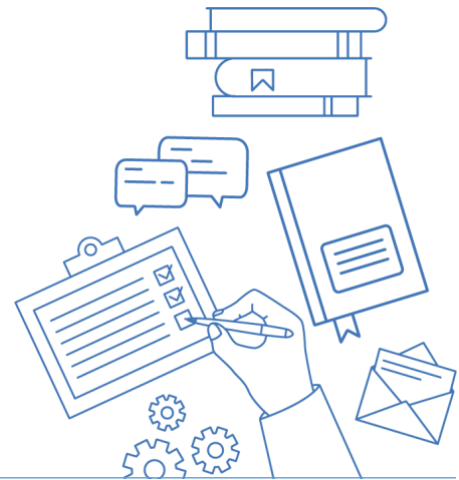


# About the Copyright Claims Board

The Copyright Claims Board (CCB) is a voluntary and virtual tribunal, which offers a streamlined alternative to federal court.



## Chapter at a Glance

- **Overview**
- **Key Features of the CCB**
- **Key Differences between the CCB and Federal Court**
- **CCB Process Overview**
- **“Smaller Claims” Track**
- **Laws and Regulations**
- **Additional Resources**

## Why You Need This Information

Before participating in a CCB proceeding, you may want to know how the CCB works, where it came from, and what goes into a CCB determination. This chapter will highlight the key benefits of the CCB, give an overview of its procedures, and discuss some of the laws and regulations that govern its proceedings.

To assist you in reviewing this Handbook, there is a Glossary at the end of each chapter which provides definitions of words highlighted in that chapter.

## CCB Quick Facts

- Congress created the CCB in the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020. The CCB is an alternative forum to federal court to resolve certain copyright disputes up to \$30,000.
- Using the CCB is voluntary. A claimant can choose whether to file a claim with the CCB or in federal court, and a respondent can choose to opt out of CCB proceedings (after which the claimant still has the ability to sue in federal court).

- CCB proceedings are designed to be clearly understood and usable by anyone, even without legal training. You are permitted to have a lawyer, but individuals and businesses can represent themselves.
- The process of exchanging information and documents (called discovery) is streamlined in CCB proceedings, so CCB proceedings will generally involve expending far less money and time than in federal court lawsuits.
- When a claimant files their claim, they can choose a “smaller claims” track, which is an even more streamlined form of CCB proceeding, available where a claimant seeks no more than \$5,000.

## Overview

*The CASE Act of 2020 directed the Copyright Office to establish the CCB. The CCB is an efficient, streamlined way to resolve copyright disputes involving claims seeking monetary awards of up to \$30,000 and is designed to be a less expensive and faster alternative to bringing a case in a federal court.*

### HOW DID WE GET HERE?

In December 2020, Congress passed the CASE Act and created the CCB to provide a more efficient and less expensive option to resolve copyright disputes involving no more than \$30,000 in damages. Since that time, the Copyright Office has taken the necessary steps to set up the CCB, including hiring staff, developing technological tools, creating an informational website, and establishing the procedures for the various stages of CCB proceedings.

### IS THE CCB RIGHT FOR YOU?

When considering whether to participate in a CCB proceeding, keep in mind that there are important differences between the CCB and federal court (previously the only place where copyright cases could be heard). The CCB will cost less, take less time to get to a determination, and have less complex procedures.

Unlike federal court, potential awards before the CCB are capped at \$30,000, or \$5,000 for the “smaller claims” track. The CCB cannot order a respondent to cease the complained of activity unless the respondent agrees to such an order if found liable (which the respondent may want to do because the CCB can take that agreement into account in setting damages). Furthermore, the Copyright Claims Officers have extensive experience with copyright law, including representing both plaintiffs and defendants. In federal courts, a judge may rarely see a copyright case. While you have the right to have your case heard by a jury, the jury will likely have no prior experience with copyright issues. Be aware, however, that choosing the CCB means that neither a judge nor a jury will be involved in deciding your case, and there are only limited ways to appeal a CCB decision.

### WHAT HAPPENS NEXT?

You can find a roadmap of what happens in a CCB proceeding [below](#). If you wish to learn more about how to [file or respond to a claim](#), please review the handbook chapters on these subjects. To learn more about the CCB generally, please visit [ccb.gov](http://ccb.gov).

