



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0078

April 20, 2023

Oksana Ivleva

v.

Black 17 Media

CLAIMANT

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 **May 22, 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.

Allegedly Infringed Works– Clarity

Your claim is non-compliant because it is unclear if you are alleging infringement of the sound recording, the music and lyrics, or both of the work “Young Kid”. Further, the claim and the registration application number (“1-12157045691” registered on April 4, 2023 as “SR 957-041”) provide conflicting authorship information.

In the “Works infringed” section of the claim, you describe the work as a “sound recording” authored and co-owned by IVOXYGEN and producer SXINT. However, the registration lists Oksana Ivleva and Arthur Vincent Mombay as authors of “music and lyrics.” It is unclear who are the authors of the work “Young Kid.” If IVOXYGEN and SXINT are aliases for the authors listed in the registration, you must clarify that in your claim. If they are not aliases, you must revise your claim to list the correct authors.

The authorship listed on the registration specifies “lyrics” by Oksana Ivleva and “music” by Arthur Vincent Mombay. However, in the “Describe the infringement” section of the claim you allege that “the company took my song from YouTube” but in the “Description of harm suffered and relief sought” section you allege that “the stolen material contains my sound recordings. therefore, many listeners have been misled into thinking that this company

is the original song creator and is earning revenue from my sound recordings.” Thus, it is unclear if you are alleging infringement of the sound recording or the musical composition (music and lyrics).

As noted in the correspondence from the Copyright Office about your registration application, for copyright purposes, a “song” and the “sound recording” of the song are separate works. When recording a song, you are creating two works that are protected by copyright: a musical work and a sound recording. A musical work is a song’s underlying composition along with any accompanying lyrics. Musical works are usually created by a songwriter or composer. A sound recording is a series of musical, spoken, or other sounds fixed in a recording medium, such as a CD or digital file. Sound recordings are typically created by the performer and the producer of the recording. More information about musical compositions and sound recordings is available in [What Musicians Should Know about Copyright](#).

If you amend your claim, you must clarify that you are alleging that respondent infringed the musical composition (music and lyrics) of your work. You can do this revising your statements in the “Works infringed”, “Describe the infringement” and “Description of harm suffered and relief sought” sections of your amended claim.

If you are alleging infringement of the sound recording, you must show that the sound recording is registered, or subject to a pending application for registration, and that you are the legal or beneficial owner of the copyright in the sound recording. In that case, add the registration or application numbers to the “Works infringed” section of your second amended claim. You must have had a registration or pending application for registration of the sound recording as of February 18, 2023, the date you filed your claim in this proceeding. 17 U.S.C. 1505(a).

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 present clear facts to support the elements of a copyright infringement claim regarding access and substantial similarity, as discussed below.

Access

Your claim does not provide facts about how the respondent had access to your work. “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 work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently. Alternatively, you can upload a copy of your work and the allegedly infringing work if the copies would 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 work and the respondent’s allegedly infringing work. If it is not readily apparent from supplemental documents that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar.

Your claim states that the respondent “made a new song with my vocals and the beat without my permission” but you do not describe how much of your work or which elements of your work are used in the respondent’s work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or describe how they are identical or substantially similar. In addition, you have not provided a copy of your work or the allegedly infringed work 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 a second amended claim, it must include 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 the work were taken by the respondent in the allegedly infringing work, or supplemental documents that are sufficient to show the similarities. Attach any supplemental materials 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.

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. 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