the co-owner of the copyright in the allegedly infringed work, “Afro Samurai Resurrection.” That assertion is incompatible with a claim of copyright infringement against the respondent, because an owner or co-owner of a copyright cannot be liable for infringement of that copyright. Information about joint ownership of a copyright is available at pages 9-10 of the [Responding to an Infringement Claim](#) chapter of the CCB Handbook.

If the information you have given regarding the co-ownership of your alleged work is incorrect, you should correct that information if you file a second amended claim. However, if the respondent is a co-owner of the copyright, you cannot raise an infringement claim against him before the Board. Joint owners generally must share any income they receive from their use and licensing of the work with the other owners, but a claim about failing to make such payments is called an “accounting” claim, which is not a claim that the Board can hear.

Copyright Infringement Claim – Clarity

Your amended claim also remains non-compliant because it does not make clear enough factual allegations about the wrongful activities that you accuse the respondent of doing. Your allegations do not clearly describe infringing acts. You allege that you recorded two songs in Manhattan and the respondent said you would “make 5,000 a song,” but he “disappeared with the masters” and is now “controlling the master publishing and master vocals illegally.” Those allegations do not clearly identify or discuss any wrongful activity by the respondent that would violate a copyright holder’s exclusive rights.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, and to make a “derivative work,” which is a work based on the original work. 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. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Your amended claim does not provide sufficient detail about what the respondent is alleged to have done that amounts to copyright infringement. It does not indicate that the respondent reproduced, distributed, or performed your allegedly infringed work or prepared a derivative work based on your work. If your allegation that the respondent “is controlling the master publishing and master vocals illegally” is meant to suggest that the respondent has, without authorization, purported to authorize others to reproduce, distribute, or perform the sound recording, then you should amend the claim to provide more details about those activities and why they were not authorized.

The amended claim also alleges that YouTube received a takedown notice and agreed to remove material that it “admitted” was infringing. A supplemental document filed with the amended claim states, “On record YouTube made a decision to take down Afro Samurai Resurrection material. Arch Nemesis was removed for copyright infringement because we never gave RZA permission to use the sound recording. It’s illegal distribution.” You do not clearly explain how that relates to your allegations about your work and the respondent’s acts. If you file a second amended claim, in the “Describe the infringement” field, you will need to add detailed factual allegations that provides enough information for the respondent to understand what the allegedly *infringing* acts were.

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.

Supplemental Documentation

You included with your amended claim two images that appear to be blurry, up close pictures of a copyright registration covering a work different from the work you allege to have been infringed. While not required, if you would like to include a copy of the registration certificate of the work, you should upload a clear image of the correct certificate if you file a second amended claim.

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 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 or add documents 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.

Copyright Claims Attorney

October 11, 2022