# Key Features of the CCB

- **The CCB is voluntary.** Everyone gets to decide whether or not to participate in CCB proceedings. A claimant can choose to file in federal court instead, and a respondent can opt out of a CCB proceeding, after which the claimant is free to take the dispute to federal court.
- **The CCB cannot award more than \$30,000 in monetary relief to a party in any proceeding.**
- **The CCB can hear only certain types of claims.** The CCB’s jurisdiction is limited to three types of copyright-related claims:
  - **claims of infringement** of a copyright;
  - claims seeking declarations that your activities **do not infringe** someone else’s copyright (for example, if someone has threatened you with a copyright lawsuit and you wish the CCB to decide that your activities are not infringing); and
  - **claims of “misrepresentation”** in takedown notices and counter-notices sent under the Digital Millennium Copyright Act (DMCA).
- **The CCB has streamlined processes.** One of the advantages of CCB proceedings is that they will typically cost far less and involve less time than federal court lawsuits. Participants in CCB proceedings are only required to provide limited documents and information.
- **The CCB facilitates dispute resolution.** The CCB can assist participants in reaching an agreement to resolve all or part of their claims or counterclaims. This is called settlement. If the participants have reached an agreement to settle or dismiss some or all of the claims and counterclaims, and have requested that the CCB issue a determination including those terms, the CCB will do so.
- **The CCB is made up of copyright specialists.** Decisions in the CCB are made by three Copyright Claims Officers, who have extensive experience in copyright law, litigation, and alternative dispute resolution. To read more about the current Officers, please see the [Copyright Claims Board Officer Bios](#). The Officers are assisted by three full-time staff lawyers, a paralegal, and a program specialist.
- **For a full list of features, visit [ccb.gov](http://ccb.gov).**

# Key Differences between the CCB and Federal Court

There are important differences between the CCB and federal court, such as the costs involved, the time and complexity of the procedures, and the experience of the people deciding your case. The table below lays out some of the key differences between CCB proceedings and federal court lawsuits.

The costs to resolve a dispute are lower in the CCB than in federal court.	
<p><b>In the CCB...</b></p> <ul style="list-style-type: none"><li>• Participants in CCB proceedings are allowed to hire a lawyer, but the system is set up so that participants, including both individuals and businesses, can represent themselves instead, or may be able to obtain <a href="#">free representation</a> from a volunteer organization or law student.</li><li>• CCB proceedings do not involve the extensive discovery found in federal court, which can be costly and time-consuming.</li><li>• The CCB will rarely if ever permit testimony by expert witnesses.</li><li>• CCB hearings are all virtual. You will not be required to travel or appear in person before the CCB.</li></ul>	<p><b>In federal court...</b></p> <ul style="list-style-type: none"><li>• Parties typically need to hire and pay for a lawyer (and many companies are required to), which can be a major expense.</li><li>• Parties may need to pay for court reporters for depositions, for extensive document searches and storage, for process servers for discovery on third-party witnesses, and for fees for expert witnesses.</li><li>• Federal courts generally require the parties to travel to and attend hearings and trials in person.</li></ul>
Federal court and the CCB have different procedures.	
<p><b>In the CCB...</b></p> <ul style="list-style-type: none"><li>• Participants are only required to exchange limited key documents and information.</li><li>• Hearings and conferences are held virtually using video conferencing, so there is no need to travel.</li><li>• When an issue arises during a proceeding, the CCB allows you to make requests to the Board using simple fillable forms.</li><li>• The CCB procedures have been designed to permit individuals and businesses to represent themselves without lawyers.</li></ul>	<p><b>In federal court...</b></p> <ul style="list-style-type: none"><li>• Parties typically engage in more complex, expensive, and time-consuming discovery, including depositions, broader interrogatories and document requests, requests for admission, third-party subpoenas, and expert witnesses.</li><li>• Conferences, hearings, and trials are typically held in person at the courthouse.</li><li>• Parties normally need legal representation.</li><li>• Witnesses can be required to appear.</li></ul>

<ul style="list-style-type: none"> <li>You cannot require a witness to appear before the CCB.</li> <li>If the case is complex, the limited opportunity for discovery may make it more difficult to obtain all the information you need.</li> </ul>	<ul style="list-style-type: none"> <li>Federal cases often have formal motions needing extensive work and knowledge of the law and the court's rules.</li> </ul>
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**The CCB is a copyright-specific tribunal that only hears claims related to copyright.**

