



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0294

October 8, 2024

Villalobos O Body

CLAIMANT

v.

DaniNirvana LLC

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **November 7, 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 Registration

The Board can only hear a copyright infringement claim if, *before* the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

In the “Works infringed” section of your infringement claim, you list an allegedly infringed work titled “Jaguar Wright & Messy: Diddy’s Secrets Exposed – Power Bottom, & Kim Porter’s Shocking Role” (the “Work”) that you describe as a podcast. You state that the Copyright Office has not registered the work, and you provide the service request number for an application to register the work. Copyright Office records show that the application was submitted before you filed this claim, but the Office has not received the required filing fee for the application or a deposit copy of the work. The term “deposit” refers to the copy or copies of a work that must be submitted to the Copyright Office with an application for registration. Information about the deposit requirement for registration is available in [Chapter 1500](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*.

Because your Work was neither registered nor subject to a complete pending application before this claim was filed on October 4, 2024, the Board cannot hear your claim of infringement of that work in *this* proceeding. Instead, once a complete application has been filed, you would need to refile your infringement claim in a *new* proceeding. You should not submit a new claim alleging infringement of that work until after you submit the deposit and fee to complete the application, or submit a new application, deposit, and fee. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

If you believe the above statements regarding your application are in error, you may submit an amended claim that shows that you submitted a complete application for your Work with the required deposit and fee before you filed this claim. Otherwise, to move forward with any other claims in this proceeding, your amended claim must omit the claim of infringement of your Work.

Noninfringement Claim – Actual Controversy

A claim for a declaration of noninfringement asks the Board to find that your actions do not amount to an infringement of the respondent's copyrighted work. 17 U.S.C. § 1504(c)(2). If someone has accused you of infringing their copyright, a noninfringement claim requests an official declaration that you did not infringe. To proceed with such a claim, there must be an "actual controversy" between the parties over whether *you* infringed *the respondent's* copyright. 28 U.S.C. § 2201(a); *see* 17 U.S.C. § 1504(c)(2). The claim must identify the party that accused you of infringement and must describe your allegedly infringing activity, the reasons why you believe no infringement occurred, and the reasons why you believe there is an "actual controversy" about the requested declaration. 37 C.F.R. §§ 222.2(c)(8)(i) & (iii)-(v).

Your noninfringement claim does not state facts that meet those requirements. In the "Party asserting infringement" field of the claim, you state that Danielle Robertson (Robertson), not the respondent DaniNirvana LLC, has accused you of infringement. However, your other allegations in the noninfringement claim seem to contend that either Robertson or DaniNirvana LLC infringed your work, not that *you* were accused of infringement.

- You state that the allegedly infringing activities occurred at "YouTube.com/@DaniRobertson," which seems to be a page for a YouTuber with the user name @DaniRobertson. A noninfringement claim should describe allegedly infringing activity by *you*, not by the respondent.
- In the "Describe the allegedly infringing activity" field of the claim, you state, "Youtuber used sound recording without consent or permission from podcast creator."
- In the "Describe dispute with respondent(s)" field of the claim, you state, "Youtuber used content without permission."
- In the "Describe why you believe no infringement occurred" field of the claim, you state, "youtube used content without permission."
- The allegedly infringed work named in the "Work(s) respondent says you have infringed" field of the claim is "Jaguar Wright & Messy: Diddy's Secrets Exposed – Power Bottom, & Kim Porter's Shocking Role," the same work that you list as infringed in your copyright infringement claim. To raise a noninfringement claim, the work listed in that field should be the respondent's work, not your work.

Infringement claims and noninfringement claims are very different types of claims. A noninfringement claim is not another place to raise your allegations that your copyright was infringed. If the respondent has not accused you of infringement, you must not raise a noninfringement claim. Your noninfringement claim can only go forward if you present facts in an amended claim that indicate that there is an actual controversy between you and the respondent over whether your acts infringed the respondent's copyright.

Misrepresentation Claim – Elements

You are also bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f). That kind of misrepresentation has a very specific meaning under copyright law that only applies to false statements made to an online service provider (OSP) related to a copyright-protected work posted online. Your claim must make enough factual allegations to support each “element” of the claim. The elements of misrepresentation that apply to your claim are:

1. The respondent sent an OSP either:
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying the claim of infringement in a takedown notice, and claiming the online content was removed or disabled due to a mistake or a misidentification,
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice,
3. The respondent knew the misrepresentation was false or incorrect,
4. The OSP took down or reposted the allegedly infringing content,
5. The misrepresentation was important to the OSP's decision to take down or repost the content, and
6. You were harmed as a result of the OSP's decision to take down or repost the content.

Your misrepresentation claim does not provide any information about the respondent making a false statement in a takedown notice or counter-notice to an OSP. Instead, you state that you sent a takedown notice to YouTube, and that no counter-notice was sent. To violate section 512(f), a statement must misrepresent “that material or activity is infringing, or . . . that material or activity was removed or disabled by mistake or misidentification.” 17 U.S.C. § 512(f)(1)-(2). If you submit an amended claim, then to support your claim of misrepresentation, you must provide additional facts to show that the respondent sent a takedown notice or counter-notice to an OSP that included a false or incorrect statement of fact (that material was infringing, or was removed by mistake or misidentification), and show or explain why the statement was false or incorrect; and also provide facts to show that the OSP in fact took down or restored that material in reliance on the respondent's statement, causing you harm.

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 Board