



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0162

United States Copyright Claims Board

Freeplay Music, LLC

CLAIMANT

v.

Linclon Property Company

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 **November 30, 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. 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. For example, it appears that you may have misspelled the respondent's name in the claim form. 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 – Access

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. The elements of a copyright infringement claim are:

1. You own a valid copyright in the work, or have been given an exclusive license to the copyright rights at issue in the work,
2. The respondent used one of your exclusive rights in the work without permission,
3. The respondent had access to your work, meaning a reasonable opportunity to view or hear your work, and
4. The respondent's work is substantially similar to the original elements of expression in your work.

Your claim does not provide facts about how the respondent had “access” to your work. “Access” means a reasonable opportunity to view or hear your work. Please provide more details and background regarding this element in your amended claim.

To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include that your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or respondent; or (c) is so strikingly similar to the respondent's work that the respondent could not have created it independently.

Copyright Infringement Claim – Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your work and the respondent's allegedly infringing work. Unless it is readily apparent from supplemental materials that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are substantially similar.

Your claim states that the allegedly infringed work was copied; however, you do not provide any additional information describing your work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar, and you have not provided a copy of your allegedly infringed work as a supplemental document. As a result, the claim does not provide enough information to enable the respondent to understand the claim and respond to it.

When you submit an amended claim, it must include allegations that support the element of substantial similarity. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work the respondent copied in the allegedly infringing work, or documents that are sufficient to show such similarities.

More information about the elements required to assert a claim of copyright infringement is available in the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Copyright Infringement Claim – Relief Requested Over Statutory Maximum

It appears that you are seeking a larger damages award than the CCB can grant for this type of claim. In the “Description of harm suffered and relief sought” section of the claim, you request \$30,000 for each work infringed, even though you claim four works were infringed. No matter

how many works are alleged to have been infringed, 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). Furthermore, to the extent statutory damages are requested and awarded, 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 the work's first publication). 17 U.S.C. §§ 1504(e)(1)(A)(ii)(I)-(II). Even where statutory damages are awarded, the overall \$30,000 cap on CCB proceedings still applies.

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 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 Board is unable to provide legal advice. We can only provide legal information and assistance concerning Board procedures and requirements. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney
October 31, 2022