

NIESAR & VESTAL LLP

## Law Alert

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### The New Copyright Small Claims Court Has Now Opened Its Doors

Under the Small-Claims Enforcement Act, known as the “CASE Act” the Copyright Claims Board (the “CCB”) will now accept complaints from petitioners seeking damages for copyright infringement. The CCB is authorized to award damages of up to \$30,000. The key features of a CCB procedure are as follows:

- **CCB proceedings are streamlined and conducted online.** CCB proceedings involve far less money and time than federal court lawsuits. The filing fees for a complaint are \$100.00. Participants in CCB proceedings are only required to provide limited basic documents and information, as opposed to the more complicated and costly process of exchanging evidence and conducting formal discovery in federal lawsuits. CCB proceedings do not include the formal motions required in federal court, and any hearings are held remotely through video conferences.
- **Participation is voluntary.** Both claimants (those who file claims with the CCB) and respondents (those against whom a claim is brought) can decide whether or not to participate in CCB proceedings. No one is required to argue a dispute before the CCB; a party with a copyright claim may choose to go to federal court instead, and a respondent may opt out of a CCB proceeding.
- **Copyright Registration is not required.** Unlike Federal copyright litigation, a copyright registration is not a prerequisite to beginning a proceeding before the CCB. Claims can be filed on the basis of a pending copyright application. If the Copyright Office later rejects the registration application, then the CCB will dismiss the claimant’s action without prejudice.
- **No Injunctive Relief.** The CCB cannot issue an order (called an “injunction” in federal court) requiring an infringer to stop engaging in further wrongful activities. It can, however, include in its determination a requirement that a party stop or modify certain activities if that party has voluntarily agreed to do so. However, even if such party does not agree to do so, the Board may consider, as an additional factor in awarding statutory damages, whether the infringer has agreed to cease or mitigate its infringing activity.

With respect to representing a potential plaintiff in a copyright dispute, a CCB proceeding may be a useful tool if combined with a cease-and-desist letter to an infringer. We expect that copyright trolls may also utilize this procedure as a means of attempting to put pressure on potential respondents.

If you have any questions regarding the above-mentioned law or CCB proceeding, please contact Jay Begler ([jbegler@nvlawllp.com](mailto:jbegler@nvlawllp.com)) or Oscar Escobar ([oescobar@nvlawllp.com](mailto:oescobar@nvlawllp.com)).

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