



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0096

## United States Copyright Claims Board

OKTOGON MEDIA INC

CLAIMANT

v.

Tysean Whitaker

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 **November 7, 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.

#### Copyright Infringement Claim – Works Infringed

The “Works infringed” section of your claim includes several entries that are unclear, inaccurate, or contradicted by Copyright Office records.

You answered “yes” when asked, “[h]as the work been registered by the Copyright Office?” However, the registration had not yet issued, confirmed by your listing of a service request number (SR111586539401), indicating that only an application for registration was pending with the Copyright Office. The registration issued on September 9, 2022, with an effective registration date of August 8, 2022, under registration number PAu004146960.

Copyright Office records show several material variances between the registration and the information in your claim. First, the title of the allegedly infringed work stated in the “Works infringed” section of the claim (“BOYFRIEND’S NAUGHTY MOMMY”) does not match the title in the application for registration (“Poolside Worship”) or the title that was provided in the supplemental materials for the claim (“Love Her Feet – Alexis Tae – Poolside Worship”). Second, the authors of the allegedly infringed work named in your claim (“Anna Claire Clouds and Courtney Taylor”) do not match the information provided to the Copyright Office in the registration, which lists Andrew Yongman and Andras Balogh as authors.

To address this issue, if you submit an amended claim, please correct the information in the “Works infringed” section including the work’s title, author(s), registration number, and effective date. If the correct information is different from the information provided in the registration, please explain the discrepancy.

A note about the corrected work’s registration status: The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for the copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyright by delivering a completed application, deposit, and fee to the Copyright Office, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a). The corrected work will need to have either a registration or application on file as of the date you filed the claim, August 8, 2022. If it does not, you will need to apply for a copyright registration in the correct work, and then file a new claim.

#### Copyright Infringement Claim – Infringing Activity

You have brought a copyright infringement claim before the Board. 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 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 is unclear because it does not include enough detail about the alleged infringement. In your claim, you do not provide enough specific information about how the respondent infringed your rights under copyright law. Your entire allegation is that the respondent “purchased a video and distributed it freely.” You do not state any details about that “purchase,” what respondent was allowed to do or not do based on that purchase, or when, where, how, or to whom the alleged distribution happened. If you submit an amended claim, you must include facts in the claim form that more fully explain how the respondent infringed your work, and your facts should set forth how you satisfy each of the elements for copyright infringement listed above. 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

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.

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](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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney

October 7, 2022