April 22, 2021

Ms. Regan A. Smith
General Counsel and Associate Register of Copyrights
U.S. Copyright Office
101 Independence Ave. S.E.
Washington, D.C. 20559

Re: Docket No. COLC-2021-0001, Copyright Alternative in Small-Claims Enforcement (“CASE”) Act Regulations

Dear Ms. Smith:

On behalf of the Office of the Chairman of the Administrative Conference of the United States (ACUS), I offer the following comments in response to the above-referenced notice.

ACUS is an independent agency in the executive branch charged by statute with, among other things, making recommendations to the President, federal agencies, Congress, and the Judicial Conference of the United States to improve rulemaking, adjudication, and other administrative procedures. Its official recommendations are issued by its Assembly, more than half of whose members are government officials appointed by federal agencies. See 5 U.S.C. § 591 et seq. Recommendations and their accompanying reports appear at www.acus.gov.

Before turning to specific topics of inquiry, I note three ACUS resources that you may find helpful for developing rules governing the Copyright Claims Board (CCB):

1. The Model Adjudication Rules (2018) contain specific language that the Copyright Office may find useful to develop procedural rules on a broad range of subjects.

A full list of all ACUS adjudication-related resources appears at www.acus.gov/adjudication.
Rules of Practice, Procedure, and Evidence


Because the CASE Act is intended to make copyright proceedings “accessible especially for pro se parties and those with little prior formal exposure to copyright laws,” the Copyright Office may also wish to consider ACUS resources which specify best practices for assisting self-represented parties, such as simplifying procedures and providing guidance on agency practices. See Recommendation 2016-6, Self-Represented Parties in Administrative Proceedings, 81 Fed. Reg. 94319 (Dec. 23, 2016); Model Adjudication Rules, supra, § 140.

Public Access to Records and Proceedings


Case Management Systems

The Copyright Office requests information regarding the selection of an electronic filing and case management system. You may wish to consult Recommendation 2018-3, Electronic Case Management in Federal Administrative Adjudication, which provides a detailed roadmap to help agencies select, develop, and expand electronic case management systems. 83 Fed. Reg. 30686 (June 29, 2018).

Register's Review of CCB’s Denial of Reconsideration

The Copyright Office seeks input on any issues related to review of CCB determinations by the Register of Copyrights. You may wish to consult Recommendation 2020-3, Agency Appellate Systems, which sets forth best practices regarding the availability of and standards for

Virtual Hearings


ACUS’s Office of the Chairman thanks the Copyright Office for this opportunity to comment on its inquiry. Please contact me at gyoung@acus.gov or 202-480-2080 if you have questions or would like further information.

Sincerely,

Gavin Young
Attorney Advisor