



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0058

United States Copyright Claims Board

Michelle Shocked

CLAIMANT

v.

James Billington

RESPONDENT

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 **October 21, 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.

Permissible Claim

The Board is only authorized to resolve certain types of copyright disputes. Three particular kinds of claims are permitted:

1. claims of copyright infringement;
2. claims seeking a declaration that activity is not infringement; and
3. claims about misrepresentations in connection with a takedown notice or counter-notice under the Digital Millennium Copyright Act.

You checked the box stating your claim is a copyright infringement claim. However, the “Describe the infringement” section of the claim includes allegations of “unauthorized use of claimant’s registered mark, ‘Michelle Shocked,’ as well as unauthorized use of claimant’s registered mark as a search keyword.” These allegations relate solely to trademark infringement rather than copyright infringement. The Board cannot address claims of trademark infringement.

To address this issue, you must amend your claim to make clear that you are only seeking relief for your copyright infringement claim. Please review [Circular 1: Copyright Basics](#) and the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear.

Copyright Infringement Claim – Legal or Beneficial Ownership

To bring a copyright infringement claim before the Board, the claimant must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement for which the claimant seeks damages, if any [.]” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work.

A claimant who is not the named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. Your claim does not specify how you are the legal or beneficial owner of the work.

You are not the author or named copyright owner on the copyright registration of the allegedly infringing work (“SR0000096727”), and your claim does not specify how you are the legal or beneficial owner of the work. A Board search of Copyright Office records shows the copyright owner as “Mercury Records as an employer for hire.” “Work made for hire” has a special meaning under the law and often indicates that an employee of the named author created the work within the scope of their employment.

The registration raises legal issues about the claim and who is the legal and beneficial owner of the works in question. The registration lists the authorship of the works as “sound recording, photo.” You allege that the “sound recording[s] embody the following copyright controlled compositions by Michelle Shocked.” It is unclear if you are alleging infringement of the sound recordings and the musical compositions, or both.

If you are alleging infringement of the sound recordings, you must show you are the legal or beneficial owner of the sound recordings. When amending your claim, you must provide some specific allegations about how you own the registered work or have an exclusive license to the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining your ownership in exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe your relationship with Mercury Records and detail how you obtained legal or beneficial ownership of the copyright. When amending your claim, you must also

correct the effective date of the registration, which is listed as July 15, 1988 in the registration record.

If you are alleging infringement of the musical compositions, you must either allege that the musical compositions are covered by the sound recording registration and fix the legal or beneficial owner issues raised above, or show that the musical compositions are separately registered and that you are named as the claimant in that registration or you are the legal or beneficial owner of the copyright in the musical compositions. If the musical compositions have been separately registered, please add the registration numbers to the “Works infringed” section of the amended claim and detail how you obtained legal or beneficial ownership of copyright in those particular registrations.

Further, the claim alleges “unauthorized display of the copyright protected artwork.” In your amended claim, please confirm in the “Describe the infringement” section that you are referencing the photograph covered by the SR0000096727 registration, and detail how you obtained legal or beneficial ownership of the copyright rights in that photograph.

More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook. More information about authorship and works made for hire is available in [Circular 30: Works Made for Hire](#).

Copyright Infringement Claim – Clarity

A claim can be unclear if it does not include enough detail. In your claim, you describe the infringement as “unauthorized distribution of a counterfeit product on an online third-party marketplace, advertised as ‘used.’” It is unclear if you are alleging if the respondent is selling a used copy of your work, or an unauthorized pirated copy (for example, that the respondent created a CD of your works), of the allegedly infringed work. If you submit an amended claim, you must include facts in the claim form that more fully explain how the respondent infringed your work.

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

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 your claim included 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. 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

September 21, 2022