



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0187
December 12, 2023

Autumn M. Reed

CLAIMANT

v.

Karen Selby, Ralph O. Selby, and
TWO PRINCES, a de facto partnership

RESPONDENTS

ORDER TO AMEND NONCOMPLIANT COUNTERCLAIM

On December 4, 2023, the respondents filed a joint response to the claim, including a counterclaim raised by respondents Karen Selby and Ralph O. Selby (collectively “you”). The Copyright Claims Board finds that your counterclaim does not comply with the requirements of the CASE Act and related regulations. Your counterclaim cannot move forward unless it is amended.

If you wish to proceed with this counterclaim, you must file an amended counterclaim by **January 11, 2024**. If you do not, the Board must dismiss your counterclaim without prejudice, and the proceeding will continue on Claimant’s claim. If you file an amended counterclaim, it will be reviewed for compliance and you will be notified if it is found compliant or noncompliant. 17 U.S.C. § 1506(f)(2).

To make your amended counterclaim 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 counterclaim before you file again. For example, the counterclaim indicates that your agreement with Claimant terminated on or about December 23, 2023, which is in the future. You may correct that date in an amended counterclaim.

You do not need to provide a legal argument in your counterclaim – just a statement of facts and circumstances. Being specific in your description gives the other party and the Board more information about your counterclaim. There is no character limit, so please be as detailed as possible.

Infringing Activity

You have raised a counterclaim of copyright infringement against Claimant. You identify the allegedly infringed work as a musical work written by Ralph Oscar Selby titled “Two Princes,” which you describe as “[m]usic, lyrics, and text for a musical.” Your counterclaim does not present enough facts to clearly state how Claimant used your exclusive rights in the allegedly infringed work without permission.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly perform the work, and to make a “derivative work,” which is a work based on the original work. Someone who does one of those activities without the copyright owner’s permission may be infringing the copyright, unless they have a legitimate defense. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

The counterclaim does not offer enough detail about any specific acts Claimant engaged in that violated your rights. The “Describe the infringement” section of your counterclaim states, in full, “Fraudulent claim of ownership of Counterclaimant’s musical work; unauthorized distribution of sound recordings.” The “Description of harm suffered and relief sought” section includes similar general assertions: “Unauthorized creation, publication and distribution of derivative works in violation of Mr. Selby’s copyright in his original work of authorship and his exclusive right to control his work. Unauthorized filing of copyright registrations, falsely claiming rights[.] Unauthorized creation and distribution of sound recordings for public distribution.” Similarly, your response to the claim contends, on information and belief, that Claimant “is distributing unauthorized sound recordings of [Mr. Selby’s] Work.” Without more specifics, those bare allegations do not provide sufficient details for Claimant and the Board to understand what Claimant’s allegedly infringing acts were. Conclusory allegations that only recite the requirements for an infringement claim without detail are not enough to show that you have a viable counterclaim.

Your allegations that Claimant falsely asserted ownership of the work and fraudulently obtained copyright registrations for the work do not describe an infringing act. Obtaining a copyright registration does not constitute an act of copyright infringement, even if the person who claims ownership does not own the copyright. Your counterclaim does not illuminate how Claimant may have copied, distributed, or performed the allegedly infringed work, or made a derivative work based on that work. Your allegations that Claimant obtained registrations without authorization do not appear to be about any kind of claim that the Board can hear. *See* 17 U.S.C. §§ 1504(c)(1)-(4).

If you submit an amended counterclaim, you must more fully state or show how Claimant infringed your rights in the allegedly infringed work. To address this issue, your amended counterclaim must include facts in the “Describe the infringement” section that describe acts infringing your copyright, specifying how Claimant engaged in the infringing activity. For example:

- If you maintain that Claimant distributed unauthorized copies of Mr. Selby’s work, include allegations that state how, and to whom, he distributed those copies.
- If you maintain that Claimant created, published, or distributed unauthorized derivative works based on Mr. Selby’s work, include allegations that describe those derivative works, including how they were derived from, and are substantially similar to, Mr. Selby’s work.
- If you maintain that Claimant began infringing acts before the termination of your agreement, include allegations that indicate how Claimant’s activities exceeded the scope of the agreement.

You should be as detailed as possible, setting forth what Claimant did in relation to the work you allege was infringed. Even if Claimant did falsely claim ownership of the work, you cannot bring a copyright infringement counterclaim unless Claimant committed an act infringing on your copyright. The counterclaim must provide enough information to enable Claimant to understand and respond to it.

To submit an amended counterclaim, log into your eCCB account and take the following steps:

1. From your dashboard, click the “**Amend a counterclaim**” button and select your docket number from the dropdown list.

2. Your counterclaim will unlock for editing. The information you originally entered will appear in the same order as in your original counterclaim.
3. Make the necessary edits. If you have filed supplemental documents, you must re-upload any documents you wish to include in the amended counterclaim on the “**Documentation**” page. Please include only documents directly related to your counterclaim, 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 counterclaim 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 counterclaim, 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