



Small Claims Copyright Litigation

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CASE Act and the CCB (1/2)

- In 2020, Congress passed the Copyright Alternative in Small-Claims Enforcement Act of 2020 (the “CASE Act”). It established a small claims court for copyright infringement claims called the Copyright Claims Board (CCB).
- A plaintiff can use the CCB to pursue claims for a maximum of \$15,000 in damages per infringement, with a total ceiling of \$30,000 for the litigation. Injunctions are not available.
- A would-be defendant can bring what is essentially a DJ (declaratory judgment) action in the CCB to get a declaration of non-infringement.

CASE Act and the CCB (2/2)

- The CCB is voluntary. The CASE Act doesn't take away a claimant's option of filing an action in federal district court. And a defendant has 60 days after being served to serve an opt-out notice. That dismisses the CCB case on a non-prejudicial basis.
- There's a way for libraries and archives to preemptively opt-out of all CCB proceedings.
- In March 2022, the Copyright Office issued final procedural rules: <https://www.govinfo.gov/content/pkg/FR-2022-03-25/pdf/2022-06264.pdf>.
- Lots of questions are unanswered as of now. Is the CASE Act unconstitutional—violating Article III? We'll have to see.