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116TH CONGRESS
1ST SESSION

H. R. 2426

[Report No. 116–252]

To amend title 17, United States Code, to establish an alternative dispute resolution program for copyright small claims, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2019

Mr. JEFFRIES (for himself, Mr. COLLINS of Georgia, Mr. NADLER, Mrs. ROBY, Mr. JOHNSON of Georgia, Mr. CLINE, Ms. JUDY CHU of California, Mr. TED LIEU of California, and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 22, 2019

Additional sponsors: Mr. BUDD, Mr. THOMPSON of Mississippi, Mr. COHEN, Mr. MARCHANT, Mrs. DEMINGS, Mrs. MCBATH, Mr. SCHIFF, Mr. CHABOT, Mr. FERGUSON, Mr. DESJARLAIS, Mr. ROUDA, Mr. STANTON, Mr. BACON, Mr. CICILLINE, Mr. SOTO, Ms. SCANLON, Mr. RATCLIFFE, Mr. DEUTCH, Mr. CASE, Mr. JOHNSON of Louisiana, Mr. SENSENBRENNER, Mr. WALKER, Ms. MUCARSEL-POWELL, Mr. RESCHENTHALER, Mr. CORREA, Mrs. LESKO, Ms. DEAN, Mr. RICHMOND, Ms. JACKSON LEE, Mr. COX of California, Mr. GONZALEZ of Texas, Mr. HARDER of California, Mr. CÁRDENAS, Mr. YOHO, Ms. BONAMICI, Mr. DEFazio, Mr. SEAN PATRICK MALONEY of New York, Mr. BIGGS, Mrs. LEE of Nevada, Mr. WITTMAN, Mr. STEUBE, Mr. MEADOWS, Ms. VELÁZQUEZ, Ms. HAALAND, Mr. ROSE of New York, