



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0405

January 25, 2024

Jamiece Jones

CLAIMANT

v.

QualityControlMusic llc, Joshua H. Luellen,
Jatavia Johnson, and Caresha Brownlee

RESPONDENTS

SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (Board) finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **February 26, 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. 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 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

You are alleging infringement of two works, a sound recording and a musical composition, both titled “PussyTalk.” As stated in the December 20, 2023 Order to Amend Noncompliant Claim (December 20, 2023 Order): “For each allegedly infringed work at issue, the claim must include the registration number and the effective date of registration; or, if no registration has issued, the service request number for an application for registration and the application date.”

The registration number you listed in the claim is not valid and must be corrected. Copyright Office records show that Registration No. SRu001376608 issued effective May 20, 2019, for a sound recording with the title “Pussy Talk and 7 Other Unpublished Works,” naming you as the author and the copyright claimant. If you file an amended claim, you must provide that registration number and effective date in the “Works infringed” section for the sound recording.

That registration covers a sound recording, but not any underlying musical composition. More information about musical compositions and sound recordings is available in [What Musicians Should Know about Copyright](#), and in the December 20, 2023 Order. As that Order explained, it appears that only the sound recording has been registered, not the musical composition:

A Board search of Copyright Office records found no separate registration that has issued for a musical composition of “Pussytalk” underlying the sound recording. If you wish to assert a claim of infringement of the underlying musical composition, you must have had a copyright registration for the composition or a pending application filed for registration of that work before you filed this claim with the Board on December 13, 2023. 17 U.S.C. § 1505(a). If you had a registration or pending application to register an allegedly infringed composition before you filed your claim, you may amend the claim and provide the registration or application information in the “Works infringed” section. **However, if you did not have a registration or pending application for registration of the musical composition filed before you filed this claim, then you cannot successfully maintain a claim for infringement of that composition in this proceeding, and you must omit it from the “Works infringed” section in any amended claim.** (Emphasis added.) If you file a second amended claim without correcting these issues, it will be dismissed.

Copyright Infringement – Elements

Your claim must include 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, and
4. The respondent’s work is substantially similar to the original elements of expression in your work.

Your claim does not provide enough clear facts to support the elements related to each respondent’s allegedly infringing activity and the substantial similarity of the works, as described below. If you file a second amended claim, it must include enough details about the elements for the Board and the respondent to understand the facts of the alleged infringement.

Infringing Activity

Your amended claim still does not present enough facts to clearly state how each respondent engaged in any infringing activity. As the December 20, 2023 Order stated:

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 do not provide enough information or clarity about the infringing acts committed by each respondent. Your claim does not clearly describe how each respondent played a role in any infringement. You allege that each respondent uploaded the work to an unspecified location: “City Girls from QualityControlMusic llc Doja Cat, and Southside on the Track uploaded PussyTalk on July 3, 2020.”

(In the “Respondents” section of the claim, you identify “City Girls” as an alias of respondents Jatavia Johnson and Caresha Brownlee, and “Southside on the Track” as an alias of respondent Joshua H. Luellen.) While supplemental documents filed with the claim indicate that an allegedly infringing video was uploaded to YouTube, and all four respondents may have participated in making or distributing the allegedly infringing work, it is not plausible that each of the respondents uploaded the work together. You also allege that respondent QualityControlMusic llc has signed artists from Memphis, where you live, and that you have “seen City Girls[] version of my song.” Those allegations do not offer enough detail about how each respondent used your work in a way that would infringe any exclusive rights. Your claim does not discuss the respondents’ allegedly infringing activities in enough detail to be clearly understood.

You allege that the City Girls (Jatavia Johnson and Caresha Brownlee) have a “version of my song,” and your amended claim adds the following allegation: “I had a song already under copyright titled PussyTalk and the CityGirls ft Doja Cat song PussyTalk infringed on my work as a artist and creator.” However, your allegations still do not clearly describe where or how their allegedly infringing version was distributed or performed, or how the other respondents were involved in any infringing acts related to that version.

If you submit a second amended claim, it must more fully explain how each respondent infringed your allegedly infringed work. As the December 20, 2023 Order stated:

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. Include allegations that indicate how each respondent copied, distributed, performed, or prepared derivative works based on your allegedly infringed works, or participated in any such infringing activity. You should be as detailed as possible, setting forth what each respondent did in relation to the work you allege was infringed.

If you submit a second amended claim that does not clearly describe infringing acts by each respondent, it will be dismissed.

Substantial Similarity

Your amended claim also does not include enough facts that explain the similarities between your work and the allegedly infringing work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar. As the December 20, 2023 Order stated:

You allege: “When I first seen the City Girls version of my song I was traumatized and under emotional distress because it was too close for me to say it was unintentionally.” Your allegations do not describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of your work or the allegedly infringing work 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.

In addition, to bring a claim of copyright infringement of a sound recording, the allegedly infringing work must contain actual sounds recorded in the allegedly infringed sound recording. Your allegations do not describe how much of your work or which elements of your work are used in the allegedly infringing work. For example, it is not clear whether you are alleging that the City Girls’ version of your song is a cover version, or whether it samples your recording.

If you maintain that the infringing activity is the creation of a derivative work based on your sound recording, your second amended claim must allege facts that show that the respondents’ work rearranged, remixed, or in other

ways reproduced and altered the actual sounds embodied in your sound recording, because for sound recordings, the right to prepare derivative works is limited to such acts. The owner of a sound recording copyright “is limited to claiming that [an alleged infringer] sampled or otherwise directly copied his recording.” *Greene v. Pete*, No. 22-CV-04220, 2023 U.S. Dist. LEXIS 40140, *8 (S.D.N.Y. Jan. 3, 2023), adopted, 2023 U.S. Dist. LEXIS 26898 (Feb. 16, 2023). See 17 U.S.C. § 114(b) (the exclusive rights to make copies and derivative works of a sound recording “do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording”).

If you submit a second amended claim, it must include factual allegations that support the element of substantial similarity, or the claim will be dismissed. Please include a clear, detailed statement regarding which portions of your work were taken by the respondents in the allegedly infringing work, 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.

Misrepresentation – 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, which involves false statements made *to* an online service provider (OSP) related to a copyright-protected work posted online. 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).

Your amended claim still does not include enough allegations to support your misrepresentation claim. You have not identified or described any misrepresentation that any respondent made to an OSP in connection with a takedown notice or counter-notice related to online materials or activity. Instead, you allege that you sent a takedown notice to YouTube; that YouTube sent (and received) a counter-notice; and that YouTube stated that “my claim was being denied or dismissed” and “that I didn’t have enough information to proceed.” Those allegations do not identify any false statement that a *respondent* made to an OSP. Statements by YouTube in response to a takedown notice are not the sort of statements that could violate section 512(f). YouTube is not liable under section 512(f) for any misrepresentation in a counter-notice that it *received*.

As the December 20, 2023 Order stated:

To support your claim of misrepresentation, you must provide additional facts to show that the counter-notice was sent by a respondent, and included a statement of fact that asserted “that material or activity was removed by mistake or misidentification,” and you must show or explain why that statement was false or incorrect.

If you submit an amended claim, you must state facts in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by a respondent that would violate section 512(f), indicating what words were false or incorrect and how they were false or incorrect. If you cannot state facts to support the elements of a section 512 misrepresentation claim, you must remove it from any amended claim that you file, or the claim will be dismissed.

Final Amendment

Your amended claim does not resolve the compliance issues raised in the December 20, 2023 Order. **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 a second 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