



Legal Affairs Committee Alert: CASE Act on Copyright Small Claims Becomes Law

Against all expectations, [the CASE Act](#) (Copyright Alternative in Small-Claims Enforcement Act of 2019) has become law, after being folded into the omnibus spending and COVID-19 relief bill at the end of 2020. This new law creates a small-claims tribunal within the U.S. Copyright Office to settle claims of copyright infringement outside of the federal court system. It will apply to claims of up to \$30,000. Participating in the tribunal should allow many people to pursue a copyright violation claim more easily, as it can be done at a much lower expense through a small-claims tribunal rather than a federal court.

The Copyright Office will set up the tribunal and determine many details governing its use that were not made explicit in the bill. The bill's passage is good news in general for creators, but it is not a panacea for pursuing copyright infringement claims. Indeed, for most SFWA members, it will likely be of little use, no matter what procedures the Office establishes. That's because the copyright infringer must voluntarily participate in the process after being notified of the claim. If the infringer is anonymous or difficult to trace, it may be impossible to serve notice of the claim at all. It also only applies to infringers located in the USA, which means it can't be used to counteract the vast number of overseas pirating websites.

The tribunal will primarily be used in cases in which the rights holder and the infringer both see the benefit of a relatively low-cost method of resolving their dispute. In some cases, a credible threat of escalating the case to federal court may persuade the infringer to participate in the lower cost tribunal. However, it will still not be cheap. Aside from the fee for initiating a claim, whose amount has yet to be set, consulting with a lawyer to present a compelling case will still be necessary, or at least highly advisable. Several groups are looking at arranging lower cost or pro bono legal advice for these cases, and the law does include an option for law students and student legal clinics to act as representatives.

Some advocacy groups have taken the view that the tribunal will be easily abused by "copyright trolls," who might use it to fleece grandmothers who post memes, for example. But many facets of the law are specifically written to prevent and punish such behavior. And, as indicated previously, no one will be forced to participate in the small-claims process. But vigilance to avoid such abuses should be taken.

SFWA's Legal Affairs Committee intends to participate, along with other Authors Coalition groups, in the Copyright Office's development of procedures and other details for the small-claims tribunal. We

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expect to update SFWA members on that progress as the Copyright
Office develops and implements them.

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