



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0411
March 5, 2024

Latin American Music Co., Inc.

CLAIMANT

v.

Concord 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 **April 4, 2024**. 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 provide clear facts to support the elements related to ownership, access, and substantial similarity, as discussed below. Please provide more details and background regarding these elements in your amended claim.

Legal or Beneficial Ownership

Supplemental documents filed with your claim include two assignment documents, apparently signed on the same day by the same person, that are in apparent conflict. One purports to assign the relevant rights to you, claimant Latin American Music Co. Inc. (“LAMCO”). The other purports to assign the same rights to Asociacion de Compositores y Editores de Musica Latinoamericana (“ACEMLA” or “ACEMLA de Puerto Rico, Inc.”). As a result, your claim presents unclear information 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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook. 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 your claim, you list musical compositions titled “Canto a Borinquen” and “Vive tu vida contento” as the allegedly infringed works. The Copyright Office issued registration numbers EU464306 and EU464307 for those works, respectively, effective February 14, 1974. You name Flor Morales Ramos (“Ramos”) as the author of both works.

A supplemental filing with your claim labeled [Ex 2 Recordation Flor Morales Ramos 03-19-96.pdf](#) (“Exhibit 2”) includes certain documents recorded in the Copyright Office with identifying number V3401D915 on March 19, 1996. Records in Exhibit 2 indicate that Ramos and Irma Rodriguez Rivera (“Rodriguez”) married in 1979 and that he died in 1990, survived by Rodriguez. *Id.* pp. 8-9. Exhibit 2 also includes an agreement dated February 2, 1996, by which Rodriguez purported to assign and transfer to LAMCO all rights, title, and interest in the works listed in the exhibit to the agreement, including without limitation the exclusive rights of public performance. *Id.* pp. 3-4. A list with the heading “Latin American Music Co. Inc. (ACEMLA)” of 390 works composed by Ramos, including “Canto a Borinquen” and “Vive tu vida contento,” seems to be the list of the assigned works. *Id.* pp. 10-17. Another supplemental filing, labeled [Ex 4 Recordation Irma Rodriguez 01-04-99.pdf](#) (“Exhibit 4”), includes certain documents recorded in the Copyright Office with identifying number V3430D465 on January 4, 1999. Among them are the documents noted above that appear in Exhibit 2, including Rodriguez’s purported February 2, 1996 assignment to LAMCO and the list of 390 works. Exhibit 4 pp. 7-8, 14-21.

However, other documents filed with the claim appear to indicate that Rodriguez purported to assign the same rights to ACEMLA. In a different document dated February 2, 1996, Rodriguez purported to transfer and assign to ACEMLA the right to license all forms of performance of each of his compositions. Exhibit 4 pp. 5-6. In a third

document dated February 2, 1996, which appears to be a “rider” attached to the purported assignment to ACEMLA, Rodriguez declared that, of the musical works being submitted to ACEMLA, none had been assigned to another organization, except those that may have been assigned to a publisher who had been duly informed. *Id.* pp. 2-3. In a document dated February 3, 1996, Rodriguez declared that Ramos’s musical works were his musical patrimony left to Rodriguez and she was assigning and transferring to ACEMLA all of her rights to participate in the musical patrimony of those works. Exhibit 2 pp. 5-6; Exhibit 4 pp. 9-10.

Your Exhibit 2 does not include the purported ACEMLA assignment, and includes only the second page of its rider. *Id.* p. 2. Your label for Exhibit 2 indicates that it contains the documents recorded at V3401D915 on March 19, 1996. However, Exhibit 2 appears to be incomplete, as a review of Copyright Office records indicates that the March 19, 1996 recordation included at least the first page of both the ACEMLA assignment and the rider that appear in full in Exhibit 4. Both transfers seem to have been recorded at once, and it is not obvious which one may have priority. *Cf.* 17 U.S.C. § 205(d) (“As between two conflicting transfers, the one recorded first prevails if it is recorded . . . at any time before recordation in such manner of the later transfer.”).

These documents leave it unclear if LAMCO is a proper claimant in this proceeding. They seem to indicate that LAMCO and ACEMLA are related entities with conflicting claims to ownership of the works in question. It appears that Rodriguez purported to separately assign the public performance rights for both works to both entities at once. Your claim does not explain the nature of the relationship between those entities, or indicate why LAMCO, rather than ACEMLA, has the right to bring a claim of infringement of the works in question.

To address this issue, you must file an amended claim with allegations that indicate how LAMCO is a legal or beneficial owner of the copyrights. Alternatively, if LAMCO is not a legal or beneficial owner and ACEMLA is, then any amended claim must remove LAMCO as the claimant and name ACEMLA as the claimant instead. If ACEMLA has a right to claim legal ownership of the works, it may be a necessary party, without which the claim may not proceed. *See* 17 U.S.C. § 1506(f)(3)(A). In any event, your amended claim must clarify the relationship between the apparently conflicting 1996 transfers, and clarify what rights both LAMCO and ACEMLA have with respect to the works.

Access

Your claim does not provide facts about how the respondent had access to the allegedly infringed compositions. “Access” means a reasonable opportunity to hear the works before the alleged infringement took place.

You show that the two Ramos compositions were registered by the Copyright Office in 1974 and indicate that Rodriguez assigned the copyrights to LAMCO; and you seem to show that LAMCO issued a takedown notice for allegedly infringing videos with the same titles as the compositions. However, you have not indicated how the respondent had access to the musical compositions before the videos were posted.

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 works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or were

available to the public or respondent; or (c) are so strikingly similar to the respondent's works that they could not have been created independently. Alternatively, you can upload copies of your works and the allegedly infringing works 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 works and the allegedly infringing works. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are substantially similar.

Your claim does not provide enough information describing or showing the allegedly infringing works. Other than providing their titles and author's name, you indicate only that they are musical compositions that include lyrics. 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. In addition, you have not provided a copy of your works or the allegedly infringing works 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 in your amended claim, including a clear, detailed statement regarding which portions of your works were taken by the respondent in the allegedly infringing works, 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 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. 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