<p><b>In the CCB...</b></p> <ul style="list-style-type: none"> <li>Disputes will be decided by a panel of three Copyright Claims Officers who are experienced in copyright law.</li> <li>CCB claims must be copyright-specific and other types of claims are not allowed.</li> </ul>	<p><b>In federal court...</b></p> <ul style="list-style-type: none"> <li>Federal judges generally do not have specialized subject-matter expertise. They deal with many different legal disputes, and may have heard few if any copyright cases.</li> <li>Disputes may be resolved by a jury, with no knowledge of copyright law other than their instructions from the judge.</li> <li>The parties can add as many other claims as they want in addition to the copyright claims.</li> </ul>
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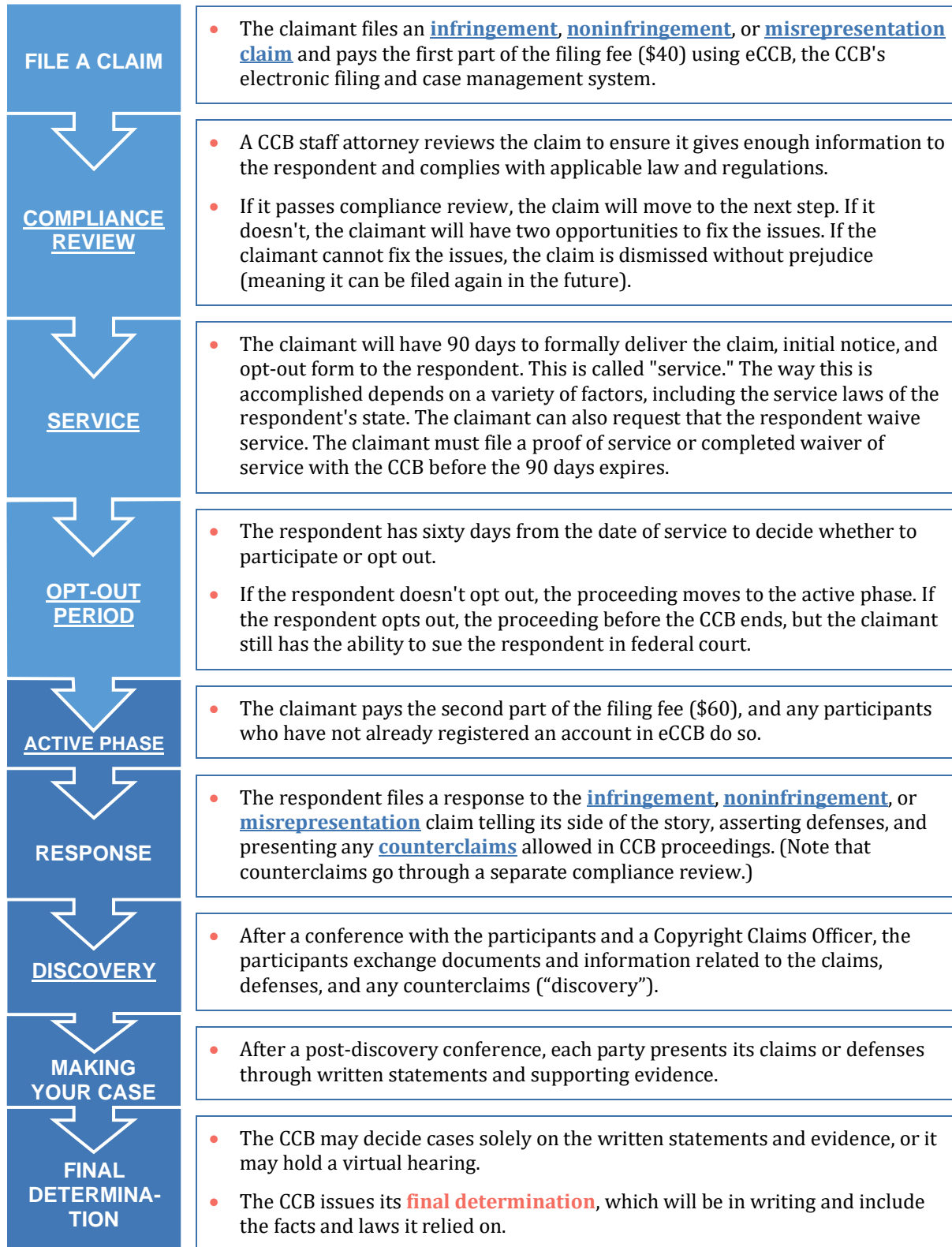
**The penalties are different in federal court and the CCB.**

