

4th Annual HBCU Tech Law Summit

&

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Session B: CASE Act Implementation



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Terrica Carrington

Terrica Carrington is VP, Legal Policy and Copyright Counsel at the Copyright Alliance. Since joining the Copyright Alliance in 2016, she has advocated before Congress, the U.S. Copyright Office, and other federal agencies on a number of legal and policy issues, including the Copyright Alternative in Small-Claims Enforcement Act (CASE Act), Copyright Office modernization, the Digital Millennium Copyright Act (DMCA), and other copyright-related matters. In 2020, she testified before the House Judiciary Committee on the efficacy of Section 512 of the Copyright Act after two decades. In addition, Terrica spearheads the Copyright Alliance's efforts to increase diversity and inclusion in the copyright arena, and coordinates the legal fellowship and internship programs.

Terrica is also an adjunct professor at George Mason University School of Law, where she assists as a Supervising Attorney with the Arts & Entertainment Advocacy Clinic. She volunteers with the Washington Area Lawyers for the Arts, and is an active member of the Copyright Society of the USA, serving on its Board of Trustees and its Diversity and Inclusion Committee. She was awarded the 2021 G. Hamilton Loeb Award for Pro Bono Excellence in recognition of her service to the DC Metropolitan Creative Community. In addition, Terrica is a Practitioner in Residence at the Center for Intellectual Property x Innovation Policy (C-IP²). Her previous experience includes various positions with National Geographic, the Center for the Protection of Intellectual Property, the Association of Corporate Counsel, America's Public Television Stations, and WYZ Girl Entertainment Consulting.

She earned her J.D. with a concentration in intellectual property law from George Mason University School of Law, and her B.A. from the University of North Carolina at Chapel Hill. She is admitted to practice law in Virginia and Washington, DC.

Maya Burchette

Maya Burchette is a Copyright Claims Attorney at the Copyright Office, where she is currently assisting in implementing the Copyright Alternative in Small-Claims Enforcement ("CASE") Act of 2020. She joins the Copyright Claims Board after spending three years as a Copyright Examiner in the Visual Arts Department. Prior to joining the Copyright Office in 2018, Maya worked as an associate at a boutique law firm in Washington, DC.

She earned her JD from Tulane University School of Law and her BS from Howard University. In her free time, Maya enjoys roller skating and making homemade pasta.

CLE Material Links

1. <https://www.copyright.gov/title17/chapter15.pdf>
2. <https://copyrightalliance.org/wp-content/uploads/2021/04/CA-CASE-Act-Regulations-Comments-FINAL.pdf>
3. <https://copyrightalliance.org/wp-content/uploads/2021/05/CA-CASE-Implementation-REPLY-Comments-FINAL.pdf>
4. <https://copyrightalliance.org/wp-content/uploads/2021/05/Copyright-Alliance-NPRM-CASE-Comments-FINAL.pdf>
5. <https://copyrightalliance.org/wp-content/uploads/2021/10/CA-CASE-NPRM-2021-4-COMMENTS-FINAL.pdf>
6. <https://copyrightalliance.org/wp-content/uploads/2021/11/CA-Comments-Initiation-of-Proceedings-2021-6-FINAL.pdf>
7. <https://copyrightalliance.org/wp-content/uploads/2021/12/CA-Reply-Comments-Initiation-of-Proceedings-2021-6-FINAL.pdf>
8. <https://copyrightalliance.org/wp-content/uploads/2022/02/Copyright-Alliance-Comments-CASE-Act-Law-Student-and-Business-Entities-Representations.pdf>
9. <https://copyrightalliance.org/wp-content/uploads/2022/02/CA-Active-Proceedings-Comments-FINAL.pdf>
10. <https://copyrightalliance.org/wp-content/uploads/2022/02/Copyright-Alliance-Reply-Comments-CASE-Act-Law-Student-and-Business-Entities-Representations.pdf>
11. <https://copyrightalliance.org/wp-content/uploads/2022/02/CA-Reply-Comments-Active-Proceedings-FINAL.pdf>



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The CASE Act



WHO I AM



Terrica Carrington
VP, Legal Policy &
Copyright Counsel



WHO WE ARE



The Copyright Alliance is the unified voice of the copyright community, representing the interests of thousands of individuals and organizations across the spectrum of copyright disciplines.



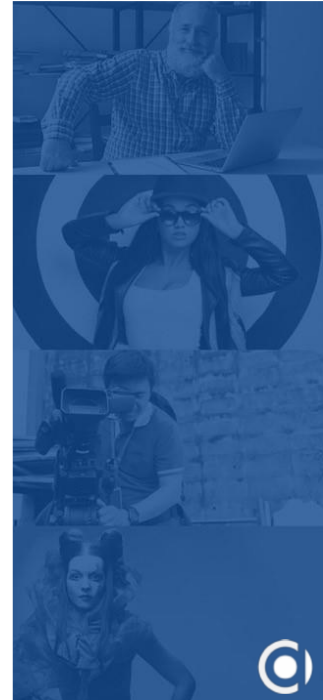
The CASE Act

Copyright Alternative in Small Claims
Enforcement Act of 2019
(H.R. 2426 and S.1273)



The Need For a Small Claims Court

- Federal courts have exclusive jurisdiction over copyright claims
- Federal court is too expensive for most creators
- Access to justice issue



OVERVIEW

The CASE Act establishes a small claims tribunal in the U.S. Copyright Office...

