



# COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0312

November 20, 2024

Bryan Essing

CLAIMANT

v.

Diego D Castillos

RESPONDENT

## 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 **December 20, 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.

### Proper Respondent — Co-Owner

Your claim is not compliant because the facts included in the claim indicate that the respondent, Diego D Castillos, may be the co-owner of the musical compositions at issue. That assertion is incompatible with a claim of copyright infringement against the respondent, because an owner or co-owner of a copyright cannot be liable for infringement of that copyright.

In your claim, you state that the works are registered and provide “SRU001583273” as the registration number for the works. A Board search of Copyright Office records shows that you are listed as the sole the author and copyright claimant of the sound recordings and musical compositions included in the registration (“WAR NERVE - FIGHT and 5 Other Unpublished Works”). However, in the “Describe the infringement” section of the claim you state that “He directly stole my written song, FIGHT, added vocals, and posted it.” Additionally, you state that “[t]he music compositions are written by me, and were my ideas. I showed the guitarist, Diego Castillo, all of my ideas by going to his house, and having him play my ideas on his guitar. He then recorded them on his laptop.”

This statement indicates that the musical compositions are possibly joint works. Joint works are works “prepared by two or more authors with the intention that their contributions be merged into inseparable or

interdependent parts of a unitary whole.” 17 U.S.C. § 101. Here, it appears that the intention at the time of creation of the musical composition was that the contributions of you and Diego Castillo were to be combined into an integrated unit. A valid copyright only extends to copyrightable subject matter, and copyright law only protects the components of a work that are original to the author. Copyright law does not protect concepts or ideas; it only protects original elements of expression. As such, it appears that the respondent is the co-owner of the copyright in the allegedly infringed work and cannot be liable for a claim of copyright infringement.

Additionally, your claim appears to discuss the creation of musical compositions and sound recordings. Although the registration included with the claim does include the sound recordings of the works, the facts included with the claim indicate that the respondent may own some or all of the copyright in the sound recordings and/or the musical compositions, and thus cannot be liable for a claim of copyright infringement.

When a song is recorded, it may create two works that are protected by copyright: a musical work and a sound recording. A sound recording of the music, lyrics, words, or other content included in the recording is a separately copyright-protected work. A musical work is a song’s underlying composition along with any accompanying lyrics. A sound recording is a series of musical, spoken, or other sounds fixed in a recording medium, such as a CD or digital file, called a “phonorecord.” Sound recordings can be created by the recording’s performer, the producer, or others. More information about joint ownership of a copyright is available at pages 9-10 of the [Responding to an Infringement Claim](#) chapter of the CCB Handbook. If you file an amended claim, you will need to clarify the circumstances surrounding the creation of both the underlying musical composition and the sound recording.

If the information you have given regarding the co-ownership of your alleged work is incorrect, you should correct that information if you file an amended claim. However, if the respondent is a co-owner of the copyright, you cannot raise an infringement claim against them before the Board. Joint owners generally must share any income they receive from their use and licensing of the work with the other owners, but a claim about failing to make such payments is called an “accounting” claim, which is not a claim that the Board can hear.

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](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. 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.

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