



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0175  
June 26, 2023

Michelle Shocked

CLAIMANT

v.

Warner Music Group

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 **July 26, 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). The claim must include the registration number and effective date of registration for the allegedly infringed work or, if the Copyright Office has not registered the work, the service request number for a pending application to register the copyright. 37 C.F.R. §§ 221.1(b) & 222.2(c)(7)(ii)(C)-(D).

Your claim alleges infringement of two works, a musical composition and a sound recording, both titled “God is a Real Estate Developer.” In the “works infringed” section of the claim, you provide the required registration information for the composition, but not for the recording, which you describe as “a live performance by Michelle Shocked of the composition.” You state that the recording has not been registered and you provide SR0000146180 as the service request number for an application for registration. However, that is not the correct number. It is the registration number issued for your sound recording *Arkansas Traveler*, an album that does not include “God is a

Real Estate Developer.” It seems likely that you meant to cite SR0000960756, which is the Copyright Office registration number issued to you for the registration, effective October 18, 2022, of a sound recording of “God is a Real Estate Developer.” If you submit an amended claim, and if the particular sound recording that you allege has been infringed is the sound recording that is the subject of Reg. No. SR0000960756, please change the “Works infringed” section to state that the work has been registered and include the registration number and effective date.

### **Clarity**

The claim’s description of the infringement consists of a single sentence that states, in conclusory terms, that respondent Warner Music Group (Warner) distributed an unlicensed sound recording and musical composition on several digital channels, and also engaged in physical distribution on online third-party marketplaces. The claim also includes, as supplemental documents, what appear to be copies of email messages between you and certain third parties, in March 2019 and September 2022, about a 1991 performance at Mountain Stage of your musical composition “God Is A Real Estate Developer,” as well as a spreadsheet labeled “God Is A Real Estate Developer Warner Music.xlsx” in which certain entries refer to “God Is a Real Estate Developer” and “The Best of Mountain Stage Live, Vol. 2,” and identify a number of streaming services. However, the claim does not explain how the emails and spreadsheet relate to your infringement claim. If the claim itself does not clearly describe what the respondent did and why it constitutes infringement, attaching emails and spreadsheets will not cure that deficiency.

Please review the [Starting an Infringement Claim](#) chapter in the CCB Handbook for guidance on how to prepare a claim for copyright infringement, including the discussion at pages 15-16 under the heading “Describe the Infringement.” As stated in that chapter at page 5, “You will need to provide a detailed description of why you think your copyright was infringed. The more details you provide in your claim, the better.”

### **Access**

Your claim does not provide facts about how Warner had access to the allegedly infringed works. “Access” means a reasonable opportunity to hear your works before the alleged infringement took place. Your allegations do not indicate anywhere that the composition or the sound recording were available before the alleged infringement.

To address this issue, if you file an amended claim, you must include 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 respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. For example, if you contend that an authorized version of the “God is a Real Estate Developer” live recording was available and widely distributed to the public (for example, in a licensed Blue Plate collection, perhaps titled *The Best of Mountain Stage Live, Vol. 2*), and that Warner has since distributed a collection including the same recording without your authorization, your amended claim should describe facts that support those contentions.

## 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.

While you allege that Warner distributed an unlicensed sound recording and musical composition, your allegations do not indicate how those allegedly infringing works are similar to your works. No allegations in the "Describe the infringement" section of the claim describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. The claim also does not include copies of your works or the allegedly infringing works for the sake of comparison. As a result, the claim does not provide enough information to enable the respondent to understand and evaluate the claim to respond to it.

If you submit an amended claim, it must include more factual allegations that support the element of substantial similarity. Please include a clear, detailed statement of which portions of your works were used by the respondent in the allegedly infringing works, or documents that are sufficient to show the similarities. For example, if the respondent distributed a sound recording that is an identical copy of your registered sound recording, which embodies your musical work, you should state such an allegation in the amended claim. 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 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