



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0107
April 10, 2023

Anthony D. Farris and Allen Nelson

CLAIMANTS

v.

Blasian Barbie

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.

On March 29, 2023, you filed a request for leave to amend the claim to add another respondent. Several other issues identified below make the claim noncompliant, and it will be most efficient for you to address all issues with the claim at once. Therefore, your request to amend the claim, solely in order to name a second respondent, is denied as moot. Instead, you must file an amended claim that resolves each issue identified below and you may add your proposed new respondent in the amended claim. [37 C.F.R. § 224.1\(c\)\(2\)](#).

If you wish to proceed with this claim, you must file an amended claim by **May 10, 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).

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. You may also choose to correct or edit any errors or other information in your claim before you file it again.

Authorized Representative

The claim form lists one claimant, Anthony D. Farris (“Farris”), as the authorized representative of the other claimant, Allen Nelson (“Nelson”). An individual claimant may file a claim on behalf of themselves and other claimants. However, Nelson will eventually need to represent himself or have a representative to move forward in this proceeding, and only an attorney or qualified law student may represent an individual before the Board. 17 U.S.C. § 1506(d)(1)-(2). It is not apparent that Farris is an attorney or law student. To correct this issue, if you file an amended claim, you must either remove Farris as Nelson’s authorized representative (you can leave it blank for now or fill in Nelson’s information if he will be self-represented) or include information that indicates that Farris is an attorney or qualified law student.

Clarity – Respondent

The claim must include the respondent's name. [37 C.F.R. § 222.2\(c\)\(5\)](#). If you don't know the name of an individual respondent, but *only* their alias, you may check the "I only know the individual by their alias" box on the claim form on eCCB and provide their alias instead. In the claim form, you identified the respondent as an organization, not an individual. However, the name that you provided for the respondent, Blasian Barbie, appears to be an alias or performing name for an individual, and you did not indicate that the name provided is an alias. In the "Describe the infringement" section of the claim, you refer to the alleged infringer as "[t]his artist Blasian Doll," without explaining the relationship between Blasian Barbie and Blasian Doll.

If Blasian Barbie is an individual's alias, you may correct this issue by filing an amended claim that identifies the respondent as an individual and clarifies that Blasian Barbie is an alias, or provides the respondent's given name. In addition, if your amended claim includes allegations about Blasian Doll, it must state additional facts that clarify the relationship between Blasian Doll and Blasian Barbie. For example, if those are both performing names for the same person, your amended claim should state that fact.

Clarity – Allegedly Infringed Works

Your claim does not clearly identify the specific works that you contend the respondent infringed. A copyright infringement claim must include the title of each allegedly infringed work. [37 C.F.R. § 222.2\(c\)\(7\)\(ii\)\(A\)](#). In the "Works infringed" section of the claim, you identify the allegedly infringed works as sound recordings titled "It's a Shame and 9 Other Unpublished Works." Your allegations indicate that "multiple beats from our production team" are at issue, but your claim does not specifically name each allegedly infringed work.

To correct this issue, if you file an amended claim, you must list each allegedly infringed work in the "Works infringed" section. In addition, your amended claim must include facts in the "Describe the infringement" section that identify each of the respondent's works that makes use of your works, specifying the allegedly infringed works used in each of the respondent's works. You will need to be detailed so that the Board and the respondent can tell which of your works you alleged was wrongfully used and how those works were used in the allegedly infringing works.

Legal or Beneficial Ownership

The claim lists both Nelson and Farris as claimants, but it does not provide clear information about Nelson's status as a legal or beneficial owner of the allegedly infringed works.

To bring a copyright infringement claim before the Board, each claimant must be a "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.

The claim does not present facts to indicate that Nelson is a proper claimant. In the “Works infringed” section of the claim, you state that the Copyright Office registered the allegedly infringed works with Registration No. SRU001527376, that Farris is the author, and that Nelson is one of the four co-owners. That registration certificate lists Farris as one of four joint authors and co-owners, but not Nelson. The claim does not show or explain how Nelson owns, or has an exclusive right to use, any exclusive rights in the work.

To correct this issue, if you file an amended claim, it must either omit Nelson as a claimant, or include specific allegations about how Nelson obtained legal or beneficial ownership of the copyright in some or all of the allegedly infringed works—if some, you should be clear as to which works Nelson is a legal or beneficial owner. If any information in the claim identifying the claimant or the author of the work is inaccurate, you may correct that information in an amended claim. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Access

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

The copyright registration certificate indicates that the registered works were created in 2022 and were unpublished on the effective date of registration, December 14, 2022. However, your claim states that infringing activity commenced years earlier, on December 28, 2020, and that “[s]ome of [respondent’s] videos have been available online for up to one year.” The 2022 creation date in your copyright registration is inconsistent with the allegation of infringement beginning in 2020.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. You must make allegations regarding access for each of the works you claim were infringed. 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 the respondent; or (c) are so strikingly similar to the respondent’s works that the respondent could not have created them independently. Alternatively, you can upload copies of your works and the allegedly infringing works if those copies demonstrate that the works are so strikingly similar that they could not have been created independently.

In addition, your amended claim must clarify how the claimant had access to your works before the creation date listed in the copyright registration. If the creation date listed in the registration records is inaccurate, you may explain the discrepancy in your amended claim.

Substantial Similarity

Your claim also does not include enough facts to explain the similarities between your works and the allegedly infringing works. If it is not readily apparent from supplemental materials that are submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar.

You do not provide enough information describing your works or the allegedly infringing works. No allegations in the “Describe the infringement” field of the claim describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. You allege that “this artist has taken multiple beats from our production team” and has “monetized multiple sound records or beats that we have created,” but your allegations are not specific and do not describe the extent of that use. You list several YouTube and Instagram pages where you allege that infringing acts occurred, but you have not provided copies 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 supplementary 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