



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0344

November 21, 2024

Kenneth J Mitchell

CLAIMANT

v.

Broadcast Music Inc. (BMI)

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 **December 23, 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.

### Noninfringement — Genuine Dispute

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. 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 dispute appears to concern your attempt to register with BMI, as a performing rights organization, two works: "Lovers Island" and "I'll Always Love Him." In your claim, you state that the respondent "insist[s] that these early 20th century compositions are still under copyright thus they allege I am committing copyright infringement." You also filed a document titled "BMI Registration Report" on November 9, 2024. In that document, BMI states that "BMI reserves the right to exclude any work in its entirety from the provisions of our agreements with the writer(s) and publisher(s) and to withdraw the registration if BMI in its sole judgment regards the work as a possible infringement of another work." While BMI may believe that you are possibly infringing the

work of someone else, BMI is not actually accusing you of infringement, and certainly nothing in the BMI Registration Report accuses you of infringing a work in which BMI has rights or threatens you with an infringement lawsuit. If you cannot show that there is an actual dispute between you and BMI where BMI has accused you of infringement of one of their works and there is no threat of litigation by BMI, the CCB cannot hear a claim seeking a declaration of noninfringement against BMI. Here, it appears that BMI is simply adhering to its own policy regarding registration of works with BMI.

In order for your noninfringement claim to continue, you must show that there is a genuine dispute between you and the respondent over your alleged unlawful use of *the respondent's work* as an infringement of copyright. More information is available in the [Starting a Noninfringement Chapter](#) of the CCB Handbook.

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](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. 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.