- As a voluntary alternative to federal court
- For certain copyright claims
- With a cap on damages



SUPPORT FOR THE BILL

- Bi-partisan support in both chambers
- Diversity of organizations supporting the bill:
 - AFL-CIO
 - American Bar Association
 - American Conservative Union
 - American Intellectual Property Law Association
 - Institute for Intellectual Property and Social Justice
 - NAACP
 - U.S. Chamber of Commerce
 - + Organizations representing all kinds of creators



OVERVIEW

- ***signed into law on December 27, 2020***
- ***goes into effect between December 2021 (earliest) and June 2022***



BACKGROUND

- **2011:** USCO begins 2-year study on the need for copyright small claims remedies, at the request of the HJC Chairman Lamar Smith
- **2013:** USCO publishes comprehensive report recommending a voluntary small claims process administered by the Office
- **2016:** First iteration of the CASE Act (H.R. 5757) introduced by Rep. Jeffries
- **2018:** House Judiciary Committee holds hearing on CASE Act (H.R. 3945)



BACKGROUND

2019:

- **May:** CASE Act introduced in both chambers (H.R. 2426 and S.1273)
- **July:** S.1273 passes out of Senate Judiciary Committee
- **September:**
 - H.R. 2426 passes out of House Judiciary Committee
 - S.1273 hotlined, Sens. Wyden and Paul place holds on bill
- **October:**
 - H.R. 2426 passes in the House, 4106
 - Sen. Paul lifts hold on S. 1273



BACKGROUND

2020:

- **January – December:** Senator Wyden maintains hold on bill
- **December:** Congressional leaders include CASE Act in yearend spending bill
- **December 27:** CASE Act signed into law



BACKGROUND

2021:

- **Copyright Claims Officers Hired**
- **Copyright Claims Attorneys Hired**
- **Rulemaking Process Began**
 - **Notification of Inquiry on CASE Act Regulations**(comment period closed May 10, 2021)
 - **Expedited Registration and FOIA**(Final Rule published August 18, 2021)
 - **Small Claims Procedures for Library and Archives OptOuts and Class Actions** (comment period closed October 4, 2021)
 - **Copyright Claims Board: Initiation of Proceedings and Related Procedures** (comment period closed on December 15, 2021)



BACKGROUND

2022:

- **Rulemaking Process Began**
 - **Copyright Claims Board: Active Proceedings and Evidence** (Initial comment period closes February 7, 2022; reply comment period closes February 22, 2022))
 - **Copyright Claims Board: Representation by Law Students and of Business Entities** (Initial comment period closes February 3, 2022; reply comment period closes February 18, 2022)
- **CCB Doors Open By June 25, 2022**



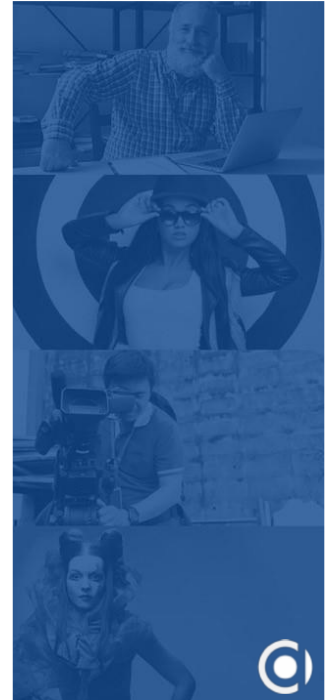
KEY COMPONENTS

- Voluntary
- Simplified and streamlined
- No travel required
- Attorneys not necessary
- Pro bono assistance by law school clinics permitted
- Statutory damages limited to \$15,000 per claim
(compared to \$150k in federal court), and no more than \$30,000 total damages per case (compared to no limit in federal court)



PERMISSIBLE CLAIMS

- Copyright infringement
- Declaration of non -infringement
- DMCA 512(f) misrepresentation claims



SAFEGUARDS

- Voluntary
- Notice requirements mirror FRCP, plus additional notice from USCO
- Penalties for bad faith claims/actors
- USCO can limit number of claims that can be brought





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ARTICLE

Copyright Alternative in Small-Claims Enforcement (CASE) Act



The CASE Act proposes an alternative small claims tribunal for copyright infringement claims. For those that lack the resources to engage in expensive and lengthy copyright litigation, this Act will provide an alternative means to protect their rights in court. Last month the bill passed in the House and is now awaiting vote in the Senate. Read a summary and the full text of the bill [here](#).

Professor Lateef Mtima recently wrote an op-ed on the impact of the CASE Act. “The Copyright Alternative in Small-Claims Enforcement Act would change this inequitable status quo by providing middle- and working-class artists with a real ability to protect themselves and their creations. It creates an optional tribunal with jurisdiction over civil copyright disputes carefully designed to fill the gap created by the lack of access in our current system.” Read [more](#).

Earlier this year, IIP SJ sent a letter to Congress supporting passage of the CASE Act. In the letter we explain that the CASE Act addresses a critical problem in the copyright ecosystem- the practical inability of many individual and small business copyright owners to seek legal redress for copyright infringement. With the advent of digital information technology and the Internet, many marginalized artists, scholars, activists, and entrepreneurs enjoy unprecedented opportunities for self-expression and socio-economic empowerment. Passage of the CASE Act will help to ensure that these and other creators who embrace these opportunities to contribute to our nation’s cultural storehouse will also enjoy the legal protections and pecuniary rewards that Congress intended to include among the fruits of their expressive labors. Read more [here](#).