



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0375  
May 21, 2024

James H. Dillard, II

CLAIMANT

v.

David McDowell

RESPONDENT

## ORDER DISMISSING CLAIM

The Copyright Claims Board issued orders that notified the claimant on March 4, 2024 and April 17, 2024 that the claim and amended claim, respectively, did not comply with the applicable statutory and regulatory requirements for filings before the Board. On May 17, 2024, the claimant filed a second amended claim, which was the final opportunity to file a compliant claim. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d).

A Copyright Claims Attorney reviewed the second amended claim and determined that the infringement claim is still noncompliant. The claimant has not shown that he is a legal or beneficial owner of the copyright for the allegedly infringed photograph. Copyright Office records indicate that the photographer was not the claimant's employee, and the photograph would not otherwise qualify as a work made for hire under 17 U.S.C. § 101. The claimant shows at most that he is licensed to use the photograph, not that he has the ownership interest required to raise an infringement claim. 17 U.S.C. §§ 504(b) & 1504(c)(1). The second amended claim is also noncompliant, to the extent that it alleges infringement of "the video clip, the vocals, and the layout" from a social media livestream, because the claimant does not allege facts sufficient to support a finding that the claimant has applied to register the copyright for such works. 17 U.S.C. § 1505(a)(1).

The Copyright Claims Attorney referred the claim to a Copyright Claims Officer to confirm that it does not comply with the applicable requirements and that this proceeding should, therefore, be dismissed without prejudice. 17 U.S.C. § 1506(f)(1)(B). The Copyright Claims Officer reviewed the second amended claim and concurs with the finding of noncompliance. For the reasons set forth in the April 17, 2024 noncompliance order, the second amended claim does not present facts sufficient to show that the claimant may assert this infringement claim.

Accordingly, the Board dismisses the claim without prejudice and closes this case. Dismissal without prejudice means that the allegations may be raised again by filing a new claim, if there is no agreement with the respondent to the contrary.

Copyright Claims Board