



COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0109

United States Copyright Claims Board

Langston M. Childs

CLAIMANT

v.

Kobalt Music Publishing America, Inc

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 **November 16, 2022**. 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 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. 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 present enough facts to support any of the elements of a copyright infringement claim, as discussed further below.

Clarity – 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). Your claim includes confusing allegations about which work is the allegedly infringed work.

The “Works infringed” section of the claim identifies the infringed work as registered by the Copyright Office with Registration Number SRu001232585. The registration certificate filed with the claim identifies the registered work as an unpublished collection of sound recordings entitled “CHARISMA GO HAM Beats” and lists you as both the author and the copyright claimant. You provide a copy of a sound recording with the file name “CHARISMA – shuu.mp3” as a supplemental document, without explaining how it relates to the claim. And in the “Works infringed” section of the claim, which lists an allegedly infringed sound recording entitled “07 LYNCH,” you do not identify yourself as its author. Instead, the claim identifies ALLBLACK Feat. Da Boii (SOB X RBE) as the authors of the allegedly infringed work. This allegation regarding the authors contradicts the information in the registration certificate, and raises legal issues about your status as a legal or beneficial owner of the allegedly infringed work. It appears possible that, in the claim section that calls for you to identify your allegedly *infringed* beat, you may have instead listed the allegedly *infringing* recording that you contend used your beat without a license.

If you submit an amended claim, you need to clarify these issues so that the Board and the respondent can understand them. For each of your works that you allege was infringed, the “Works infringed” section must identify the work and must clarify who the author is. If you are an author of “07 LYNCH,” then you must list yourself as its author in the “Works infringed” section. If you are not an author of that work, then the “Describe the infringement” section of your amended claim must explain the authorship discrepancy with the registration certificate and explain how you are the legal or beneficial owner of the copyrights in those works. Or, if the allegedly infringed work is not “07 LYNCH” but some other work (for example, “CHARISMA – shuu.mp3”), then you must identify the correct work in the “Works infringed” section instead. More information about authorship and ownership is available on page 4 of the [Starting an Infringement Claim](#) chapter of the CCB Handbook.

In the “Works infringed” section, your claim also incorrectly lists the Registration Number from the registration certificate filed with the claim as “SRu0001000232000585.” If you submit an amended claim based on infringement of a work covered by that registration, please enter the Registration Number in the format provided on the registration certificate (SR 1-232-585) or the format used in the Copyright Office’s [Official Public Catalog](#) (SRu001232585). Also, the claim describes the allegedly infringed work as a “Composition,” but your

registration is for a sound recording that only covers the sound recordings deposited with your copyright registration, not any underlying works. If you allege infringement of any underlying works, such as any music or lyrics, you must have had a copyright registration or pending application for registration filed for those underlying works before the August 22, 2022 filing of your claim. 17 U.S.C. § 1505(a).

Clarity – Infringing Activity

Your claim also does not present enough facts to clearly state how the respondent used any of your 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.

Your claim includes allegations that “The artist (Kobalt Music) lacked the necessary authorization to distribute my music,” and that “Artist sold and performed my copyrighted music without a license.” If you submit an amended claim, you must more fully explain how the respondent infringed your allegedly infringed work. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe acts infringing your copyrights, specifying the infringing works and 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.

Access

Your claim also does not provide facts about how the respondent had “access” to your work. “Access” means a reasonable opportunity to view or hear your work. To address this issue, you must file an amended claim with allegations that make access a reasonable possibility, not just hypothetically or theoretically possible. Acceptable allegations of access may include that your work (a) was sent directly to the respondent or a close associate of the respondent; (b) was widely disseminated or was available to the public or respondent; or (c) is so strikingly similar to the respondent’s work that the respondent could not have created it independently.

Substantial Similarity

Your claim also does not include enough facts that explain the similarities between your works and the respondent’s allegedly infringing work. If it is not readily apparent from supplemental materials that are submitted with the claim, you must provide some specific allegations about how your work and the allegedly infringing work are similar.

Your claim states that your work is a sound recording and that the respondent “sold and performed my copyrighted music without a license.” However, you do not provide any detailed information describing or depicting your work, or how it was used in any infringing work. No allegations in the “Describe the infringement” field of the claim describe your work or the allegedly infringing work, or state or show how they are identical or substantially similar, and you do not appear to provide copies of any works at issue as supplemental documents. As a result, the claim does not provide enough information to enable the respondents to understand the claim and respond to it. When you submit an amended claim, it must include allegations that support the element of substantial similarity. To support a claim of infringement of the copyright in a sound recording, you must show or allege that the infringing work duplicated the sounds contained in your sound recording in a form that directly or indirectly recaptured the actual sounds in your recording. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your work were taken by the respondent in an allegedly infringing work, or copies or other documents that are sufficient to show the similarities. If you include copies of the works at issue as supplemental documents, they must be clearly labeled so they can be properly compared to each other.

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 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 Board is unable to provide legal advice. We can only provide legal information and assistance concerning Board procedures and requirements. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.

Copyright Claims Attorney

October 17, 2022