



# COPYRIGHT CLAIMS BOARD

Docket number: 22-CCB-0213

## United States Copyright Claims Board

Ratiage J. Smith

CLAIMANT

*v.*

Ratiage / Three Arts & All Entertainment

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 **December 9, 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 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.

#### Respondent Information

In the claim form, you included your first name as part of the respondent's name without explaining why that is appropriate. You may not bring a claim against yourself. If you file an amended claim against "Ratiage/Three Arts & All Entertainment," it must include enough facts to clarify the relationship between yourself and the respondent.

Your claim also contains the same address and phone number for the claimant and the respondent, which does not seem possible. To the extent any of the claimant and respondent information is the same, your claim does not provide enough clarity about your relationship with the respondent to explain why this is the case. If the allegations in your claim about the parties' contact information are inaccurate, your amended claim must provide the correct name and contact information for both parties. [37 C.F.R. §§ 222.2\(c\)\(2\)-\(6\)](#).

#### Permissible Claims

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 the claimant's activity is not infringement; and
3. claims about misrepresentations in connection with a takedown notice or counter-notice under 17 U.S.C. § 512(f).

17 U.S.C. §§ 1504(c)(1)-(3). You submitted a claim asserting all three types of claims. However, as discussed below, the allegations you state do not support any claim that the Board may hear. Please review [Circular 1: Copyright Basics](#) and the [Introduction](#) chapter in the CCB Handbook for more information about copyright and the kinds of disputes that the Board can hear. You should only file an amended claim if you can state facts to support a claim under copyright law that can be heard by the Board. For more information about what is required to support a claim of infringement, noninfringement, or misrepresentation please refer to the CCB Handbook:

- [Starting an Infringement Claim](#)
- [Starting a Noninfringement Claim](#)
- [Starting a Misrepresentation Claim](#)

#### Copyright Infringement Claim – Registration

Your copyright infringement claim alleges the infringement of six musical works. The Board can only hear a copyright infringement claim if, before the claim was filed, (1) the Copyright Office issued a registration certificate for each copyrighted work or (2) the legal or beneficial owner of the copyright applied to register the copyrights by delivering a completed application, deposit, and fee to the Copyright Office for each work, and the Copyright Office has not refused the application. 17 U.S.C. § 1505(a).

The "Works infringed" section of your claim states that the Copyright Office has not registered the allegedly infringed works. For each work, you list a service request number for a supposedly pending Copyright Office registration application. However, a search of Copyright Office records does not reveal any registration applications with the service request numbers that you provide, or any pending registration

applications under your name. To address this issue, if you file an amended claim, please include valid registration numbers for the allegedly infringed works or valid service request numbers for applications to register the works.

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 22, 2022. If your work was neither registered nor subject to a pending application at that time, this infringement claim cannot be successfully amended and cannot proceed. Instead, you would need to apply to register the copyright for the allegedly infringed works before you could refile your claim as a new claim. For more information on registration, please refer to the Copyright Office [Registration Portal](#).

### Noninfringement Claim – Clarity

A claim for a declaration of noninfringement asks the Board to find that your actions do not amount to an infringement of the respondent's copyrighted work. 17 U.S.C. § 1504(c)(2). If someone has accused you of infringing their copyright, a noninfringement claim requests an official declaration that you did not infringe. The claim must identify the party that accused you of infringement and must describe your allegedly infringing activity, the reasons why you believe no infringement occurred, and the reasons why you believe there is an actual controversy about the requested declaration. [37 C.F.R. §§ 222.2\(c\)\(8\)\(i\) & \(iii\)-\(v\)](#).

Your noninfringement claim does not clearly state facts that meet those requirements. You identify the party accusing you of infringement as "Digital," which is not the named respondent. Your description of the allegedly infringing activity is: "all digital arts & creation have been used with no trace back to my official office business names & royalties." Your statement of reasons why you believe no infringement occurred is: "all electronics resources through all acts filing name." Your description of why you believe the issue of noninfringement is in controversy is only: "all acts fair act." Those allegations are neither clear, specific, nor sufficient to support a claim for noninfringement.

If you keep your noninfringement claim if you file an amended claim, it must specifically describe an actual dispute between you and the respondent over whether your activities infringed the respondent's copyright, and why you believe that you did not infringe. You must provide enough information in your claim for the respondent to understand the claim and respond to it.

### Misrepresentation Claim – Insufficiency

A claim of misrepresentation under 17 U.S.C. § 512(f) 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, and
6. You were harmed as a result.

17 U.S.C. § 512(f). Your misrepresentation claim does not assert that anyone made a misrepresentation in a takedown notice or counter-notice to an online service provider. Instead, you allege that no one sent a takedown notice, no online service provider received a takedown notice, and no counter-notice was sent. In the section of the claim form that asks you to provide the words of the misrepresentation and explain why it was false, you stated only: "all works and distribute with."

Your allegations are not sufficient to state a misrepresentation claim. If you submit an amended claim that includes a misrepresentation claim, you must state facts in support of each element of the claim, including allegations that describe a false or incorrect statement of fact by the respondent in a takedown notice or counter-notice to an online service provider that would violate section 512(f), and indicating what words were false or incorrect, and how they were false or incorrect.

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 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](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. You may also refer to the [Compliance Review](#) chapter of the CCB Handbook for more assistance.