



The Register of Copyrights of the United States of America

United States Copyright Office · 101 Independence Avenue SE · Washington, DC 20559-6000 · (202) 707-8350

November 30, 2021

The Honorable Kamala D. Harris
Vice President of the United States
President of the Senate
S-212, Capitol Building
Washington, DC 20510

Dear Madam President:

Pursuant to section 212(d) of the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020, I am writing to provide an update on the Copyright Office's progress in establishing the new Copyright Claims Board (CCB), and to advise you that, for the reasons set forth below, I have concluded that there is good cause to extend the deadline to commence operations.

As you know, the CASE Act was enacted to enable parties to avoid the high costs of litigating copyright claims of low economic value in federal court. The statute directs the Office to establish the CCB as a voluntary alternative forum that is streamlined, cost-effective, and accessible for individuals regardless of whether they can afford legal representation. Section 212(d) of the CASE Act states that the CCB shall begin operations within one year of enactment, but provides that the "Register of Copyrights may, for good cause, extend [that] deadline . . . by not more than 180 days if the Register of Copyrights provides notice of the extension to the public and to Congress." Since the CASE Act was signed into law on December 27, 2020, the Copyright Office has dedicated substantial resources to setting up the CCB. This work has included hiring and onboarding personnel, promulgating regulations, developing the necessary technological infrastructure, and preparing physical space and public-facing materials. I am pleased to report that implementation in each of these areas will be substantially completed by the initial statutory deadline of December 27, 2021. We will, however, require some additional time to give members of the public sufficient opportunity to comment on the proposed regulations, as well as to ensure that all technological systems are fully available to the public and working as intended when operations commence.

Staffing for the CCB should be in place by the end of December. The Office has hired and brought on board all three Copyright Claims Officers who will comprise the CCB: David Carson, Monica P. McCabe, and Brad Newberg. Together, they have extensive experience in copyright law, litigation, and alternative dispute resolution. In addition, we have nearly completed hiring for each of the additional five staff positions provided under the statute.

Regarding the CASE Act's implementing regulations, the Office will have published for public comment all of the proposed rules governing the CCB's operations by December 27. To date, the Office has published a notification of inquiry, a final rule, and two notices of proposed rulemaking (NPRMs) addressing issues ranging from requirements for initiating a proceeding to opt-out procedures for libraries and archives. Additional NPRMs addressing CCB procedural practices and law student representation will be published in December. These rulemakings have attracted significant interest from stakeholders.

For example, we received 1,432 comments in response to the NPRM on opt-out procedures for libraries and archives. We also have, however, received several requests to extend the time periods for submission of comments. In response, given the number of rulemakings and the importance of developing a comprehensive public record, the Office has adopted a series of staggered comment deadlines. The Office anticipates that all final rules in these proceedings will be published by early spring 2022.

The CCB's technology requirements are also being met. The Office has worked closely with an outside vendor and the Library of Congress's Office of the Chief Information Officer to put in place the technology necessary to fulfill the requirements of the CASE Act. This includes an electronic case management system; online resources for the public, including a designated service agent directory and a list of libraries and archives that have opted out of CCB proceedings; and online applications and other telecommunications facilities needed to conduct remote hearings and conferences. The service agent directory and the libraries and archives opt-out form are projected to be tested and ready for use by the end of December. For the electronic case management system, we have worked with the outside vendor to prioritize development of aspects of the system that must be in place before the CCB commences operations. Development of this phase is nearly complete, with testing expected to occur in December and over the first several weeks of 2022.

Finally, the Office has made substantial progress on preparing office space and public-facing materials for the CCB. Working with the Library, we have identified and outfitted physical space for the CCB and its staff. The CCB currently is utilizing temporary space while the Architect of the Capitol constructs new permanent offices and a hearing room. In addition, the Office has established a unique webpage for the CCB and developed and posted a variety of educational materials. We are currently drafting multiple forms to simplify CCB proceedings for participants, as well as a handbook to provide guidance in plain English on CCB practices and procedures.

Based on the foregoing, there is good cause to extend the date for the commencement of CCB operations. Doing so will allow us to ensure that the regulatory framework, resources, and infrastructure needed to establish a well-functioning forum are fully tested and can operate smoothly. Given the considerable progress we have made to date, I am confident that the CCB will commence operations well before the completion of the additional 180-day period permitted by the statute.

Thank you for your attention to this matter. If my staff and I may be of further assistance, please do not hesitate to contact me.

Sincerely,



Shira Perlmutter
Register of Copyrights and
Director, United States Copyright Office