



COPYRIGHT CLAIMS BOARD

Docket number: 24-CCB-0324

November 22, 2024

Diego Deleon

CLAIMANT

v.

Bryan D. Essing

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 **December 23, 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 Claim — Works Infringed

Your copyright infringement claim must provide enough information for the respondent to identify the works you claim have been infringed.

In your claim you state that the titles of the work infringed are “Fight and 8 other unpublished works,” “Let It Die,” and “Loyalty.” It is unclear if you are trying to allege infringement of all nine songs registered in the group registration or just “Let It Die” and “Loyalty.” Additionally, you have included several pieces of album artwork with your claim, but you did not include any information in your claim indicating that the artwork has been registered with the Copyright Office. Thus, it is unclear which works you are alleging were infringed by the respondent.

In your amended claim, you should confirm that the correct registration information is provided, and you must include clarifying information about which of your works was infringed. If you are alleging more than one work has been infringed you should provide the title, author, registration number (which presumably will be the same number for each song), and work of authorship category for each song that is involved in the claim. Being specific in your description gives the other party and the Board more information about your claim. Either the registration must

have been issued or the application must have been delivered to the Copyright Office before you filed your claim on October 25, 2024. If your work was neither registered nor subject to a pending application at that time, that work cannot be included with this claim. Instead, you would need to apply to register the copyright for the allegedly infringed work before you could refile your claim as a new claim. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

Copyright Infringement Claim—Infringing Activity

Your claim is also unclear about how the respondent used any 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.

In your claim you state that the respondent “went and uploaded those to the US office of copyright website... and proceeded to go on a smear campaign against the group.” Registering a copyright 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.

Additionally, you state that the respondent “claims to own the music which is completely false, and he also claims to own my artwork, which is also completely false.” These allegations also do not appear to describe any infringing activity, and do not offer enough detail about the respondent using your work in a way that would infringe any exclusive rights. The Board is only authorized to resolve certain types of copyright disputes.

Three particular kinds of claims are permitted:

1. claims of copyright infringement;
2. claims seeking a declaration that activity is not infringement; and
3. claims about misrepresentations in connection with a takedown notice or counter-notice under the Digital Millennium Copyright Act (DMCA). 17 U.S.C. § 1504(c)(1)-(3). The Board cannot hear a claim that is purely an ownership dispute. Therefore, your allegations that the respondent obtained a copyright registration without authorization do not appear to be about any kind of claim that the Board could hear.

If you submit an amended copyright infringement claim, you must more fully explain how the respondent infringed your rights in the allegedly infringed work. 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. You should be as detailed as possible, setting forth what the respondent did in relation to each work you allege was infringed. Even if the respondent did falsely claim ownership of the work, you cannot bring a copyright infringement claim against her unless she committed an act infringing your works.

Noninfringement Claim

Your noninfringement claim is compliant as filed, however, your claim cannot proceed unless you fix the issues specified above. If you decide not to proceed with your copyright infringement claim, you must amend your claim and remove the copyright infringement claim. If you decide to amend your copyright infringement claim, you must address the issues detailed above. You may include additional information regarding your noninfringement claim if you wish. However, you should be sure to include the relevant supplemental documents, which should be identified and labeled.

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.