<p><b>In the CCB...</b></p> <ul style="list-style-type: none"> <li>The maximum the respondent can be ordered to pay in damages in a single proceeding is \$30,000, no matter how many claims are included. The claimant also has the option to choose a "smaller claims" track, which is even more streamlined and has a damages cap of \$5,000.</li> <li><b>Statutory damages</b> are limited to no more than \$15,000 per infringed work, and the CCB won't consider whether the <b>infringement</b> was knowing or deliberate in determining the amount.</li> <li>The statutory damages maximum per work infringed is reduced to \$7,500 if the work isn't registered within certain time constraints.</li> </ul>	<p><b>In federal court...</b></p> <ul style="list-style-type: none"> <li>Awards of <b>actual damages</b> and an <b>infringer's profits</b> in federal court are unlimited.</li> <li>Statutory damages can be up to \$30,000 per infringed work, and up to \$150,000 per work if the infringement was knowing or deliberate.</li> <li>While there is no limitation on the amount of actual damages, statutory damages are not available at all if the work isn't registered within certain time constraints.</li> <li>Larger sanctions can be awarded in federal court for bad faith actions, and the court always has the power to make the losing side of a case pay the other side's attorneys' fees and costs without any cap.</li> <li>The court has the power to order a respondent to stop or modify activities, in addition to any damages award.</li> </ul>
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<ul style="list-style-type: none"> <li>• A participant who acts in bad faith (for example, by making frivolous filings or acting in a way to harass the other side) may have to pay the other side’s costs and fees, up to \$5,000.</li> <li>• The CCB does not have the power to order a respondent to stop or modify its activities unless the respondent has advised the CCB that it will agree to do so. If the respondent agrees to do so, the Board may consider this in setting the amount of damages (and agreeing to this will not make it more likely that the Board finds against the respondent).</li> </ul>	
<p><b>The type of counterclaims allowed in federal court and the CCB are different.</b></p>	
<p><b>In the CCB...</b></p> <ul style="list-style-type: none"> <li>• Counterclaims are generally limited to the same types of claims a claimant can bring: copyright infringement, a declaration that actions are not infringing, or <a href="#">misrepresentation</a> in a DMCA notice or counter-notice</li> <li>• A respondent also may bring a counterclaim under an agreement pertaining to the same facts and circumstances as a plaintiff’s infringement claim, if that could affect the money awarded to the claimant.</li> </ul>	<p><b>In federal court...</b></p> <ul style="list-style-type: none"> <li>• A defendant can bring any counterclaim, as long as it is related to the same facts and circumstances as the plaintiff’s claims.</li> </ul>

For more information about federal courts, visit the United States Courts’ [website](#).

# CCB Process Overview



## “Smaller Claims” Track

As described above, a standard CCB proceeding is more streamlined than a federal court case and involves claims seeking monetary awards of only up to \$30,000.

An even more streamlined proceeding is available when claimants choose, when they file their claims, to limit any potential award to no more than \$5,000. In a “smaller claims” track, discovery (the exchange of information and documents among the participants) is decided at a conference with a Copyright Claims Officer and is based only on what the participants specifically need to address the issues in that case. Requests for experts will never be granted in a smaller claim proceeding. After this narrow exchange of discovery is over, participants submit evidence and a short statement, if they wish, describing why the CCB should decide in their favor, followed by a conference with a Copyright Claims Officer to discuss their positions and evidence. For more information on smaller claims, please see [here](#).

## Laws and Regulations

Participants in CCB proceedings do not need to be legal experts or have legal training. But, in your filings at the end of the case as to why the CCB should find in your favor, you may want to explain why you believe the law supports your position. Given that, it may be helpful to know a bit about the different legal sources the CCB uses in making decisions. Here is a brief introduction.

### Federal Law

The CCB was established by the [Copyright Alternative in Small-Claims Enforcement \(CASE\) Act of 2020](#). The CASE Act provides the overall structure for the CCB. When participants are going through compliance review, the **opt-out period**, or interacting with CCB staff, that’s the CASE Act at work.

