



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0193
July 25, 2023

Richard B. Cass and Braniff Airways, Incorporated

CLAIMANTS

v.

Collin L. Ice

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.

On June 6, 2023, you filed a [request for leave to amend the claim](#), seeking to remove Richard B. Cass as a claimant and change the respondent to Ft. Worth Star Telegram. The Board issued an [order](#) granting the request on June 7, 2023, allowing you 30 days to submit an amended claim. No amended claim was filed in that time. The Board has now reviewed the claim as initially filed for compliance.

If you wish to proceed with this claim, you must file an amended claim by **August 24, 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.

Proper Claimant

Your claim provides unclear information about one claimant's status as a legal or beneficial owner of the allegedly infringed work. To bring a copyright infringement claim before the Board, each 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.

Your copyright infringement claim is on behalf of two claimants, Richard B. Cass and Braniff Airways, Incorporated (“Braniff”). The claim does not present facts that indicate that Mr. Cass is a proper claimant. The claim lists Braniff as the author of the allegedly infringed work. The claim also cites a pending application to register the copyright for the work, and Copyright Office records indicate that the application identifies Braniff as the sole author and copyright claimant.

To correct this issue, your amended claim must include specific allegations about how Mr. Cass owns, or has an exclusive license to use, the exclusive rights at issue, or you must omit Mr. Cass as a claimant, as proposed in your request for leave to amend the claim filed on June 6, 2023. If the information in the claim identifying the claimant or the author 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.

Proper Respondent

Your allegations are also unclear because they appear to intertwine the actions of the named respondent, Collin L. Ice, with the actions of a third party, Ft. Worth Star Telegram, which is not named as a respondent in the claim. In the “Describe the infringement” section of the claim, you allege: “A Ft. Worth Star Telegram reporter obtained an unauthorized copy of our Braniff International Flight 352 Cockpit Voice Recording and proceeded to post it on the Ft. Worth Star Telegram’s website and on their YouTube page.” You do not appear to allege that Mr. Ice has personally infringed your copyright.

If you submit an amended claim, you may name Ft. Worth Star Telegram as the respondent instead of Mr. Ice, as indicated in your request for leave to amend the claim filed on June 6, 2023, if that is the proper respondent. Your description of the respondent’s allegedly infringing activities should clarify what activities it engaged in. If you assert a claim against both Ft. Worth Star Telegram and Mr. Ice, your amended claim should clarify the allegedly infringing actions taken by each respondent.

Allegedly Infringed Work

The description of the allegedly infringed work in the claim is unclear. You state that the work is a literary work titled “Braniff International Flight 352 Cockpit Voice Recording Transcript,” and you describe the work as “[t]he cockpit voice recording transcript from Braniff International Flight 352, which was lost at Dawson, Texas, on May 3, 1968.” However, a [supplemental document](#) filed with the claim, which is a copy of the deposit submitted with the pending application for copyright registration, appears to be a four-page excerpt from a document describing an investigation into that flight. The document submitted for copyright registration includes a description of “the transcription of the cockpit voice recorder tape,” and appears to include quotes from that transcript, but the deposit does not appear to be the transcript itself.

If you file an amended claim, include a clearer statement describing the allegedly infringed work and how it relates to the voice recording allegedly posted on the Ft. Worth Star Telegram website and YouTube.

Allegedly Infringing Activity

Your claim does not clearly state how the respondent used any exclusive rights 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 (display/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 allegedly infringed work appears to be distinct from, and partly based on, the allegedly infringing voice recording posted on the Ft. Worth Star Telegram website and YouTube. The pending application for copyright registration makes this distinction, stating:

This submission features the transcript of the Cockpit Voice Recorder of our Flight 352 that was lost at Dawson, Texas, on May 3, 1968. There is an actual 1/4 inch recording tape, which is marked with a copyright notice on the box cover. It is a violation of Department of Transportation regulation for any agency to release publicly any Cockpit Voice Recording from an aircraft accident, therefore we are only submitting the written transcript for registration.

It is not clear from the claim if the alleged infringing activity is the copying and distribution of only the cockpit voice recording, or of the later-created transcript as well. In the “Description of harm suffered and relief sought” section of the claim, you indicate that the infringing activity was “the release of this tape.” In the “Describe the infringement” section, however, you seem to allege unauthorized use of both the voice recording and the textual work based on that recording that is pending registration: “Ft. Worth Star Telegram, further, released this *transcript and tape*” (emphasis added). To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe acts infringing your copyright, specifying how the respondent engaged in the infringing activity and whether respondent copied the cockpit voice recording, a transcript of that voice recording, or the supplemental document that was filed with the claim. You should be as detailed as possible, setting forth what the respondent did in relation to the work you allege was infringed.

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