



# COPYRIGHT CLAIMS BOARD

Docket number: 25-CCB-0082

March 13, 2025

Jeffrey L. Barrett

CLAIMANT

v.

BLOOD DESECRATION LLC, David Sutton

RESPONDENTS

## 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 14, 2025**. 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 Claim—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 how the respondents used your exclusive rights without permission, how the respondents had access to your works, or how the respondents’ works are substantially similar to your works. Please provide more details and background regarding these elements in your amended claim.

## **Infringing Activity — Clarity**

Your claim does not present enough facts to clearly state how the respondents used any exclusive rights you have in the allegedly infringed works without permission. Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the works, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

In your claim you include bare allegations that the respondents “stole” your music. However, these allegations do not appear to describe the infringing activity with any specificity, and do not offer enough information to provide a basis on which to hold each respondent liable for infringement.

If you submit an amended claim, you must more fully explain how each respondent infringed your allegedly infringed works. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe the infringing acts of each respondent. You should be as detailed as possible, setting forth what each respondent did and how each respondent acted together or independently to infringe your works. If you cannot state facts to support an infringement claim about against any named respondents, you must omit them in the amended claim.

## **Access**

Your claim does not provide facts about how the respondents had access to your works. “Access” means a reasonable opportunity to view or hear your works before the alleged infringement took place. In your claim, you do not describe how the respondents had access to each of your works.

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 how your works (a) were sent directly to the respondents or a close associate of the respondents; (b) were widely disseminated or were available to the respondents; or (c) are so strikingly similar to the respondent’s works that the respondents could not have created them independently.

Alternatively, you can upload copies of your works and the allegedly infringing works if they demonstrate that the works are so strikingly similar that they could not have been created independently. 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.

## **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 sound recordings. However, you do not provide any information describing or depicting your works. 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 copies of your works or the allegedly infringing works as supplemental documents. As a result, the claim does not provide enough information to enable the respondents to understand the claim and respond to it. If you submit an amended claim, it must include more 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 works were taken by the respondents in the allegedly infringing works, 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.

### **Online Service Provider — Proper Respondent**

In the “Respondent” section of the claim, you list “BLOOD DESECRATION LLC” and “David Sutton” as respondents. Further in the claim in the section concerning online service providers (OSPs), you answer “Yes” to the questions, “Are any of the respondents online service providers?” and “Did you send the online service provider a ‘takedown notice’ as required by Section 512 of the Copyright Act?” There you list “support.facebook.com” in the “Respondent name or organization” field. The answers to these questions conflict with some of the other allegations included in your claim and it is unclear if you are alleging infringement by Facebook.

Special rules apply to infringement claims brought against OSPs, which provide online services to store (and make available), refer to, provide access to, or link to material that is available online. OSPs include content-sharing websites and internet search engines, among other services. You have not stated allegations that indicate that either of the named respondents is an OSP. Your allegations also do not indicate that Facebook would be a proper respondent. “Safe harbors” in section 512 shield certain OSPs from paying damages for copyright infringement claims if, among other things, they take steps to quickly remove or disable access to allegedly infringing material when the copyright owner sends them a proper takedown notice; and if they restore that material ten to fourteen business days after the uploader sends them a proper counter-notice seeking reinstatement—unless the copyright owner files an infringement claim, in court or before the Board, and notifies the OSP of the claim before the OSP reinstates that material. 17 U.S.C. §§ 512(g)(2) & 1507(d).

To bring an infringement claim against an OSP that is otherwise eligible for the safe harbor, you must state facts that indicate it did not follow these procedures. *Id.* § 1506(f)(1)(C). If Facebook promptly removed the allegedly infringing material when they received your takedown notices, and reinstated it before you brought this claim based

on counter-notices from the uploader, they would not be a proper respondent. If you file an amended claim, use the term “respondent” only to refer to people and entities listed in the “Respondent” section. If no named respondent is an OSP, your answer to the question “Are any of the respondents online service providers?” must be “No.”

## Supplementary Documentation

You have included over 160 supplemental documents. If you submit an amended claim, please include only documents that directly pertain or relate to the claim and provide an explanation of their relevance if it is not clear. You may also submit copies of your work as supplemental documents if they are sufficient to show the similarities between the two works. 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.

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.

