



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0104

## United States Copyright Claims Board

Langston M. Childs

CLAIMANT

v.

Vinny Kumar and Walter A Bradford

RESPONDENTS

### 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 **December 7, 2022**. 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 extra 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.

#### Clarity – Works Infringed

Your claim includes unclear allegations about the registration and authorship of the allegedly infringed works. In your claim, you provide registration number SRu 1-232-585 for sixteen listed works. This registration is for an unpublished collection entitled “CHARISMA GO HAM Beats.” You are listed as author and copyright claimant in the registration record. In the “Works Infringed” section, however, you provide individual titles for each of the works (for example “Planet of the Apes,” “FGE CYPHER Pt 2”) with “MONTANA OF 300” as the author. It appears that you may have listed the infringing works distributed by the respondent rather than the original works that you created. “Montana of 300” is the alias of the respondent Walter A. Bradford. A demand letter uploaded as a supplementary document identifies infringing works by Montana of 300 with the same titles as in the “Works Infringed” section. As there is no title list the unpublished collection registration, the Board is unable to confirm whether the works for which you claim copyright ownership have the same titles.

In addition to the issue of clarifying the works for which you are claiming copyright ownership and about which you allege infringement, there are issues of clarity as to whether you are asserting a claim in a musical composition, sound recording, or both. In your claim, you identify each work as a “sound recording” and describe the work as a “composition.” The registration SRu 1-232-585 covers sound recordings, but not any underlying musical compositions. When a song is recorded, there may be two works created that are protected by copyright: a musical work and a sound recording. These works are subject to different rules and are commonly owned and licensed separately. A musical work is a song’s underlying composition along with any accompanying lyrics. Musical works are usually created by a songwriter or composer. A sound recording is a series of musical, spoken, or other sounds fixed in a recording medium, such as a CD or digital file. Sound recordings are usually created by the performer and the producer of the recording. A beat is an instrumental or drum track often created in a studio as a background for a recording. The term “beat” may refer to the music (composition), the sound recording, or both.

In your amended claim, the “Works infringed” section must identify the correct registration information, including the registration number, the author of the allegedly infringed works, the nature of the works (e.g., sound recordings or musical compositions) and how the titles of the works listed under “Infringement claim: Works infringed” relate to the works that are the subject of your copyright registration..

If you are alleging infringement of the *sound recordings* covered by registration SRu001232585, then you must list the author of the sound recording. If the author is yourself, not Montana of 300, then you should correct your author entry for each work in the “Works infringed” section of the claim and provide the correct titles of the sound recordings submitted with your registration application. If you are not the author, then you must explain how you obtained ownership of the copyrights in those works or of the exclusive rights in the works that you allege have been infringed.

If you are alleging infringement of the *musical compositions*, you must have had a copyright registration or pending application for registration filed for those underlying works before the August 20, 2022, filing of your claim. 17 U.S.C. § 1505(a).

If you are alleging infringement of the musical compositions, but you are not an author of the musical compositions, then the “Describe the infringement” section of your amended claim must explain how you obtained ownership of the copyrights in those works or of the exclusive rights in the works. More information about authorship and ownership is available on page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

If the respondent Walter Bradford is the co-owner of the copyright in any of the allegedly infringed works, then Walter Bradford must be

removed from the claim. An owner or co-owner of a copyright cannot be liable for infringement of that copyright. Information about joint ownership of a copyright is available at pages 9-10 of the [Responding to an Infringement Claim](#) chapter of the CCB Handbook.

### Clarity – Respondents and Works Infringed

The Board can only hear claims asserted against multiple respondents if all claims in the proceeding “arise out of the same allegedly infringing activity or continuous course of infringing activities [.]” 17 U.S.C. § 1504(c)(6). Your claim also does not present enough information about how *each* respondent used any of your exclusive rights, in each allegedly infringed work, without permission.

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.

The claim states that “The artist lacked the necessary authorization to distribute my music. . . . Since 2015 Artist (Montana of 300) have avoided to pay the producer (LANGSTON M CHILDS).” However, the claim does not indicate how Vinny Kumar and Walter Bradford, the named respondents, acted to infringe your exclusive rights in the recordings.

To address this issue, your amended claim must explain in detail how *each* respondent infringed *each* of your allegedly infringed works. In your amended claim, you must include facts in the “Describe the infringement” section that describe specific acts taken by each respondent infringing your copyrights, such as facts describing how each respondent used the sound recordings without permission. You should also be clear regarding which works were infringed by each respondent and how.

If you cannot state facts to support an infringement claim about particular works, or against particular named respondents, you must omit them in the amended claim. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

### Copyright Infringement – Access

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 facts about how the respondent had “access” to your work. “Access” means a reasonable opportunity to view or hear your work before the 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 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.

### Copyright Infringement – Substantial Similarity

Your claim also 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 materials that are submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar.

Your claim states that your works are sound recordings and that the respondents used those works without permission, distributing them through several online platforms. You do not include any additional information that describes your works, or how they were used in any 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, and you have not provided copies of the works at issue 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. When you submit an amended claim, it must include 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 each of the allegedly infringing works, or copies or other 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 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 that are directly related to your claim.
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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney

November 7, 2022