



## **An Overview of the CASE Act, H.R. 2426 and S. 1273**

*Legislation that would create a small claims tribunal within the U.S. Copyright Office would provide a much-needed remedy for our nation's creators and small businesses*

**Why Legislation to Create a Small Claims Tribunal is Necessary:** Federal courts have exclusive jurisdiction over copyright. But federal litigation is so expensive that many professional creators simply cannot afford to defend their rights when someone infringes their valuable copyrighted works.

Individual creators and small businesses are hurt the most by the high cost of federal litigation because the individual value of their works or transactions is often too low to warrant the expense of litigation and most attorneys won't even consider taking these small cases. As a result, these infringements regularly go unchallenged, leading many creators to feel disenfranchised by the copyright system. In effect, these creators have rights but no remedies.

The "Copyright Alternative in Small-Claims Enforcement Act of 2019" (the "CASE Act"), H.R. 2426, has a long list of supporters in the House, including lead co-sponsors Reps. Jeffries (D-NY) and Collins (R-GA), and original co-sponsors Nadler (D-NY), Johnson (D-GA), Roby (R-AL), Chu (D-CA), Cline (R-VA), Lieu (D-CA), and Fitzpatrick (R-PA). A companion bill, S. 1273, was also introduced in the Senate by Senators Kennedy (R-LA), Tillis (R-NC), Durbin (D-IL), and Hirono (D-HI).

**Key Components of the Small Claims Legislation:** The CASE Act was largely based on the legislative recommendations made by the U.S. Copyright Office in its 2013 study. The bill would create a three-“judge” tribunal within the Copyright Office to handle small copyright claims and cap damages, allowing for statutory damages of up to \$15,000 per work and no more than \$30,000 in total damages. One of the most prominent and important features of this legislation is that the process would be 100% optional. If a party does not want to defend a copyright case before the tribunal, it can simply opt out. The CASE Act would create a much less formal, streamlined process than exists in federal court. For example, unlike federal court, attorneys and in-person appearances would not be necessary and discovery would be extremely limited.

**The CASE Act is Fair and Balanced.** The tribunal created by the CASE Act could hear claims by copyright owners and users, as well as all defenses and counterclaims allowed in federal court. The bill discourages bad faith claims, counterclaims and defenses by imposing fees on “bad actors” and barring repeat offenders from continuing to use the tribunal. It would also ensure fairness by stipulating that the two of the three judges have experience representing or presiding over a diversity of copyright interests, including those of *both* owners and users of copyrighted works and would require that the Officers follow judicial precedent when deciding a case.

*The CASE Act isn't just good for copyright owners.  
It's good for all participants in the copyright system*