Copyright "Small Claims"

In 2020, Congress passed a [law](https://www.copyright.gov/about/small-claims/) called the “Copyright Alternative in Small-Claims Enforcement Act of 2020,” known as the “CASE Act.” The CASE Act mandated the formation of the Copyright Claims Board (“CCB”), a tribunal operating through the U.S. Copyright Office instead of the federal judicial branch, for the purpose of deciding “small claims” copyright infringement actions via a quicker, less expensive process—that is, without all of the procedural requirements of a normal federal court case. Damages are capped at $30,000 for CCB cases.

This page is for UT System faculty, staff, students, and scholars who might one day find themselves in receipt of a notice that a CCB action has been filed against them. The UT System also has a systemwide information page for UT-affiliated scholars, students, and employees.

Please note that the U.S. Copyright Office is still creating the rules that implement this new law, so the information on this page will evolve. And as with all information on this UT System website, **our office cannot provide you with legal advice**. However, we can help you understand how the law works. If you have further questions, contact us at [iplaw@utsystem.edu](mailto:iplaw@utsystem.edu) .

If you receive a claim notice

What will a notice look like?

If you live in Texas, then a genuine CCB claim notice is generally required to be “served” to you either in-person (i.e., handed to you) or by U.S. mail. If you have received only an email, you should be wary of its contents because email is not considered valid “service of process” in Texas, except in rare circumstances and only with court approval. [Texas Rules of Civil Procedure](https://casetext.com/rule/texas-court-rules/texas-rules-of-civil-procedure/part-ii-rules-of-practice-in-district-and-county-courts/section-5-citation/rule-106-method-of-service)

A genuine CCB case notice will include a docket number and other information. The notice will have a link to the [CCB website](https://ccb.gov/), where you can enter the docket number on your notice, view information about the particular claim filed against you, and take various actions.

What does it mean?

A claim filed against you in the CCB means that a purported copyright owner is asserting that you have infringed their copyright through something you have uploaded, reproduced, published, created, distributed, performed, or displayed.

The notice you receive signifies that the claimant has alleged copyright infringement, but the notice does **not mean you have actually infringed or that the CCB will ultimately determine you have infringed**.

Indeed, there are many reasons why your use of a copyrighted work may not be an infringement. For instance, there are key exceptions to copyright law that support teaching, scholarship, and research—most notably, [fair use](https://www.lib.berkeley.edu/scholarly-communication/copyright/fair-use). These exceptions provide complete defenses to claims of infringement or, in some instances, permit a significant reduction of damages. Further, not everything is actually protected by copyright. Claimants may believe they hold copyright in materials that are not subject to copyright (e.g., because the materials reflect only facts or ideas) or are no longer protected by copyright (e.g., because the copyright in the materials has expired). Claimants may also believe that they hold copyright to materials for which copyright is actually held by a third party.

If you believe one of these situations applies to you—that is, that your use of the material is protected by an exception or that the allegations in the claim are not valid—you may wish to dispute the claim or opt out of the CCB proceeding entirely. We explain your options below. Regardless, we recommend you seek legal counsel as soon as possible after receipt of a CCB case notice.

What are your options?

If you receive a properly-served notice, **do not ignore it**. If you ignore it and do nothing, the case will proceed in the CCB, and a default judgment can be entered against you. This means that the CCB can enter a judgment holding you responsible for all the damages claimed in the notice (up to $30,000), regardless of whether the assertions are true or whether you could have claimed any defenses.

*If you’re a UT System student, staff, or faculty member, and the claim is related to what you do at UT,****contact the UT System Office of General Counsel or your institution’s Office of Legal Affairs promptly****.*

To avoid a default judgment, you will need to respond in the time prescribed by the notice. There are two choices on how to respond:

* **Proceed** within the CCB tribunal. If you proceed, the case will be heard by the CCB. The CCB predicts that most cases will be handled completely online, so you will not need to travel to Washington D.C. (where the U.S. Copyright Office is physically located). You will be bound by the CCB’s decision. If the claimant wins, you may have to pay up to $15,000 for each infringed work, with a maximum cap of $30,000. CCB determinations are final. There are only limited circumstances—such as fraud, corruption, and misrepresentation—when a CCB determination can be reviewed by a federal court or the Copyright Office.
* **Opt out** of the CCB proceeding. ***It’s important to understand that, if you opt out, the copyright claimant cannot restart the same claim against you in front of the CCB.*** So, if you opt out of the CCB, the claimant can either stop pursuing the matter entirely or decide to file suit against you in federal court (assuming they meet all of the federal court filing requirements). Federal court is more expensive and complex than the CCB’s small claims process, so many small claimants may not want to incur the expense or may feel that their allegations will not survive scrutiny in federal court. **Also, UT System employees likely have broader protections in federal court than in the CCB, so a timely opt-out may be a good option.**

If you decide to opt out, you must mail the paper opt-out form provided with your notice, or complete an online opt-out form on the CCB website, within 60 days of service.

Note that if you decide to opt out, your decision applies only in response to that particular claim you received. As an individual (as opposed to certain organizations), you cannot opt out prospectively from all future CCB claims.

Where can you get help or more information?

You can send any questions to [iplaw@utsystem.edu](mailto:iplaw@utsystem.edu) or your Legal Affairs Department. They will not be able to represent you in claims against you outside the scope of your employment or other relationships to a University of Texas institution.

The U.S. Copyright Office provides additional information on their [Copyright Claims Board Frequently Asked Questions](https://ccb.gov/faq/) page.

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