



COPYRIGHT CLAIMS BOARD

Docket number: 25-CCB-0157
May 6, 2025

Keely L Gibson

CLAIMANT

v.

Dante T Smith, Johnson Barnes,
Otis L Jackson, Jr, and Talib K Greene

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 **June 5, 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. For example, it appears that the respondent's name is misspelled in the "Respondent" section; if it is misspelled, you should correct it when you file the amended claim.

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 Work

In your copyright infringement claim, you allege infringement of a work titled "Standing on Guard." You identify the work as a sound recording and describe it as a "[s]ong released on record." You state that your father James Gibson was part of the doo wop group The Falcons and wrote and sang the music for the song. An image filed with the claim labeled [standing.jpg](#) appears to show the label of a "Standing on Guard" single by The Falcons, dated 1967, listing three songwriters: Pavel, Monroe, and Gibson. You state that the Copyright Office registered the work with an effective date of registration in 1967.

The Board cannot hear your claim if it is based on infringement of a sound recording made before 1972 because the Board does not have jurisdiction over infringement claims related to [pre-1972 sound recordings](#). The Board may decide claims for infringements of rights provided under section 106 of the copyright law. 17 U.S.C. § 1504(c)(1). Pre-1972 sound recordings are granted separate statutory protection under chapter 14 of the copyright law. See 17 U.S.C. §§ 301(c) & 1401. Claims for infringement of pre-1972 sound recordings may be filed in federal

court, but not before the Board.

However, the Board may hear claims of infringement of musical compositions, which are considered a different type of work than sound recordings for copyright purposes. See 17 U.S.C. § 102 (listing “musical works” and “sound recordings” as two separate categories of “works of authorship”). A registration for a musical composition covers the music and lyrics (if any) embodied in that composition, but it does not cover a recorded performance of that composition. Information about these two types of work is available in [Circular 56A: Copyright Registration of Musical Compositions and Sound Recordings](#). Your statement in the “Description of harm suffered and relief sought” section of the claim, that performers using your father’s music should “honor him by paying the families and giving recognition to the writers of the original content,” suggests that you may be seeking relief from infringement of the musical composition, not the sound recording.

To address this issue, if you file an amended claim, your description of the type of work must be accurate. A claim before the Board of infringement of a pre-1972 sound recording cannot go forward. If you instead wish to allege infringement of the musical composition, you must change your entries in the “Works infringed” section of the claim to describe the type of work as “musical composition” rather than a “sound recording.”

Copyright Registration

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 claim must include the copyright registration number and effective date of registration for each allegedly infringed work or, if it has not yet been registered, the service request number for a pending application to register the copyright. 37 C.F.R. §§ 221.1(b) & 222.2(c)(7)(ii)(C)-(D).

You list 00063599740 as the Copyright Office registration number. That is not a valid copyright registration number. However, Copyright Office records include a registration for a musical composition titled “Standing on Guard,” with registration number EU897917 and an effective date of registration of August 16, 1965. The registration listed three authors of the words and music—Pavel (a pseudonym of Frank Kocian), Carlis Monroe, Jr., and James Gibson—and listing Maples Music Pub. Co. (Maples) as the copyright claimant (owner). If you are a legal or beneficial owner of that copyright, then to address this issue, the “Works infringed” section of your amended claim must list that registration number and effective date.

Copyright Ownership

Your claim provides unclear information about your status as a legal or beneficial owner of the copyright for “Standing on Guard.”

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.

The claim does not present facts that indicate that you are a proper claimant. In the “Works infringed” section, you list James Gibson as the author of the work and Carlis Monroe and Pavel as the co-owners. You do not list yourself as a co-owner. You assert that the “music was written by my father,” and that you and your family were not consulted or paid for the allegedly infringing uses. However, you do not state or show that you own, or as the owner of the copyright, and you do not contend that those records are incorrect or indicate how you obtained ownership from Maples or from your father.

A claimant asserting an infringement claim who is not an author or named copyright owner in the registration of the allegedly infringed work must support the claimant’s appropriate ownership of the copyright. If it is not readily apparent from supplemental materials submitted with the claim, you must provide some specific allegations about how you own, or have an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe the infringement” section explaining how you were the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, if your father was a legal or beneficial owner of the copyright and you obtained legal or beneficial ownership of the copyright from him, you may describe how. If the information in the claim identifying the claimant, the author, or the co-owners of the work is inaccurate, you may correct that information in an amended claim. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Proper Respondents

You name four respondents: Dante T Smith (Yasiin Bey), Johnson Barnes (Blu), Otis L Jackson, Jr (Madlib), and Talib K Greene (Talib Kweli). Your claim does not present enough facts to clearly state how any respondent used any exclusive rights you have in the allegedly infringed work without permission.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, 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.

