



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0048

United States Copyright Claims Board

47th and 7th LLC, et al

CLAIMANT

v.

Entertainment One, et al

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.

If you wish to proceed with this claim, you must file an amended claim by **October 7, 2022**. If you do not, the Board must dismiss your claim without prejudice, although you may file again in the future before the CCB 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 extra 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.

Copyright Infringement Claim – Legal or Beneficial Ownership

Your claim lists four claimants, but does not provide any facts regarding three of the listed claimants' status as a legal or beneficial owner of the copyrighted work (only Danny Amen Valentine Shabazz appears to be a legal or beneficial owner). 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 for which the claimant seeks damages, if any[.]" 17 U.S.C. § 1504(c)(1).

When the claim was submitted, you certified that 47th and 7th LLC, Tracie Valentine, Danny Amen Valentine Shabazz, and Yvonne Hilton are the legal or beneficial owners of the work identified in the infringement claim. However, the claim only identifies Danny Amen Valentine Shabazz as the author of the allegedly infringed work and does not specify how 47th and 7th LLC, Tracie Valentine, and Yvonne Hilton are the legal or beneficial owners of the work.

Please note that the supplemental documentation includes two Certificates of Registration that are not for the work at issue. A search of Copyright Office records confirmed that a registration was issued to Danny Amen Valentine Shabazz as the author and copyright claimant of "Forever I Love America." These facts are therefore in conflict with your certification about the ownership of the work at issue.

The claim does not indicate how 47th and 7th LLC, Tracie Valentine, and Yvonne Hilton have a basis to bring the claim. To correct this issue, you must add facts to the "Describe the infringement" section of the claim that explain how each claimant either (1) obtained ownership of the exclusive rights allegedly infringed, or (2) is an author or other claimant that was a legal or beneficial owner of the exclusive rights at the time of the infringement.

Copyright Infringement Claim – Respondent Information

Your claim provides conflicting information about the addresses for the respondents. To bring a claim before the Board, the claim must include "the mailing address(es) of the respondent(s)." 37 C.F.R. 222.2(c)(6). Further, the claim form asks for each respondent's telephone number and email address, if known.

Your claim lists the same address, phone number, and email address for all respondents. The phone number listed for all three respondents is the same phone number for Danny Amen Valentine Shabazz. Further, the email address for Sovereign Sweets and BET/Viacom is also the same email address for Danny Amen Valentine Shabazz. Finally, the street address for all three respondents is identical, something that is conceivable but seems implausible. To correct this issue, please include the correct mailing address for each respondent. If you do not have a telephone number or email address for each respondent, please leave those particular fields blank but the address for each must be included.

Copyright Infringement Claim – Clarity

Your claim does not make clear enough factual allegations about the wrongful activities that you accuse each respondent of doing. A claim can be unclear if it does not include enough detail. The allegations in the "Describe the infringement" section of your claim do not clearly describe infringing acts. Although they appear to describe business meetings and a contractual dispute, they do not detail or discuss any copyright infringement or wrongful activity that violates a claimant's exclusive rights. Further, you have listed Sovereign Sweets as a respondent; however, this appears to be because Sovereign Sweets is the location of the alleged business dealings, which is not a basis for liability. If you believe that Sovereign Sweets is liable for copyright infringement, you must allege particular actions Sovereign Sweets

engaged in that constituted infringing activity.

In addition, you appear to have made errors in claiming which rights of yours were allegedly infringed. Your claim alleges copyright infringement of a work registered as a sound recording. You selected two of the six “Wrongful Activities” listed in the dropdown menu on the claim form, alleging that the respondent “publicly display[ed] the work” and “publicly performed the work through digital audio transmission.” The right to publicly display a copyrighted work does not apply to sound recordings. 17 U.S.C. § 106(5). The right to publicly perform a copyrighted work by means of a digital audio transmission does apply to sound recordings. 17 U.S.C. § 106(6). However, the allegations in the “Describe the infringement” field do not describe any digital audio transmission of the recording.

A claim can be unclear if the claimant selects options in the eCCB claim form that the rest of the claim does not support. Think carefully about which options in the claim form actually apply to each specific respondent in your case. Please review the discussion at page 3 of the chapter on [Starting an Infringement Claim](#) in the CCB Handbook and confirm which of those six wrongful activities each respondent engaged in to infringe your copyright.

When you file an amended claim, select only the wrongful activities that apply to the listed respondents, and in the “Describe the infringement” field, you will need to add detailed factual allegations about each wrongful activity that you allege. The amended claim must provide enough information for each respondent to understand what that respondent’s allegedly infringing acts were. Please note that you may remove respondents from the claim if needed.

Misrepresentation Claim – Elements

You are bringing a claim of misrepresentation in connection with a takedown notice or counter-notice under section 512(f). Your claim must make enough factual allegations to support each “element” of the claim. The elements of a misrepresentation claim are that:

1. The respondent sent an online service provider either
 - a. a takedown notice claiming online content or activity was infringing, or
 - b. a counter-notice denying infringement and claiming the online content was removed or disabled due to a mistake or a misidentification.
2. The respondent made a misrepresentation (a false or incorrect statement of fact) in the takedown notice or counter-notice.
3. The respondent knew the misrepresentation was false or incorrect.
4. The misrepresentation was important to the online service provider’s decision to take down or repost the content.
5. The online service provider relied on the misrepresentation.
6. You were harmed as a result.

17 U.S.C. § 512(f). Your claim is not compliant because it does not provide enough information about how the respondent made a misrepresentation in a takedown notice or counter-notice to an online service provider. Your claim does not identify or describe any misrepresentation in connection with an online takedown. Instead, your misrepresentation claim merely responds “Yes” to the question about *who* sent a DMCA (section 512) takedown notice, and “No” to the question about whether a counter-notice was sent. In addition, you responded that two individuals – Connie Orlando and Gennifer Gardner – are the online service providers who received the takedown notices, a proposition which appears to be implausible. Finally, when asked to state the words that made up the misrepresentation and to explain the misrepresentation, your claims simply states, “Impact Atl and Ari in The City,” which does not appear to describe any misrepresentation. These allegations of misrepresentations do not support a claim of liability for misrepresentation under section 512.

Your misrepresentation claim cannot proceed unless you file an amended claim that includes factual allegations that explain in what way the respondent made a misrepresentation in a DMCA takedown notice or counter-notice to an entity that qualifies as an online service provider. More information about the elements required to assert a claim of misrepresentation is available in the [Starting a Misrepresentation Claim](#) chapter of the CCB Handbook.

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.

Supplemental Documentation

It is not clear how the supplemental documents uploaded with your claim support or relate to a copyright claim. When you submit an amended claim, please include only documents that directly pertain or relate to the claim, and provide an explanation of their relevance.

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. If your claim included supplementary documents, you must re-upload any documents you wish to include in the amended claim on the “**Documentation**” page. *Please include only documents that are directly related to your claim.*
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 CCB is unable to provide legal advice. We can only provide legal information and assistance concerning CCB procedures and requirements. You may also refer to the [Compliance Review](#) chapter of the Copyright Claims Board Handbook for more assistance.