



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0177

United States Copyright Claims Board

Osagie Okoruwa

CLAIMANT

v.

Mark Saxenmeyer

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 **December 21, 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 issue 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 – 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 enough facts to support the first and second elements, as discussed further below.

Copyright Infringement– Ownership

Your claim does not clearly present enough information about your ownership of the allegedly infringed work, “The Innocent Convicts.”

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. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

When you submitted your claim, you certified that you were the legal or beneficial owner of rights in the allegedly infringed work, and the Copyright Office has registered the work under your personal name. However, a [document](#) that you filed with the claim dated February 24, 2015, titled “Project Assistance Areas” (the “Project Document”), indicates that the owner of the work was Mankind Pictures, and not you personally. The Project Document states that “Mankind will retain permanent ownership rights to the completed video(s)” and that “All raw (unedited and/or unused) digital video footage becomes permanent property of Mankind upon completion of the video project.” The Project Document therefore appears to contradict your basis to bring a claim as the legal or beneficial owner.

To clarify this issue, if you submit an amended claim, you must provide some specific allegations about how you own, or have an exclusive license to use, the exclusive rights at issue. For example, you may add allegations that describe your relationship with Mankind Pictures, explain any inaccuracy in how the Project Document describes ownership of the work, or detail how you obtained legal or beneficial ownership of the copyright from Mankind Pictures.

Copyright Infringement – Clarity – Infringing Activity

Your claim does not include enough information or clarity about the allegedly infringing acts committed specifically by the respondent, Mark Saxenmeyer. The only factual allegation in the claim related to copyright infringement is that “Mark Saxenmeyer has continued to distribute The Innocent Convicts film online and at educational institutions without my permission, and has continued to profit from my work without my consent.” That bare allegation does not provide sufficient details for the respondent to understand what his allegedly infringing acts were. The other allegations regarding his acts, including that he “refused to provide the videos to me,” that he “was claiming ownership of The Innocent Convicts film, the name, my artistic creation, the video footage, contents and materials associated with my documentary film,” that he “refused to provide the videos to me,” and that he “has seized the raw and final work product of The Innocent Convicts film unlawfully and has refused to provide accounting for the money raised for this project which is a breach of our agreement,” do not describe infringing activity or any other claim that the Board has the authority to resolve. If you file an amended claim, include more specific allegations about how the respondent distributed the work.

Copyright Infringement – Clarity – Respondent

Your allegations are also unclear because they appear to intertwine the actions of respondent with the actions of a third party, The Reporters Inc., which you have not named as a respondent. For example, you state: “I have made multiple request for the raw and completed copies of the videos in the possession of Mark Saxenmeyer and The Reporters Inc., and they have refused to provide the videos to me.” You also state that you had a contract with The Reporters Inc. with respect to your work, not with the respondent personally. While you allege that “Mark Saxenmeyer was claiming ownership of The Innocent Convicts film,” supplementary documents attached to your claim also seem to indicate that The Reporters Inc. believes it has ownership rights in the work or a portion of the work. However, you do not appear to allege that The Reporters Inc. itself has infringed your copyright. If you submit an amended claim, your description of Mark Saxenmeyer’s allegedly infringing activities should clarify what activities he engaged in personally and whether he was acting on behalf of The Reporters Inc. when he engaged in those activities. If you assert a claim against The Reporters Inc. in your amended claim, you should still clarify the actions taken by Mark Saxenmeyer. If you do not assert a claim against The Reporters Inc., you should clarify how your allegations specifically relate to respondent’s liability.

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. 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 21, 2022