You allege that “Standing on Guard” has been sampled in another song on streaming platforms. Your claim does not include clear allegations identifying any allegedly infringing work or how the respondents were responsible for that work. The “Describe the infringement” section of the claim does not name any respondent or any allegedly infringing work. The claim lists contact information for each respondent, but it does not state any other facts about Madlib, and the only facts it presents about the other three respondents are in supplemental image files. An image

labeled [who sampled.png](#) appears to show listings on whosampled.com that assert that songs by those three respondents include a sample, but the image does not specify which song was sampled, and nothing in the claim indicates that the whosampled.com listings are accurate. Your claim does not state specific facts about any respondent sampling “Standing on Guard” or using it in any other way. Showing that a website contends that respondents engaged in sampling is no substitute for pleading your case in the “Describe the infringement” section, with sufficient allegations describing each respondent’s allegedly infringing acts.

To address this issue in an amended claim, state facts in the “Describe the infringement” section that describe acts infringing your copyrights, specifying how each respondent engaged in infringing activity. You should be as detailed as possible, setting forth what each respondent did in relation to the work you allege was infringed, and identifying each respondent’s allegedly infringing work(s) and why it is infringing. For example, if a respondent created an infringing sound recording that sampled “Standing on Guard,” name the respondent and the recording; describe which material in “Standing on Guard” it sampled and the duration of that material; and state where in the respondent’s recording, and for how long, the sample appeared. Include enough details to indicate how acts by each respondent amount to copyright infringement.

Multiple Respondents

The Board can only hear claims asserted against multiple respondents if all claims in the proceeding “arise out of the same allegedly infringing activity or continuous course of infringing activities[.]” 17 U.S.C. § 1504(c)(6). You do not appear to allege or show that all respondents acted together or that your claims all arise out of the same infringing activity or activities. The [who sampled.png](#) image lists three different songs, including “EZ” by Blu and “Fix Up” by Black Star, and it identifies Yasiin Bey and Talib Kweli with the Black Star song. Separate recordings by different respondents that include different samples of the same work would not “arise out of the same allegedly infringing activity or continuous course of infringing activities.” Claims about distinct infringing acts by unrelated respondents in unrelated recordings cannot be raised in the same proceeding.

To address this issue, your amended claim must be raised against only one respondent (or set of respondents, if you allege that they acted together in the same course of conduct), or it must include facts that indicate that the respondents jointly engaged in the same allegedly infringing activities or were parts of a chain of one continuous course of infringing activities. If you are alleging that “EZ” and “Fix Up” are both infringing, you must state that allegation clearly, and you must add facts that indicate how the respondents acted together in the same course of infringing conduct.

Access

Your claim does not provide facts about how the respondents had access to your work. “Access” means a reasonable opportunity to hear or copy your work before the alleged infringement took place. Copyright Office records indicate that the musical composition “Standing on Guard” was written in or before 1965, and an image filed with the claim appears to show a 1967 sound recording of the composition performed by The Falcons. Your

claim does not include facts that indicate how any respondent had access to the composition or the recording.

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 the allegedly infringed work (a) was sent directly to the respondent(s) or a close associate of the respondent(s); (b) was widely disseminated or was available to the respondent(s); or (c) is so strikingly similar to the allegedly infringing work(s) that the respondent(s) could not have created their work(s) independently.

Alternatively, you can upload copies of your work and the allegedly infringing work(s) 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 work and the allegedly infringing work(s). 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(s) are substantially similar.

Your claim appears to allege infringement of a sound recording of “Standing on Guard” by the Falcons, or the musical composition heard in that recording. You do not provide enough information about the composition, the recording, or any allegedly infringing work. You allege that “Standing on Guard” has been sampled, but you do not describe which material from “Standing on Guard,” or how much of it, was used in any of the respondents’ works. In addition, you have not provided copies of “Standing on Guard” or of any allegedly infringing work as supplemental documents, for example, by uploading lyrics, sheet music, or audio files that contain the works. 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 work were taken by the respondents in the allegedly infringing work(s), or documents that are sufficient to show the similarities. If you include copies of the works at issue as supplemental documents, then as stated above, 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.

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 Board