



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0070

March 22, 2024

Danielle Robertson

CLAIMANT

v.

Sybrena Evans Kenan

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 **April 22, 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.

Work Infringed—Clarity

Your copyright infringement claim must provide enough information for the respondent to identify the work you claim has been infringed. It is not clear whether the work that you claim was infringed is a sound recording or audiovisual/motion picture work.

In the “Work infringed” section of the claim, you state that the work “Surviving Nosey Heaux Live: Exposing the Sham Investigation” is pending registration by the Copyright Office as a sound recording (SR “1-13576108981”). However, in the “Describe the infringement” section of the claim you state that the respondent “engages in unauthorized use of my Stationhead podcasts, livestreams, and other audio materials.” Additionally, a Board review of the deposit materials included with your registration application indicate that the work is a video stream and includes the series title “Surviving Nosey Heaux Live: Exposing the Sham Investigation: Part 1-26.” This statement indicates that you may be alleging that the respondent is infringing more than one work and these works may not be covered by your pending registration. You can only register one work with a standard registration application. Further, a registration for the sound recording would not cover any audiovisual or motion picture aspects of the work. In your amended claim, you must clarify (1) how many works that you are alleging were

infringed; (2) clarify the type of work(s) you allege are infringed; and (3) list all of the corresponding registration or pending registration information for each work. Please note, 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 works or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering “a completed application, a deposit, and the required fee” to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

Copyright Infringement — Elements

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 enough facts about substantial similarity. Please provide more details and background regarding this element in your amended claim.

Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work and the respondent’s 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.

Your claim states that your work is a sound recording. As mentioned above, it is unclear if you are alleging infringement of a sound recording or an audiovisual/motion picture work. In the “Describe the infringement” section of the claim you refer to the respondent’s allegedly infringing “content” but do not specifically detail what kind of work was infringed or how much of your work was used. No allegations in the “Describe the infringement” field of the claim 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 infringed work 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.

When you submit an amended claim, it must include more specific 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 work were taken by the respondent 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. More 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.

Copyright Infringement — Relief

Your description in the “Describe the harm suffered and the relief sought” field includes: “the removal and permanent restriction of the following videos from YouTube.com, to prevent further harm and loss” and a “prohibition against Sybrena Kenan Evans from using any of my intellectual property in the future due to her repetitive abuse.” That is not relief that the Board can order. As a general rule, the Board can only award monetary relief for the damages the claimant has suffered and the profits the respondent has gained as a result of the infringement. Unlike a federal court, the Board cannot order a respondent to stop or modify activities (sometimes called an “injunction”) unless the respondent notifies the Board that, if found liable for infringement, they will stop or modify the activity. Respondents may decide to agree to stop or modify their infringing activity because, if they are found liable, the Board may consider that agreement when it decides how much to award as damages. While you can state in your claim that you would like the respondents to agree to stop or modify their activities, you cannot demand it as part of your claim.

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 Attorney