



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0040
March 8, 2024

IRIS PROPERTIES, INC., alan lorber

CLAIMANTS

v.

DUSTIN McFARLAND

RESPONDENT

ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board (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 **April 8, 2024**. 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.

Legal or Beneficial Ownership

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.” 17 U.S.C. § 1504(c)(1). A legal owner is an author of the work who owns the exclusive rights at issue or a person or entity that has received a transfer of those rights, for example, by an assignment or an exclusive license. A beneficial owner is a legal owner who has transferred the rights at issue but retains some of the advantages of ownership, such as the right to receive royalties from the use of the work. A claimant who is not an author or named copyright owner of the allegedly infringed work must provide some specific details or supplemental documents explaining how the claimant owns, or has an exclusive license to use, the exclusive rights at issue.

The claim does not present facts that indicate that Iris Properties, Inc. or Alan Lorber are proper claimants. The claim lists “John E. Griffith” as author of the work but does not give any additional facts about how the two listed claimants have ownership of the work.

To correct this issue, your amended claim must include specific allegations about how each claimant owns, or has an exclusive license to use, the exclusive rights at issue. You can do this either by adding facts to the “Describe

the infringement” section explaining how the claimant was the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents. For example, you may describe the relationship between John E. Griffith and Iris Properties, Inc. and Alan Lorber or state how *each* claimant obtained legal or beneficial ownership of copyright. If the information in the claim identifying the claimant or the authors of the work is inaccurate, you may correct that information in an amended claim. More information about legal and beneficial ownership is available at page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

Work Infringed — Clarity

Your copyright infringement claim must provide enough information for the respondent to identify the work you claim has been infringed. It is not clear whether the work that you claim was infringed is a musical composition, sound recording, or both. When a song is recorded, there may be two works created that are protected by copyright: a musical composition (also known as a musical work) and a sound recording. These works are subject to different rules and are commonly owned and licensed separately. A musical composition is the underlying composition along with any accompanying lyrics. Musical compositions are usually created by a songwriter or composer. A sound recording is a series of musical, spoken, or other sounds fixed in a recording medium. Sound recordings are usually created by the performer and the producer of the recording.

In your claim, you list “Eu383917” as the registration number for “Love Is Just A Word” and describe the work as “Instrumental Claiming both sound recording & composition.” A Board search of Copyright Office Records shows that the scope of this registration includes only the “music and arrangement” of the work.

If you are alleging infringement only of the underlying musical work, you must delete the references to “sound recording” that currently appear in the “Work Infringed” and “Describe the work” sections of the claim. You may not assert a claim of infringement of a sound recording based solely on registration number Eu383917.

If you wish to assert a claim of infringement of the sound recording, there must be a corresponding copyright registration or pending application for registration for the sound recording filed before you filed your claim. 17 U.S.C. § 1505(a). If you did not have a copyright registration or pending application and legal or beneficial ownership of the sound recording before you filed your claim, you cannot successfully maintain a claim for infringement of that sound recording in this proceeding.

A Board search of historical records shows a registration under registration number “N7420” for a sound recording titled "Love is Just a Word and Tomorrow" authored by “Johnny Griffith.” The Board found no corresponding recordation information transferring this work to the claimants. If this registration represents the corresponding sound recording and you have legal or beneficial ownership of this separate work, you may add it to the claim if you explain how you were the owner of exclusive rights in the work at the time of the infringement or by submitting supplemental documents that demonstrate your legal or beneficial ownership.

Infringing Activities— Clarity

Your claim does present enough facts to clearly state how the respondent used any of your exclusive rights in the work without permission. In your claim you state that “infringement in the form sampling claimant's work using it throughout respondent's work entitled ‘Lay In On Ya’ in album entitled ‘Journey Anywhere.’” Sampling involves taking part of an existing sound recording and incorporating it into a new work. To bring a claim of copyright infringement of a sound recording, the respondent must have used the actual sounds contained in your sound recording to create the allegedly infringing work. If you are alleging infringement of the sound recording (“N7420”), you will need to provide additional information about the length and duration of the sampled recording and indicate that there was “exact copying” of the recording and whether the recording was changed or modified in any way.

On the other hand, if you are alleging infringement of the underlying musical composition you will need to add additional information about the amount of the musical composition used and specify if there was “exact copying” of the musical composition or if the composition was changed or modified in any way. If you are alleging that the respondent used the musical composition by adapting it, then also include any information about how the respondent had a reasonable opportunity to access the work.

Statute of Limitations

In your claim you state that the infringement started in 2000. This raises questions about whether the statute of limitations prevents the Board from considering your infringement claim. A “statute of limitations” is a time limit set by law for starting a claim. The statute of limitations period for copyright claims, for both federal court and the Board, is three years after the claim “accrues.” 17 U.S.C. §§ 507(b) & 1504(b)(1). Under applicable current law, a claim accrues when the infringement occurs or, if the claimant was not aware of the infringement at the time it occurred, at the time when the claimant knows or reasonably should know that an infringement occurred. In addition, you may not recover damages for acts of infringement that occurred more than three years before you filed your claim with the CCB unless you first knew and reasonably should have known about the infringements within the three years before you filed the claim. In your amended claim, please provide the Board additional information in the “Describe the infringement” section about when you discovered the infringement and why you were not aware of the infringement before that time. Please also describe what acts of infringement occurred within three years before you filed your claim with the CCB.

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