



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0189

United States Copyright Claims Board

AlKashif M. Marshall

CLAIMANT

v.

Niki Minaj/Cash Money

RESPONDENTS

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 **December 12, 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 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 Infringement – Access

Your claim must make enough factual allegations to support each “element” of the claim. 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 respondents used one of your exclusive rights in the work without permission,
3. The respondents had access to your work, and
4. The respondents’ work is identical or substantially similar to your work.

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.

Your claim does not provide enough facts about how the respondents had access to your work. “Access” means a reasonable opportunity to view or hear your work. In your claim, you identify your allegedly infringed work as a song titled “Kissing” and state that it was not “placed on major outlets (Spotify, iTunes etc.) until 2022,” the same year that the allegedly infringing work “Super Freaky Girl” was released. Your claim includes a link to the Apple Music page for an album that appears to include “Kissing,” which indicates that the album became available on Apple Music on July 28, 2022. Your claim does not make clear how the respondents had access to “Kissing” before recording and releasing “Super Freaky Girl.”

Please provide more details and background regarding this element in your amended claim. To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include that your work (a) was sent directly to the respondents or a close associate of the respondents before the creation and release of “Super Freaky Girl”; (b) was widely disseminated or was available to the public or respondents before the creation and release of “Super Freaky Girl”; or (c) is so strikingly similar to “Super Freaky Girl” that the respondents could not have created it independently.

Copyright Infringement – Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work and the respondents’ allegedly infringing work. If it is not readily apparent from supplemental materials submitted with the claim, you must provide more specific allegations about how the copyrightable elements in your work and elements of the allegedly infringing work are similar.

Your claim states that the “chorus of [‘Super Freaky Girl’] is a duplicate of my chorus” in “Kissing.” In particular, you describe your work as “[s]pelling out the 7 letter word ‘Kissing’ . . . dragging (Long Sing) the 5th letter ‘I’ . . . and finishing up with the last two letters.” You allege that the respondents “took a 5 letter word [F-R-E-A-K] and turned it into a 7 letter word by repeating the 1st two letters twice just so that it has 7 letters and then they also dragged out (Long Sing) the 5th letter in the word ‘e’ closing it out with the last two letters.” These allegations are not sufficient to establish that your work and the infringing work are substantially similar.

A valid copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original to the author. Information about copyrightable authorship is available in Sections 302, 308, and 313 of [Chapter 300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*. Copyright law does not protect ideas. 17 U.S.C. § 102(b); *see also* *Compendium* Section 313.3(A).

It only protects original elements of expression. The allegedly infringing work must be substantially similar to copyright-protected elements in the allegedly infringed work, such as the melody, rhythm, harmony, or lyrics. More information on copyrightable expression in musical compositions is available in [Circular 56A: Copyright Registration of Musical Compositions and Sound Recordings](#).

Your allegations do not identify similarities that relate to copyrightable expression. You assert that both your work and the respondents' work spell out a word (K-I-S-S-I-N-G and F-R-E-A-K, respectively), with one letter sung for a longer duration than the others. Spelling out a word, and the uneven duration of the letters within that word, are uncopyrightable ideas. You also allege that the respondents' song repeats the first two letters of "F-R-E-A-K," so that the extended "E" is effectively the fifth of seven letters, like the extended "I" in your work. However, your claim includes a link to a recording of the allegedly infringing work, which does not support that allegation. Instead, it appears that each letter of "F-R-E-A-K" is sung once, with an echo sound effect on the first two letters.

To address this issue, if you submit an amended claim, it must include more specific allegations that identify substantial similarities between the allegedly infringing work and copyright-protected expression in your work.

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 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

November 10, 2022