

Copyright Law in 2021: The Copyright Claims Board and What it Will Mean

By Daniel J. Cameron for Your Virtual Advocate

What is the Copyright Claims Board?

A new law creates the Copyright Claims Board (CCB), a voluntary three-person claims court with officers who will serve six-year terms. The U.S. Library of Congress appointed it, and it will exist as part of the U.S. Copyright Office.

Until now, federal courts had exclusive jurisdiction over copyright disputes. The reason for this new board is to grant access to justice for copyright holders outside the expense of federal court. It means to make the copyright litigation process streamlined, safer, and less costly. The CCB will provide tools to settle copyright claims outside expensive federal litigation.

In December 2020, The US Senate and House of Representatives passed the bipartisan bill to create the CCB, which will take effect 12/27/21. However, [initial written claims may be submitted by 10/29/21](#), according to the Daily Journal of the United States Government. The bill includes an alternative to taking copyright infringement claims to federal court in the Copyright Alternative as part of the Small Claims Enforcement (CASE) Act.

[According to the University of Illinois at Chicago](#), copyright infringement is the illegal use of [works](#) protected by [copyright](#) law without permission for such usage. It differs from plagiarism in that plagiarism means you are presenting others' ideas or works as your own without giving credit. Plagiarism is not illegal in most cases.

How Will the Copyright Claims Board Work?

The CCB will be an opt-out system where claimants have 60 days to opt out and have their case heard by a federal court. If claimants choose to opt out, the opposing party may bring a federal lawsuit against them, anyway. The opt-out provision preserves the rights of parties to pursue claims in the federal forum.

Types of claims that *can* be brought before the CCB

- Infringement claims
- Declarations of non-infringement
- DMCA 512(f) misrepresentation claims
- Defenses and counterclaims

Types of claims that *cannot* be brought before the CCB

- Non-permissible claims
- Adjudicated claims
- Claims involving the government as a party
- Claims against non-US residents
- Claims against providers complying with the Digital Millennium Copyright Act.

The officers of the CCB will be licensed attorneys with experience on both sides of copyright law for the two types of claimants—copyright owners and copyright users. Claimants may choose to represent themselves or have an attorney present, and statutory damages [may not exceed](#) \$15,000 per claim or \$30,000 aggregate per case.

The CCB will be mostly paperless, with limited discovery. This lack of paperwork should streamline the process, making it easier for copyright owners and users to enforce their rights than with the federal system, which was previously the only option.

The CCB will be limited in terms of appeals, which will be left up to the Office of Copyright Records or a federal court to review. Additional provisions to reduce the possibility of abusing the board include [attorney's fees up to \\$5,000](#).

Another benefit of the CCB includes capped or limited monetary damages, more than in the current federal court-only system. Also, limited motion practice, when a lean but opposed action is taken to court), expedited registration, and significantly less financial and time costs.

Why is the Copyright Claims Board Needed?

Copyright infringement claims can devastate the small business owner because it steals their profits directly. However, it is difficult in today's world to claim innocent infringement, partially because of the federal courts being the only option available currently.

Before the CCB and the CASE Act, copyright laws were practically unenforceable by copyright holders, particularly smaller ones, who often cannot protect their claims in a federal court due to high cost.

The full scope and processes of the CCB are yet to be determined. However, website content is ripe for infringement claims since the internet offers easy access to material that could be used without permission.

With this in mind, while the CCB gets itself in order, now is the time for content review—social media, websites, anywhere you host content. How confident are you you're not using anyone else's content on the web?

Prepare for the Copyright Clearance Board (CCB): Do A Quick Check of Your Online Content

- Make sure everything you have published on the web complies with all laws.
- Use a plagiarism detector to scan your work against the internet.
- Replace any content you can't determine the origin of or its legitimacy.
- Review content and web contracts for warranties, licenses, and content ownership created for you or terms of any license you use from a stock photo site.
- Make sure you are using the appropriate license for your creation.
- Remove anything unauthorized or authored elsewhere.
- If you want to use content that is not your own, contact the creator for permission.

Social Posts for LinkedIn, Instagram, & Facebook

1. With a copyright infringement lawsuit, the cost of a federal lawsuit might be higher than any money you could be awarded or ordered to pay. Use the Copyright Claims Board as an alternative to save significantly. Find out how [here](#).

2. Don't abuse the Copyright Claims Board after it rolls out next month. It protects everyone, not just copyright holders. Fees of up to \$5,000 may be brought against you if you misuse it. Let's all work together to fight against copyright infringement instead. Find out [how you can help](#).

3. The Copyright Claims Board allows small business owners to quickly bring their claims to action by sidestepping costly federal courts. Find out [how it's planning on doing that](#) now.

4. "How to Bring a Case Before the Copyright Claims Board" is our next blog. Hint—A claim must include a statement of material facts that support the claim. Click [here](#) to have it emailed to you when it comes out.

5. Our latest blog has all you need to know about the brand new Copyright Claims Board (CCB) and the Small Claims Enforcement (CASE) Act that they created it from. Get up to speed with [all the facts](#).

6. The innovative Copyright Claims Board starts operating in December 2021. It will make bringing copyright infringement claims far more streamlined and cost-effective than by going through federal channels. Find out what that means for you by reading it [here](#).

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