



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0282
December 20, 2023

Michelle Shocked, Campfire Girl Publishing,
and Delete This

CLAIMANTS

v.

YouTube and David Pakman

RESPONDENTS

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **January 19, 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); 37 C.F.R. § 224.1(d). To make your second 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 amended claim before you file it again.

Proper Claimants

You have brought an infringement claim before the Board listing three claimants. It appears that one of the claimant entries is an erroneous listing, and it is not clear which of the other claimants may assert an infringement claim for the allegedly infringed work.

The initial claim named only Michelle Shocked (Shocked) as a claimant. An amended claim, filed on October 20, 2023, named three claimants: Shocked, Campfire Girl Publishing (Campfire), and Perrin Blackman (Blackman). You were granted leave to again amend the claim, and you filed an amended claim on December 12, 2023, listing three claimants: Shocked, Campfire, and “Delete This.” It seems that you intended to remove Blackman as a claimant. When you prepare an amended claim with multiple claimants on eCCB, the “Claimants” page of the claim form displays each claimant in a separate entry with its own “Edit” and “Remove” buttons. To remove the listing for “Delete This” in a second amended claim, click the “Remove” button for that claimant entry, and then click “Save and continue.” If you experience technical difficulties with eCCB when attempting to remove a claimant from the claim form, please contact asktheboard@ccb.gov before you resubmit the claim.

You allege copyright infringement of a musical composition titled “Other People.” It is not clear from the amended claim which of the claimants may assert that claim.

The “Works infringed” section of the amended claim lists the work twice, in connection with two separate copyright registrations:

- Registration No. PA0001678949, issued effective November 4, 2009, names Michelle Shocked (Shocked) as the author of the “music” and “lyrics” of “Other People” and of four other musical works; names Campfire Girl Publishing (Campfire) as the copyright claimant of those works, based on a “[t]ransfer: [b]y written agreement”; and lists their first date of publication as May 26, 2009.
- Registration No. SR0000820634, issued effective February 7, 2018, names Michelle Shocked as the author and copyright claimant of the “sound recording, music and lyrics” of “Other People” and lists its first date of publication as May 12, 2009.

The “Describe the Infringement” section of the amended claim identifies the allegedly infringing work as an episode of the David Pakman show, broadcast on YouTube, that includes “my unlicensed musical work, Other People SR0000820634 and PA0001678949.” That allegation indicates that both registrations are for the same work. The registrations appear to overlap, because they both state a claim for the copyright of the music and lyrics of “Other People.” Copyright Office records indicate that the application for the 2018 registration did not mention the 2009 registration or state that it excludes the previously registered material.

However, it does not appear that the 2009 and 2018 registrations can both protect the music and lyrics of “Other People,” because any material fully covered by the 2009 registration would have been “unclaimable” in 2018. For purposes of copyright registration, “unclaimable material” includes previously published material, previously registered material, material that is in the public domain, and copyrightable material that is not owned by the claimant named in the application. A copyright registration covers the new expression that the author created and contributed to the work, but it does not cover any unclaimable material that the work may contain, such as previously registered material. Information about unclaimable material is available in Sections 503.5 and 503.5(B) of [Chapter 500](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*.

The original claim in this proceeding alleged that Campfire “owns and controls exclusive rights to the musical work[], ‘Other People’ PA0001678949[.]” The amended claim omits that allegation, but adds Campfire as a claimant, while adding Shocked’s 2018 registration to the list of allegedly infringed works. The amended claim appears to assert that both registrations cover the music and lyrics of “Other People,” as it alleges infringement of “my unlicensed musical work, Other People SR0000820634 and PA0001678949.” Therefore, it also appears to assert that both Campfire and Shocked are proper claimants to allege infringement of that work. However, the overlapping registrations leave it unclear if both claimants may raise that claim.

A proper claimant for an infringement claim must own, or have an exclusive license to use, the exclusive rights for the allegedly infringed work. As explained in the September 20, 2023 [Order to Amend Noncompliant Claim](#):

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. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or

supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

If both registrations cover precisely the same work, then the 2018 registration is not a proper basis for the claim, because it covers unclaimable material previously registered in 2009. In that case, a second amended claim should omit the 2018 registration from the “Works infringed” section. However, if the registrations cover different aspects of the music and lyrics of “Other People,” a second amended claim must include allegations that clarify how the registrations protect different works, describing the differences between the registered works and how the respondents infringed both registered works.

If you file a second amended claim alleging infringement of the music and lyrics of “Other People,” you must include facts that clarify how both Campfire and Shocked are proper claimants for that claim or, if they are not, which claimant is a proper claimant for this claim, and why. For example, they would both be proper claimants based on the 2009 registration if Shocked, the author of the music and lyrics, transferred legal ownership to Campfire by a written agreement while retaining the right to receive royalties, making Shocked a beneficial owner. The second amended claim must state or show facts that clarify their status.

Alternatively, if only one claimant is a legal or beneficial owner of the music and lyrics for “Other People,” you must omit the other claimant when preparing the second amended claim by clicking the “Remove” button for that claimant on the “Claimants” page of the eCCB claim form.

Final Amendment

Your amended claim resolves some, but not all, of the issues raised in the September 20, 2023 Order to Amend Noncompliant Claim. If you file a second amended claim, it must state enough facts in support of the claim alleged. **This is your third and final opportunity to submit a compliant claim in this proceeding. If you raise any claims that your allegations do not support, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B). In the alternative, you can delete any unsupported claim allegations in your second amended claim.

To submit a second 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