



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0391
December 12, 2023

Robert L. Hill, Jr.

CLAIMANT

v.

ASCAP

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 **January 11, 2024**. 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.

Impermissible Claim

You indicate in the claim form that you are bringing a claim of copyright infringement against the performing rights society ASCAP. However, your allegations do not describe any infringing acts by ASCAP. You appear to present a claim for nonpayment instead.

Copyright Office registration records list you among the co-authors of a musical composition titled “U Digg.” You allege that Warner/Chapell Music obtained the copyright registration and informed ASCAP that you are one of the authors. However, you allege that ASCAP entered erroneous information in its database that led it to fail to collect and pay you your proper share of the royalties, while it paid the other co-authors, and that did not give you or your administrator The Royalty Network proper notice.

Your allegations do not indicate that ASCAP used any of your exclusive rights in “U Digg” without permission.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly display or 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 a copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense.

The Board is only authorized to resolve certain types of copyright disputes, including claims of copyright infringement. A dispute over unpaid royalties for an authorized use is not the basis of an infringement claim. *Levine v. Landy*, 832 F. Supp. 2d 176, 188 (N.D.N.Y. 2011); *Spinelli v. NFL*, 96 F. Supp. 3d 81, 125 (S.D.N.Y. 2015), *reversed in part*, 903 F.3d 185, 202 n. 7 (2d Cir. 2018); *Malinowski v. Playboy Enterprises, Inc.*, 706 F. Supp. 611, 615 (N.D. Ill. 1989) (“the case law that has developed since adoption of the Copyright Act very specifically states that nonpayment of royalties do not constitute claims arising under the Copyright Act”). The Board cannot hear such disputes. A claim for nonpayment might be viable in state court, and a claim seeking a declaration of copyright co-ownership rights and an accounting of profits might be viable in federal court, but not before the Board.

If you submit an amended copyright infringement claim, it must include facts that describe acts infringing your copyright, specifying how ASCAP engaged in the infringing activity. Please review [Circular 1: Copyright Basics](#) and the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear. You should only file an amended claim if you can state facts to support a claim under copyright law that can be heard by the Board. For more information about what is required to support a claim of infringement, please refer to 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 supplementary 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