



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0350

November 7, 2023

Langston M Childs

CLAIMANT

v.

Chris Garcia

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 7, 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.

Works Infringed– Registration Number

The claim states that your works were registered as “SRu0001000232000585.” This registration number appears to contain a typo. A Board search of Copyright Office records show that the correct registration number is “SRu 1-232-585.” To correct this issue, you should use the shortened version of the registration number.

Works Infringed– Clarity

The claim states that your works are sound recordings titled “CHARISMA – GRIND” and “CHARISMA 808 – SHUU” and you allege that the respondent “distributed and monetized from my sound recording without a license.” The Copyright Office registration certificate for your work indicates that you created the sound recording and production of a collection of works titled “CHARI\$MA GO HAM Beats.” If these tracks are covered by the copyright registration, then your amended claim must explicitly state that each track is included in the set of works registered under “SRu 1-232-585” in the Works Infringed section of the claim in the “Describe the work” field.

Infringing Activity

Your claim does not present enough facts to clearly state how the 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.

In the “Describe the infringement” section of the claim you state that “The uploader distributed and monetized from my sound recording without a license.” That brief statement does not describe the facts related to the alleged infringement with enough detail to let the respondent know what she is supposed to have done wrong. If you submit an amended claim, you must more fully explain how the respondent infringed your allegedly infringed work. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe acts infringing your copyrights, specifying how the respondent engaged in the infringing activity. You should be as detailed as possible, setting forth what the respondent did in relation to the work you allege was infringed.

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 respondent had access to your works and how the respondent’s works are substantially similar to your works. Please provide more details and background regarding this element in your amended claim.

Access

Your claim does not provide facts about how the respondent had access to your works. “Access” means a reasonable opportunity to view or hear your works 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 works (a) were sent directly to the respondent or a close associate of the respondent; (b) were widely disseminated or was available to the public or respondent; or (c) are so strikingly similar to the respondent’s work that the respondent could not

have created it independently. You can also upload copies of your works and the allegedly infringing works to assist in demonstrating 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. You separately filed what appears to be broken links to the allegedly infringing use. However, you do not provide any information describing or showing your works. No allegations in the "Describe the infringement" field of the claim describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. 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 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 respondent in the allegedly infringing work/(s), or documents that are sufficient to show the similarities.

To bring a claim of copyright infringement of a sound recording, the allegedly infringing work must contain actual sounds recorded in the allegedly infringed sound recording. If you maintain the allegations that the infringing activity is the creation of a derivative work based on your sound recording, your amended claim must allege facts that show that the respondent rearranged, remixed, or in other ways reproduced and altered the actual sounds embodied in your sound recording, because for sound recordings, the right to prepare derivative works is limited to such acts. See 17 U.S.C. § 114(b) (the exclusive rights to make copies and derivative works of a sound recording "do not extend to the making or duplication of another sound recording that consists entirely of an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording"). 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.

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