



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0178
July 28, 2023

Rhonda J. Pawnell

CLAIMANT

v.

Sony Music and Universal Music Publishing

RESPONDENTS

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. You have not resolved all of the compliance issues raised in the noncompliance order issued on June 28, 2023, and additional issues explained below also must be resolved for the claim to go forward.

You filed an amended claim on June 28, 2023, about an hour after the noncompliance order. On July 14, 2023, you filed a [request for leave to amend](#) the claim. The request consists of a copy of the amended claim with typed modifications that identify the three allegedly infringed works as musical compositions, where the June 28, 2023 amended claim had identified those works as sound recordings. The Board hereby grants your request for leave to amend pursuant to 37 C.F.R. § 222.12(d) and treats the document filed July 14, 2023, as the operative amended claim. However, as noted, that amended claim remains noncompliant.

If you wish to proceed with this claim, you must file a second amended claim by **August 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.

Clarity – Respondent

The claim must include the names of the respondents. 37 C.F.R. § 222.2(c)(5). You name “Sony Music” as one of the two respondents. It is not clear which entity you mean or if a business with that name exists, as opposed to, for example, Sony Music Publishing Co., which you named as an interested party in a related federal lawsuit

(Certification and Notice of Interested Parties, *Powell v. Universal Music Publishing Group*, No. -DOC(KESx) (C.D. Cal. filed July 13, 2023)), Sony Music Entertainment, or some other similarly-named entity. If you file a second amended claim, please clarify the name of that respondent.

Clarity – Allegedly Infringed Works (“Work” and “Take a Bow”)

You allege copyright infringement of three works, titled “Work,” “Take A Bow,” and “Once In A Lifetime.” Your latest amended claim, filed on July 14, 2023, identifies each work as a musical composition. The copyright registrations you list for those works identify “Once In A Lifetime” as a musical composition, but they identify “Work” and “Take A Bow” as sound recordings.

A copyright registration for a musical composition covers the music and any lyrics embodied in the composition, but it does not extend to a recorded performance of that composition, which requires a sound recording registration. See [Circular 56A: Copyright Registration of Musical Compositions and Sound Recordings](#). The authorship claimed in your registrations for “Work” and “Take a Bow” is for sound recordings, and their registration numbers (SRu1531445 and SRu1532236, respectively) are consistent with registrations for sound recordings rather than musical compositions. If you file a second amended claim, then in the “Works infringed” section, please identify “Work” and “Take a Bow” as sound recordings. See 37 C.F.R. § 222.2(c)(7)(ii)(E).

Legal or Beneficial Ownership (“Once In A Lifetime”)

Your claim does not provide facts that indicate that you are a proper claimant to raise a claim of copyright infringement of the musical composition “Once In A Lifetime.”

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 addition, the Board can only hear a copyright infringement claim if, before the claim was filed, “(1) the legal or beneficial owner of the copyright has first delivered a completed application, a deposit, and the required fee for registration of the copyright to the Copyright Office; and (2) a registration certificate has either been issued or has not been refused.” 17 U.S.C. § 1504(a)(1)-(2).

In your claim, you state that “Once In A Lifetime” has been registered by the Copyright Office, and you provide Registration No. PA0001658634 for the work. That registration does not name you as an author or copyright claimant or indicate that you are a legal or beneficial owner of the work; nor does it appear that the application for registration was submitted by you or on your behalf, or that any copyright claimant named in the

registration has transferred any rights to you. Instead, Copyright Office records list EMI April Music, Inc., B Day Publishing, and EMI Publishing Ltd, as the copyright claimants. and identify Beyonce Knowles, Amanda Ghost, Ian Dench, Jody Street, James Dring, and Scott McFarnon as the authors of “Once In A Lifetime.” The Board cannot use that registration record to fulfill your registration requirement. A Board search of Copyright Office records did not show a valid registration number in your name regarding “Once In A Lifetime.” Therefore, your claim does not list a registration number that indicates that you have rights in the work, and includes unclear statements about your status as the work’s legal or beneficial owner.

To address these issues in a second amended claim, you must include a valid registration number for “Once In A Lifetime,” or a valid service request number for a pending application to register “Once In A Lifetime,” that names you as an author or copyright claimant. Either the registration must have been issued or the application (including the required deposit and registration filing fee) must have been delivered to the Copyright Office before you filed your claim on May 23, 2023. If the work was neither registered nor subject to a pending application in your name 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](#).

In addition, if you file a second 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 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 among yourself and authors or entities listed in Registration No. PA0001658634, or detail how you obtained legal or beneficial ownership of the copyright at issue. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Infringing Activity

Your claim, as amended, still does not present enough facts to clearly state how the respondents used any exclusive rights you have in the allegedly infringed works without permission. As explained in the noncompliance order issued June 28, 2023:

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 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 in the claim do not describe any specific infringing act. You allege that you were “told to upload all of the works that I am an artist or rightsholder of and have never been given a payment for any of the recordings.” You further allege, “I have never been paid by any of the artist for Sony or Universal and they keep taking out of my SoundExchange catalog[,] my BMI and the MLC catalogs.” You further state, “I let all of these artist record all of my material for decades.” However, you do not provide any specifics about any infringing works or infringing activities. You also have not stated allegations identifying any infringing works that either respondent reproduced, distributed, or displayed. These allegations do not offer enough detail about the respondents using your works in a way that would infringe any exclusive rights.

If you submit a second amended claim, you must more fully explain how each respondent infringed your allegedly infringed works. To address this issue, your amended claim must include facts in the “Describe the infringement” section 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 the works you allege were infringed.

Access

Your amended claim still does not provide facts about how the respondents had access to your works. As explained in the noncompliance order issued June 28, 2023:

“Access” means a reasonable opportunity to hear your works before the alleged infringement took place. Your claim does not state allegations about where or how your works were available before the alleged infringement so that the respondents had an opportunity to hear them.

You allege generally, “I was told to upload all of the works,” but it is not clear who told you to upload the works, for what purpose, or where, or if you are describing uploading the works themselves or a list identifying allegedly infringed works. Moreover, you do not allege that you actually uploaded any works, or where you uploaded them. You allege, “I have a Songfile on the Harry Fox Agency website since 1984 with songs under my name where artist would have to know that they are using my songs,” but again, it is not clear whether you are describing a website where copies of the allegedly infringed compositions were publicly available or distributed, or instead a website listing the names of the works. You further allege, “I let all of these artist record and perform all of my material for decades, without specifically identifying any musician who has recorded or performed any of the allegedly works.” You also have not stated allegations identifying how either respondent (rather than unidentified musical artists) had access to your works before any 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 that your works (a) were sent directly to the respondents or a close associate of the respondents; (b) were widely disseminated or were available to the public or respondents; or (c) are so strikingly similar to the respondents’ works that they could not have been created independently.

Substantial Similarity

Your amended claim also still does not include enough facts that explain the similarities between your works and the respondents’ 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 similar. As explained in the noncompliance order issued June 28, 2023:

You describe your allegedly infringed works as musical compositions, but you have not shown or described the content of the compositions. You also have not identified or described any allegedly infringing works. No allegations 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 copies of your works or the allegedly infringed works as supplemental documents. As a result, the claim does not provide enough information to enable the respondents to understand the claim and respond to it.

If you submit an amended claim, it must include 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 respondents in the allegedly infringing works (which you must specifically identify), or documents that are sufficient to

show the similarities. If you include copies of the works at issue as supplemental documents in an amended claim, they must be clearly labeled and identified so they can be properly compared to each other.

Final Amendment

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 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