



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0337

October 17, 2023

Jonathan D. Smith-el

CLAIMANT

v.

KOMU8 TV; St Louis city hall, T. Jones, F. Slay, L
krewsom; Algoa correctional center, Jeff hoffmister,
Micheal bowersox; and White House, K. Harris

RESPONDENTS

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 16, 2023**. 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 additional 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. 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.

Respondents – Federal and State Entities

The Board cannot hear any “claim or counterclaim by or against a Federal or State governmental entity.” 17 U.S.C. § 1504(d)(3). Your claim lists several respondents including the White House, a federal governmental entity, and Algoa Correctional Facility, a state governmental entity in the Missouri Department of Corrections. Those are not proper respondents for a claim before the Board.

If you submit an amended claim, you must not include any federal or state government entity as a respondent. An amended claim will also be noncompliant if you name respondents that cannot appear before the Board because they are governmental entities.

Respondents – Same or Related Activities

You have raised a claim of copyright infringement before the Board, naming multiple respondents and multiple allegedly infringed works. The Board can only hear claims asserted against multiple respondents if all claims in the proceeding “arise out of the same allegedly infringing activity or continuous course of infringing activities[.]” 17

U.S.C. § 1504(c)(6). You do not appear to allege that all respondents acted together or that your claims all arise out of the same infringing activity or activities. To address this issue, your amended claim must either be raised against only one respondent (or set of respondents, if you allege that they acted together in the same course of conduct), or must include facts that indicate that the respondents jointly engaged in the same allegedly infringing activities or were parts of a chain of one continuous course of related infringing activities.

Respondents – Clarity

The “Respondent(s)” section of your claim lists several respondents in a single entry, but you are not permitted to combine them into one entry. One entry lists Algoa Correctional Center and two individuals; another entry lists St. Louis City Hall and three individuals; and a third entry lists both the White House and an individual (K. Harris) at the same address (1600 Pennsylvania Ave NW, Washington, DC 20500). When filing a claim against more than one respondent, you must add each respondent separately in the online claim form.

In addition, you do not provide a separate address for any of the individual respondents named. A claim must include each respondent’s mailing address, unless the Board gives you permission to file it without the address after you certify that the address is unknown and that you have a good-faith belief that the statute of limitations is likely to expire within 30 days. 37 C.F.R. § 222.2(c)(6). You have not been given permission to file a claim against the individual respondents without including their addresses. If you amend your claim, it must include a mailing address for each respondent.

Copyright Registration

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 application. 17 U.S.C. § 1505(a). The Board can only determine that a work has been infringed after the Copyright Office registers the work. 17 U.S.C. § 1505(b)(1)(A).

Five of the six allegedly infringed works have been registered. You state that the copyright has not been registered for the other allegedly infringed work, titled “Welcome to the free city state of Jonathan D Smith-el,” and you provide Service Request No. 1-11101043300 for an application for registration of the work. However, Copyright Office records indicate that the application has been closed. After several rounds of correspondence, you did not respond to a Copyright Office examiner’s email dated August 30, 2022. That email noted that if you did not respond to the message within 45 days, your case would be closed without processing your registration or notifying you further. The Office did not receive a reply by the specified deadline and the application was closed as a “No reply” on October 20, 2022.

If you file an amended claim, you must either (1) provide a copyright registration number that was issued for “Welcome to the free city state of Jonathan D Smith-el” before you filed this claim on October 9, 2023, (2) provide the Service Request number for an application to register the work that was filed before that date, and that is still

pending, or (3) remove that work from the “Work(s) infringed” section. If the work was neither registered nor subject to a complete pending application on October 9, 2023, this claim cannot be successfully amended to maintain a claim of infringement for that work.

Infringing Activity – Clarity

Your copyright infringement claim does not present enough facts to clearly state how the respondents used any exclusive rights you have in the allegedly infringed works without permission.

Copyright law grants exclusive rights to copyright owners. These include the right to reproduce, distribute, and publicly display 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.

In the “Wrongful activities” section of the claim, you indicate that the respondents reproduced and distributed copies of your works, but your claim contains no allegations that describe actions taken by any of the respondents that relate to reproduction or distribution of any of your works. While you assert that you have not given anyone permission to use your works, and that use without your permission would be copyright infringement, your allegations do not clearly describe unauthorized use of your works by any named respondent. For example, your allegations in the “Describe the infringement” section mostly relate to third parties who are not respondents, and mention only two named respondents, KOMU8 TV and Michael Bowersox:

- “when I seen komu8 news show my janitorial company I was like they stole that,” and
- “I’m not doing business with bowersox.”

Those allegations are not specific or clear enough to describe how any particular respondent copied, distributed, or made other use of any particular work that would constitute copyright infringement. Similarly, the first sentence of the “Description of harm suffered and relief sought” mentions another named respondent, St. Louis City Hall, and appears to allege that certain people associated with that respondent “have been capitalizing off my community,” but the allegations in that section do not clearly describe harm suffered as a result of an infringing act. That allegation also does not clearly identify any particular allegedly infringed work, since you describe several of your copyrighted works as drawings of a community. If you file an amended claim, it must include allegations that state or show how each named respondent engaged in a clearly described infringing use of one or more of your allegedly infringed works. You must identify particular infringing acts by each respondent using the specified works.

In addition, your claim combines your allegations about your copyrighted works with many unrelated and inflammatory assertions about the respondents and other people, with the result that the elements of your infringement claim are not stated clearly enough for the Board and the respondents to understand. If you file an amended claim, it must clearly set forth allegations that support the infringement claim without mixing those allegations up with unrelated allegations.

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 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