



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0010

February 28, 2023

Matt Tanga, Nanette Fleishman, Preston Corneliu

CLAIMANT

v.

chicago_hits3

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 **March 30, 2023**. 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.

Authorized Representative

One of the claimants, Matt Tanga, has registered for eCCB as a "Self Represented Party." While a self-represented claimant may be given permission by other claimants to file the *claim* on their behalf, each individual claimant needs to represent themselves or have an attorney or law student represent them for the rest of the proceedings. 17 U.S.C. § 1506(a)(d). In the claim form, however, Matt Tanga has listed himself as the other two claimants' "authorized representative." In your amended claim, you will need to correct the authorized representative information for Preston Corneliu and Nanette Fleishman to indicate whether they will have representation for the rest of the proceeding or will be representing themselves. You can also select "unknown." If you are an attorney or law student, you must change your user role in eCCB and provide additional information about your qualifications.

More information about representation is available in the [Representation](#) chapter of the CCB Handbook.

Legal and Beneficial Ownership

Your claim includes unclear statements about Matt Tanga's status as a legal or beneficial owner of "Rap City Migo000" ("VAU001437220").

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." 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 an author or 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 rights at issue.

A Board search of Copyright Office Records shows M.A.T.T. Productions, an entity, listed as author and copyright claimant in the registration of the allegedly infringed work. The registration information lists Matt Tanga as a representative for rights and permission purposes but not as an author or copyright claimant of the work. It is unclear from the registration information if M.A.T.T. Productions is a legal entity or merely a dba.

Even if Matt Tanga, Nanette Fleishman, and/or Preston Corneliu are the owner (or owners) of M.A.T.T. Productions, the law considers corporations and LLCs to be separate legal entities from the individuals who own them. Because the copyright claimant listed on the registration certificate is not Matt Tanga (or any other listed claimant), and you have not included any additional information about the ownership of the copyright rights, your claim may not proceed unless the claimant that owns the copyright in "Rap City Migo000" is changed or one of the named claimants' legal or beneficial ownership of "Rap City Migo000" is clearly and adequately explained.

If M.A.T.T. Productions is a legal entity you can either (1) amend the claim to replace Matt Tanga with M.A.T.T. Productions as claimant or (2) provide additional information about how the copyright was transferred from, or exclusively licensed by M.A.T.T. Productions to Matt Tanga or the other claimants (and if to other claimants, you would need to eliminate Matt Tanga as a claimant). To name the business as a claimant, you will need to edit the claimant section and select "organization" in response to the question "Is the claimant an organization or an individual?" and re-enter the information.

In the alternative, if M.A.T.T. Productions is merely a dba of Matt Tanga or another named claimant, or if M.A.T.T. Productions exclusively licensed or transferred the exclusive rights at issue to Matt Tanga or another named claimant, your second amended claim must add additional information to the "Describe the infringement" section of the claim that explains how Matt Tanga, Nanette Fleishman, or Preston Corneliu (1) obtained ownership of the exclusive rights allegedly infringed, or (2) was otherwise the legal or beneficial owner of the exclusive rights at the time of the infringement. You may also choose to include supplementary documentation such as an assignment or license that explains how these rights were transferred from M.A.T.T. Productions.

Works Infringed – Clarity

You listed “2 Dance With Me” (“VAU001428559”) as one of the infringed works. That work is described as a musical work and a sound recording. However, a Board search of Copyright Office records show that “2 Dance With Me” is an album cover and was registered as 2-D artwork. In your amended claim, please review the registration information you have provided. If “2 Dance With Me” is the correct allegedly infringed work, you will need to amend the type and description of the work. If your claim involves a sound recording, please provide the correct title and registration information for the sound recording. The sound recording must have been registered or an application for registration must have been filed before you filed your January 14, 2023 claim.

Copyright Infringement Claim – Same Infringing Activity

You have brought a claim alleging that a single respondent infringed three different works. Claimants are allowed to bring claims involving multiple works as long as the alleged infringement was part of the same allegedly infringing activity or continuing course of infringing activity. 17 U.S.C. § 1504(c)(6). It is unclear if you are permitted to bring a claim which includes all three of these works in the same proceeding. You included three separate claimants, each of whom you claim is the author of three separate works. In your amended claim, you need to clearly explain how these claimants are related and how the claim arises out of the same set of facts such that the three alleged infringements can be considered part of the same allegedly infringing activity or continuing course of infringing activity.

Copyright Infringement Claim – Access

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 facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view or hear your work before the alleged infringement took place. 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 works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or was available to the public or respondent; or (c) are so strikingly similar to the respondent’s works that the respondent could not have created

them independently.

Copyright Infringement Claim – Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your works and the respondent's allegedly infringing works. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your works and the allegedly infringing works are similar.

Your claim states that your works are photographs and visual material. However, you have not provided any information describing or showing your works. No allegations in the “Describe the infringement” field of the claim describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. In addition, you have not provided a copy of your works or the allegedly infringed works 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 allegations that support the element of substantial similarity. In part because hyperlinks can lead to material that is no longer available online, the Board will not consider material that is solely referred to in a hyperlink and not uploaded as supplemental documentation. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your works were taken by the respondent in the allegedly infringing work, or documents that are sufficient to show the similarities. In your amended claim, you can attach any supplemental documents that you want the Board to consider by uploading them as part of the claim rather than referring to them only with hyperlinks. 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 Claim – Clarity

Your claim does not make clear enough factual allegations about the wrongful activities that you accuse the respondent of doing.

The “Describe the infringement” field of your claim form states: “They have taken photos that are copyrighted from multiple music covers and included them in these Instagram posts with a falsified story as they are featuring the wrong individual.” This field does not include any additional information about how the respondent allegedly infringed each of the works you have listed in the “Works infringed” section of the claim. Your amended claim needs to include additional information that makes clear how the respondent infringed each work listed in the “Works infringed” section of the 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 supplementary 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