The Copyright Act of 1976 is the primary source of copyright law in the United States. It has been updated many times over the years, including by the Digital Millennium Copyright Act (DMCA), which addresses copyright infringement on the internet. The Copyright Act will guide the CCB’s decisions regarding claims, counterclaims, and defenses. A full version of the Copyright Act is available on the Copyright Office’s [website](#).

### Regulations

The Copyright Office has issued a number of regulations related to the CCB. These regulations establish the day-to-day operations and procedures of the CCB, as well as the conduct of participants. They cover, for example, the information to include in a claim or response, the timing of deadlines, and the types of documents the parties exchange. For more information, please see the text of the CCB’s regulations on the Copyright Office’s [website](#).

### Prior Federal Court Decisions

When copyright disputes are decided in federal court, the decisions make up what is called “case law.” The CCB will use this case law to guide its decision making.

You may hear case names (for example, *Naruto v. Slater*) mentioned during conferences or hearings, or read about them in CCB determinations. You can if you wish cite cases to the CCB, including in the statement you submit at the end of the case describing why the CCB should decide in your favor. If you have an attorney or law student representing you or your company, they will review the applicable case



law. However, this is not absolutely necessary, as the Copyright Claims Officers and their staff are knowledgeable about copyright law and will be doing their own research.

## State Law

In arriving at decisions, the CCB uses federal law, since copyright law comes from federal statutes passed by Congress, like the Copyright Act. In the vast majority of cases, the only time state law will be relevant is if you are a claimant and need to refer to state law to determine the procedure for serving the claim and related documents on respondents. You can find more information on service in [Service](#).

## Effect of Decisions

The CCB's decisions (called determinations) apply only to the participants in a particular case. Neither the CCB nor a federal court will be bound by the CCB's prior determinations in later cases involving different participants or claims.

## Review of CCB Determinations

There are a few ways to obtain a review of a CCB determination.

- 1. Reconsideration:** You may request that the CCB reconsider its determination, but only if the CCB made a clear error that would affect the outcome or made a technical mistake such as a mathematical error in calculating damages.
- 2. Review by the Register:** If the CCB denies your request for reconsideration, you may ask the Register of Copyrights to review the determination to see if the CCB abused its discretion, meaning its decision was based on clearly erroneous findings of fact or decisions of law.
- 3. Federal court review:** You may ask a federal district court to reverse, modify, or correct a CCB determination, but only if it was issued as a result of fraud, corruption, misrepresentation, or other misconduct; if the CCB exceeded its authority or failed to issue a final determination; or in the case of a default or failure to prosecute, when there was a legitimate reason for the default or failure to prosecute.

## Additional Resources

There is more information about the CCB online at [ccb.gov](http://ccb.gov).

### LEGAL ASSISTANCE

For more information about law school clinics or other pro bono (free) legal services organizations that may be able to help you in a proceeding before the CCB, please see [Pro Bono Assistance](#).

### COPYRIGHT HELP

The Copyright Office's main website, [copyright.gov](http://copyright.gov), has many resources explaining copyright basics, copyright registration, licensing, and defenses to copyright and DMCA misrepresentation claims. Please see additional information available below.

- **Additional information about copyright.** The Copyright Office publishes [Circulars](#) to provide up-to-date and authoritative information about copyright law for a general audience.
- **Register your work.** To learn more about the types of works that can be registered with the U.S. Copyright Office and to register your works, please see the [registration page](#).

- **Information about the Digital Millennium Copyright Act (DMCA).** To learn more about the DMCA, please see the [Copyright Office DMCA page](#).

## Glossary

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- **Actual damages:** Money awarded based on the harm the claimant or counterclaimant suffered.
- **Final determination/Determination:** The CCB's ruling regarding who actually wins the case, with any awards, and with the CCB's reasons for its findings.
- **Infringement:** Copyright infringement occurs when a copyrighted work is reproduced, distributed, publicly performed or displayed, or made into a derivative work without permission of the copyright owner, if the use does not qualify for an exception, such as fair use.
- **Infringer's profits:** The money that the infringer earned in profits from the unlawful use of another's work.
- **Opt-out period:** The respondent's sixty days to decide whether to participate in or to opt out of the proceeding.
- **Statutory damages:** An alternative to actual damages, allowing a successful claimant or counterclaimant to receive an award in an amount within a set range that the court or the CCB considers just.