



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0028

United States Copyright Claims Board

Chervalin Publishing Company

CLAIMANT

v.

Alligator Records

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 **October 6, 2022**. If you do not, the Board must dismiss your claim without prejudice, although you may file again in the future before the CCB 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 extra 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.

Copyright Infringement Claim – Legal or Beneficial Ownership

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner. 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 for which the claimant seeks damages, if any [.] 17 U.S.C. § 1504(c)(1). When the claim was submitted, you certified that the claimant was the legal or beneficial owner of rights in the work identified in the infringement claim.

Your claim lists a 1962 copyright registration, No. EU0000740632, for the allegedly infringed work, which lists Alfred Lloyd Reed, Jr. as the author and includes Chervalin Publishing Co. as a co-owner. A Board search of Copyright Office records led to a renewal registration, No. RE0000558123, which indicates the copyright was renewed in 1990 in the name of Audrey Richardson Reed (presumably, the next of kin of Alfred Lloyd Reed, Jr.) as the sole claimant (copyright owner). You are not listed in that record as an owner of the copyright for the current copyright renewal term. These facts are in conflict with your certification. To correct this issue, you must add facts to the "Describe the infringement" section of the claim that explain how either the named claimant entity (1) obtained ownership of the exclusive rights allegedly infringed, or (2) was the author or other legal or beneficial owner of the exclusive rights at the time of the infringement.

Copyright Infringement Claim – Relief Sought

It appears that you may be seeking a larger damages award than the CCB can grant. Your claim refers to "\$30,000" and "Statutory Damages" on the next direct line, which appears to indicate that you are asking only for statutory damages, and in an amount that is more than the CCB can grant for a claim involving infringement of only one work. The most that respondents can be ordered to pay in damages (actual or statutory) in a CCB proceeding is \$30,000. 17 U.S.C. § 1504(e)(1)(D). However, the maximum amount of statutory damages available from the CCB is \$15,000 for each work that was infringed (or \$7,500 per work in instances where the copyright was registered both after the infringement started and not within three months of your work's first publication). 17 U.S.C. §§ 1504(e)(1)(A)(ii)(I)-(II).

If you seek damages in an infringement claim, you can seek either (1) actual damages and the respondent's profits from the infringement, or (2) statutory damages. You can also request both in your claim, but you will have to decide, before the Board makes its final determination, which form of damages you wish the Board to award. Actual damages are money damages awarded based on the proven harm or loss you suffered. An example of actual damages may be the amount of lost sales revenue you experienced. Statutory damages are money damages awarded to a successful claimant within a range set by law, without the need to provide proof of the actual amount of harm or loss.

To address this issue, you may file an amended claim that makes clear what you are asking for and does not allege that you are pursuing remedies from the CCB that it may not provide.

For additional information please see page 6 of [Starting an Infringement Claim](#), and for general information about damages, please see [ccb.gov](#).

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. If your claim included supplementary documents, you must re-upload any documents you wish to include in the 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 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 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
September 6, 2022