



COPYRIGHT CLAIMS BOARD

Docket number: 23-CCB-0178
June 28, 2023

Rhonda J. Pawnell

CLAIMANT

v.

Sony Music and Universal Music Publishing

RESPONDENTS

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 **July 28, 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.

Clarity – Allegedly Infringed Works

You allege copyright infringement of three works, titled “Work,” “Take A Bow,” and “Once In A Lifetime,” and you identify each work as a sound recording. However, Copyright Office records of your copyright registration for “Once In A Lifetime” identify it as a musical composition, not a sound recording. A copyright registration for a musical composition covers the music and any lyrics embodied in the composition, but it does not extend to a recorded performance of that composition, which requires a sound recording registration. See [Circular 56A: Copyright Registration of Musical Compositions and Sound Recordings](#). The authorship claimed in the work (music and lyrics) and the registration number (PA0001658634) are consistent with a registration for a musical composition rather than a sound recording. If you file an amended claim, please identify the “Once In A Lifetime” as a musical composition in the “Works infringed” section of the claim.

Registration Numbers

The claim must include the registration number of each allegedly infringed work that has been registered. 37 C.F.R. § 222.2(c)(7)(ii)(E). You provided registration numbers for each work. However, Copyright Office records show that the registration numbers you provided for the sound recordings are incomplete. The full registration

number for your registration of “Work” is SRu001531445, and the full registration number for your registration of “Take A Bow” is SRu001532236. If you file an amended claim, please include the full registration number for each allegedly infringed work.

Infringing Activity

Your claim does not present enough facts to clearly state how the respondents 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 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 allegations in the claim do not describe any specific infringing act. You allege that you were “told to upload all of the works that I am an artist or rightsholder of and have never been given a payment for any of the recordings.” You further allege, “I have never been paid by any of the artist for Sony or Universal and they keep taking out of my SoundExchange catalog[,] my BMI and the MLC catalogs.” You further state, “I let all of these artist record all of my material for decades.” However, you do not provide any specifics about any infringing works or infringing activities. You also have not stated allegations identifying any infringing works that either respondent reproduced, distributed, or displayed. These allegations do not offer enough detail about the respondents using your works in a way that would infringe any exclusive rights.

If you submit an amended claim, you must more fully explain how each respondent infringed your allegedly infringed works. To address this issue, your amended claim must include facts in the “Describe the infringement” section that describe acts infringing your copyrights, specifying how each respondent engaged in the infringing activity. You should be as detailed as possible, setting forth what each respondent did in relation to the works you allege were infringed.

Access

Your claim does not provide facts about how the respondents had access to your works. “Access” means a reasonable opportunity to hear your works before the alleged infringement took place. Your claim does not state allegations about where or how your works were available before the alleged infringement so that the respondents had an opportunity to hear them.

You allege generally, “I was told to upload all of the works,” but it is not clear who told you to upload the works, for what purpose, or where, or if you are describing uploading the works themselves or a list identifying allegedly infringed works. Moreover, you do not allege that you actually uploaded any works, or where you uploaded them. You allege, “I have a Songfile on the Harry Fox Agency website since 1984 with songs under my name where artist would have to know that they are using my songs,” but again, it is not clear whether you are

describing a website where copies of the allegedly infringed sound recordings were publicly available or distributed, or instead a website listing the names of the works. You further allege, “I let all of these artist record and perform all of my material for decades, without specifically identifying any musician who has recorded or performed any of the allegedly works.” You also have not stated allegations identifying how either respondent (rather than unidentified musical artists) had access to your works before any alleged infringement took place.

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 works (a) were sent directly to the respondents or a close associate of the respondents; (b) were widely disseminated or were available to the public or respondents; or (c) are so strikingly similar to the respondents’ works that they could not have been created independently.

Substantial Similarity

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

You describe your allegedly infringed works as sound recordings, but you have not shown or described the content of the recordings. You also have not identified or described any allegedly infringing works. No allegations describe your works or the allegedly infringing works, or state or show how they are identical or substantially similar. In addition, you have not provided copies of your works or the allegedly infringed works 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.

If you submit an amended claim, it must include factual allegations that support the element of substantial similarity. Please provide more details and background regarding this element in your amended claim, including a clear, detailed statement regarding which portions of your works were taken by the respondents in the allegedly infringing works (which you must specifically identify), or documents that are sufficient to show the similarities. If you include copies of the works at issue as supplemental documents in an amended claim, they must be clearly labeled and identified 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 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