



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0414

January 10, 2024

kodi films nc

CLAIMANT

v.

Dean C Jones

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 **February 9, 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.

Copyright Infringement — Elements

You have brought a copyright infringement claim before the Board. Your claim must make enough factual allegations to support each “element” of the claim. 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. 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 enough facts about your ownership of the work and how the respondent used one of your exclusive rights without permission. Please provide more details and background regarding this element in your amended claim.

Legal or Beneficial Ownership

Your claim provides conflicting facts about the claimant's status as a legal or beneficial owner of the allegedly infringed work. 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.

The claim does not present facts that indicate that kodi films nc is a proper claimant. In your claim, you list “The Black Archives (aka) Tales of Legend (aka) Hellspawn” (PAu004202861) as the allegedly infringed work. A Board search of Copyright Office records shows that “micheal mercaldi” is listed as the author and copyright claimant 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.

To correct this issue, your amended claim must include specific allegations about how the claimant owns, or has an exclusive license to use, the exclusive rights at issue. You can do this 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. For example, you may describe the relationship between kodi films nc and michael mercaldi or state how the claimant obtained legal or beneficial ownership of the copyright. Alternatively, you can submit supplemental documents such as a work-for-hire agreement, an exclusive license, or an assignment of the copyright in the work at issue that show your ownership of the 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.

Infringing Activity — Clarity

Your claim does not present enough facts to clearly state how the respondent used any exclusive rights that you have 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.

In your claim, you state that “[t]he respondent was hired by the claimant to improve upon an existing completed work. The characters and storyline added scenes to the work as a Work For Hire.” It is unclear if you are alleging a breach of that work-for-hire agreement. A “breach of contract” is a violation of any of the agreed-upon terms and conditions of a binding contract. The Board is not authorized to hear claims for breach of contract. 17 U.S.C. § 1504(d)(1). However, the Board may be able to hear your claim if the work- for- hire agreement set forth your

ownership of the copyright in the work and respondent sold or licensed or attempted to sell or license that work without your permission. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe the acts taken by the respondent that infringe your copyright. You should include allegations that (1) provide more details and background regarding your agreement with Dean Jones and (2) specify how Dean Jones used any exclusive rights you have in the allegedly infringed work without permission.

You further state, “Respondent proceeded, [w]ithout informing claimant, to copyright the work solely in respondents name.” Registering a copyright in and of itself does not constitute an act of copyright infringement, even if the person who registered the copyright does not own the copyright. This allegation does not illuminate how the respondent may have copied, distributed, performed, or displayed your work, or made a derivative work based on your work. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe acts infringing your copyrights, specifying how the respondent engaged in the infringing activity. You should be as detailed as possible, setting forth what the respondent did in relation to the work you allege was infringed. More information about exclusive rights is available on page 3 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

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