



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0027

United States Copyright Claims Board

Louis D. Alfieri, S

CLAIMANT

V.

John M. Hill

RESPONDENT

SECOND 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 **November 18, 2022**. 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 extra filing fee for a second amended claim. If you amend your 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 a second 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.

Copyright Infringement Claim – Registration

Your amended claim remains non-compliant because it does not include a valid registration or service request number. 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 registration. 17 U.S.C. § 1505(a). For each work at issue, the claim must include the registration number and the effective date of registration; or, if no registration has issued, the service request number for an application for registration and the application date. [37 C.F.R. §§ 222.2\(c\)\(7\)\(ii\)\(C\)-\(D\)](#).

Your amended claim states that the respondent sent you an email in 2018 asserting that you had never registered any of the works with the Copyright Office. Your amended claim lists two allegedly infringed works, musical compositions entitled “No One Can Hear You Cry” and “When Love Comes.” You provide the *recordation* numbers V9958D027 and V9958000D028 for documents related to those works that the Copyright Office recorded on April 3, 2018, but no registration certification or application numbers. Recordation and registration are separate procedures, and recording a document is not a substitute for applying to register a copyright with the Copyright Office. *See generally* Section 2303 of [Chapter 2300](#) of the *Compendium of U.S. Copyright Office Practices, Third Edition*.

To address this issue, if you submit a second amended claim, you must provide the registration number and effective date, or the service request number for the application to register and the application date, for each allegedly infringed work. Either the registration must have been issued or the application must have been delivered to the Copyright Office before you filed your claim on June 23, 2022. If your works were neither registered nor subject to a pending application at that time, this claim cannot be successfully amended and cannot proceed. Instead, you would need to apply to register the copyright for the allegedly infringed works before you could refile your claim as a new claim. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

Copyright Infringement Claim – Legal or Beneficial Ownership

Your claim provides conflicting facts about your status as a legal or beneficial owner. To bring a copyright infringement claim before the Board, you must be “the legal or beneficial owner of the exclusive right [in a copyrighted work] at the time of the infringement for which the claimant seeks damages, if any[.]” 17 U.S.C. § 1504(c)(1). When you submitted the claim and the amended claim, you certified that you are the legal or beneficial owner of rights in the works identified as infringed. Yet as mentioned above, your amended claim does not include an eligible registration or application number for a registration that identifies you as the copyright owner, and your amended claim lists the respondent John M. Hill as one of the co-authors of each allegedly infringed work.

In the “Describe the infringement” section of your amended claim, you allege that Mr. Hill, with the approval of his co-authors, transferred ownership of the two compositions to you, the owner of Alfieri Music, in 1965. The recordation documents cited in the amended claim appear to be copies of a May 20, 1965 assignment from Mr. Hill to Alfieri Music of rights to “No One Can Hear You Cry” (Document V9958 D027), and a February 1, 1965 assignment from Mr. Hill to Alfieri Music of rights to “When Love Comes” (Document V995 D028). However, it appears that any rights that you or Alfieri Music gained over either composition based on those apparent 1965 assignments would have reverted back to the authors or their heirs in 1994 by operation of law. As the Board’s August 23, 2022 Order explained,

Works that first secured copyright in 1965 were subject to an initial term of copyright of 28 years, through 1993, followed by a renewal term of 67 years, from 1994 through 2060. 17 U.S.C. § 304. Ownership of the copyright in the renewal term would have reverted to the author by default in 1994, if the author was alive; otherwise it reverted to an eligible party identified in copyright law. *Id.* Your claim alleges that infringing activities happened “From 2005 to 2019 – Present,” which is during the copyright’s renewal term. The Copyright Office does not appear to have records of a renewal registration or transfer during the renewal term, and your claim does not provide any information to support allegations of your legal or beneficial ownership during the time encompassed in your claim.

Your amended claim alleges that the infringement commenced five years earlier than previously alleged, in 2000 (“the Respondent’s alleged infringement acts started in 2000 with his first Paint A Lady Album release”). That earlier date also falls within the renewal term, so the same rule applies: ownership of the copyrights would have reverted to any surviving author in 1994. According to the allegations in your amended claim, Mr. Hill was still alive in 2000. Therefore, he (and any of his co-authors still alive in 1994) appears to be the copyright owners of both compositions during their current, renewal term of copyright.

These facts appear to be in conflict with your certification. To correct this issue in a second amended claim, you must add facts to the “Describe the infringement” section of the claim that explain how you were still the legal or beneficial owner of the exclusive rights at the time of the alleged infringement.

Final Amendment

Your amended claim resolves some, but not all, of the issues raised in the September 7, 2022 noncompliance order. 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 your claim included supplementary documents, you must re-upload any documents you wish to include in the second amended claim on the “**Documentation**” page. Please include only documents that are directly related to your claim.
4. Once you have completed your edits, continue to click through the 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 second 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 CCB is unable to provide legal advice. We can only provide legal information and assistance concerning CCB procedures and requirements. You may also refer to the [Compliance Review](#) chapter of the Copyright Claims Board Handbook for more assistance.

Copyright Claims Attorney

October 19, 2022