

Santa Clara University

Introduction to the Copyright Claims Board

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CCB.gov
Copyright Claims Board

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The Copyright Claims Board (CCB)

is available to resolve copyright disputes of a relatively low economic value as an efficient, less expensive alternative to federal court.

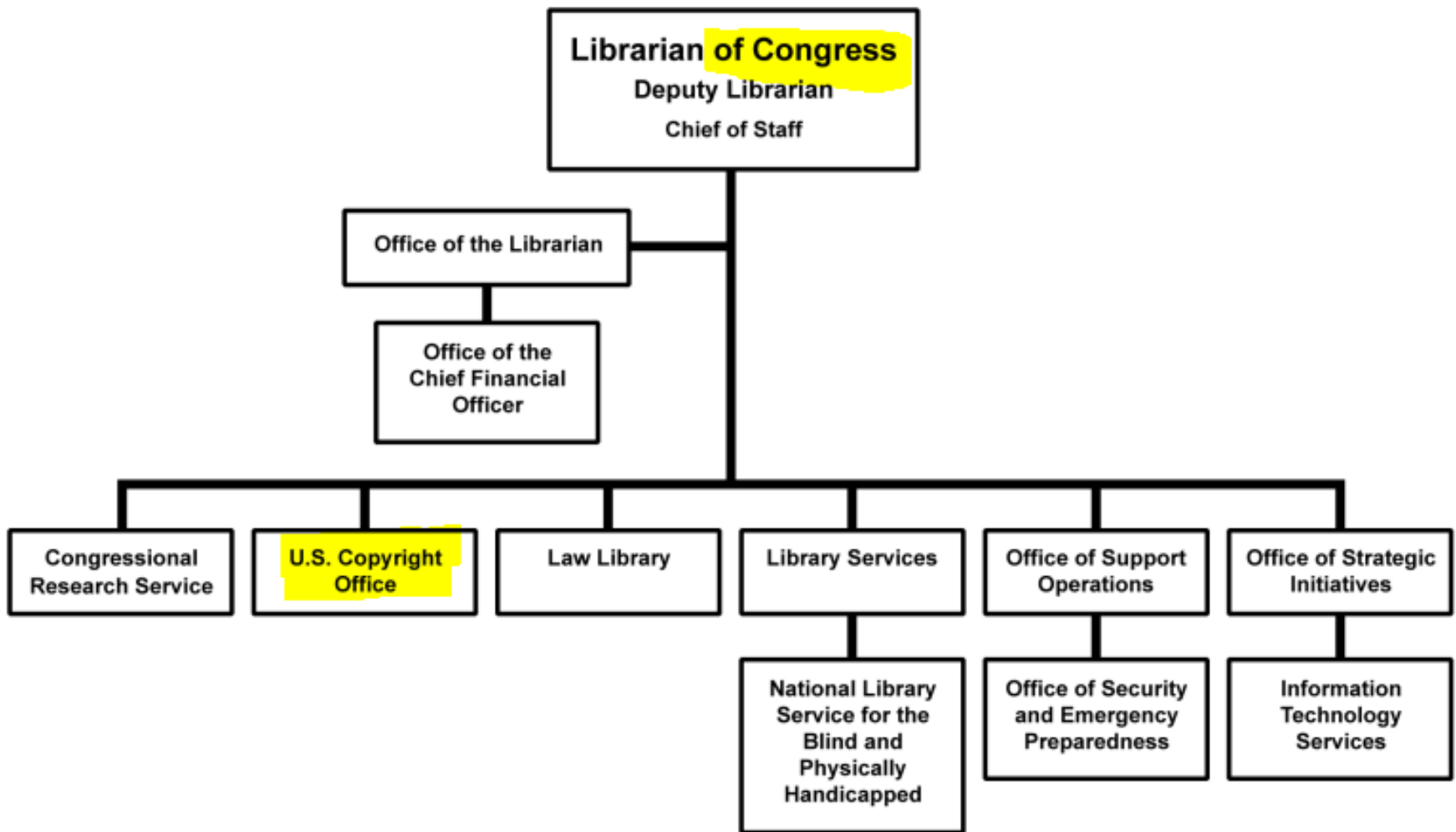
[eCCB – Electronic Filing and Case Management System](#)[Start or Access a Claim](#)[Respond or Opt Out](#)[Copyright Claims Board Handbook](#)[FAQs](#)

Background

- **Access to Justice (1): small claims courts generally**
- **Access to Justice (2): copyright small claims**
 - Must be in federal court
 - \$15k median attorneys' fees to get to initial case management [source: AIPLA 2021 Report of the Economic Survey 1-210]
 - (But 17 USC 505)
- **Response: the CASE Act**
 - Grafted into omnibus spending/COVID bill in December 2020

Key Design Features

- **Limited scope: only infringement/noninfringement & 512(f) claims**
- **Limited volume**
 - Plaintiffs (including corporate parents/subs/affiliates): 30 cases/12 months
 - Solo lawyer: 40 cases/12 months
 - Law firm: 80 cases/12 months
 - Defendant opt-outs count towards the cap
- **Limited discovery**
- **Limited remedies**
 - No equitable relief
 - Maximum of \$15k/timely registered work & \$30k per proceeding
 - Maximum of \$7.5k/untimely registered work & \$15k per proceeding
 - Attorneys' fees available only for bad-faith litigation conduct
 - More expedited procedures if plaintiff limits damages claim to \$5k ("smaller claims")
- **Limited appeals**
 - Reconsideration: "clear error"
 - Register of Copyrights: "abuse of discretion"
 - Federal court: "exceeded authority"
- **Plaintiff-friendly features**
 - Copyright registration not required pre-filing + possible statutory damages for untimely registered works
 - \$40 to file + \$60 more if no opt-out
- **Defense-friendly features**
 - Complaints prescreened before service is authorized
 - Defendants can opt-out



Which venue should plaintiffs choose?

Reasons to Pick CCB	Reasons to Pick Federal Court
Low cost	Possibility of more damages
Quick (?)	Possibility of attorney fee-shift
Limits on appeals	Equitable relief
If the plaintiff is pro se (?)	Want to bring non-copyright claims
When statutory damages aren't available in federal court and \$7.5k > actual damages	Want more control over venue
If SOL expires before a registration can be obtained	Foreign defendants need service

Early Statistics (1) (as of 10/1/22)

- **Number of cases: 183**
 - Projected annual run rate = 600+
- **Number of closed cases: 18 after 107 days**
 - Opt-out: 5 [NB: there have been opt-outs in other cases]
 - Withdrawn: 6
 - Procedural defects: 7

Early Statistics (2) (as of 7/16/22)

- **19% of claims are “smaller” claims**
- **Types of works at issue:**
 - Photos: 40%
 - Music: 21%
 - Artwork: 17%
 - Movies: 12%
 - Literary: 8%
 - Other: 4%

Some Open Questions

- **Is the CCB Constitutional?**
- **Is the cap on attorney filings Constitutional?**
- **Will law schools offer student CCB representation?**
- **Will plaintiffs refile in federal court if defendants opt-out?**
- **Will plaintiffs get better outcomes in CCB than federal court?**
 - If yes, more filings but more opt-outs
 - If no, what's the point of CCB?
- **What is the true demand for a copyright small claims court?**
- **Will there be a patent small claims court?**
- **Do we want more IP enforcement?**