



# COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0326

October 13, 2023

Adam D Indes-Kuehr

CLAIMANT

v.

TYLER HENTZNER

RESPONDENT

## SECOND ORDER TO AMEND NONCOMPLIANT CLAIM

The Copyright Claims Board finds that your claim, as amended, still does not comply with the requirements of the CASE Act and related regulations. The claim cannot move forward unless it is properly amended.

If you wish to proceed with this claim, you must file a second amended claim by **Monday, November 13, 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. There is no additional filing fee for an amended claim. If you file a second amended claim and it is found compliant, you will be notified and directed to proceed with service. However, if your second amended claim also is found not to comply, the Board will dismiss the proceeding without prejudice. 17 U.S.C. § 1506(f)(1)(B); [37 C.F.R. § 224.1\(d\)](#).

To make your second 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 amended 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.

### Infringing Activity

In its original [Order to Amend Noncompliant Claim](#), issued on September 26 (September 26 Order), the Board noted that you did not describe how respondent infringed the exclusive rights in your work. In your amended claim, you have included allegations that the respondent copied and distributed the work, and also facilitated the works' public performance and adaptation. These allegations, however, are implausible. Your central allegation is that respondent "uploaded the seven songs based on the Works to a musical clearinghouse known as BMI, claiming to own the songs." BMI, a performing rights organization, grants licenses to users on behalf of its membership, as opposed to distributing music. *See* BMI Licensing (available at <https://www.bmi.com/licensing>). Further, there does not appear to be an opportunity for rights-holders or others to upload their works. *See* BMI, "How to Register Your Songs Online at BMI.com" (available at <https://www.youtube.com/watch?v=bfzWF7FF0zo>); FAQ, "Does BMI Need a Copy of My Song?" (available at [https://www.bmi.com/faq/category/my\\_music](https://www.bmi.com/faq/category/my_music)) (answering "No. BMI relies on the information you

provide when you register your work and does not need an actual copy of your song. . . BMI does not accept uploads of audio files (.MP3 etc) as part of song registrations.)” Accordingly, it does not appear possible that the respondent engaged in the uploading activity you allege. Your remaining allegations rely on the premise that the works were uploaded to BMI. For example, one implausible allegation is that “the songs based on the Works were then either played/performed to the public on the BMI site and/or sold to a subsequent party who then played the songs publicly. . . .”

The Board notes that, to the extent that your allegations attempt to make a claim that respondent told BMI or other third parties that they owned the works so respondent would get payments from the performing rights organization, this would relate to a copyright ownership dispute. The Board can only hear claims of copyright infringement, noninfringement, or misrepresentation. It cannot resolve pure authorship disputes. [17 U.S.C. 1504\(c\).](#)

As stated in its original noncompliance order, to amend your claim, you must state plausible allegations of copyright infringement.

### **Final Amendment**

Your amended claim resolved some, but not all, of the compliance issues raised in the September 26 Order. **This is your third and final opportunity to submit a compliant claim in this proceeding. If your claim remains noncompliant, the entire proceeding will be dismissed.** 17 U.S.C. § 1506(f)(1)(B).

To submit a second 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](mailto: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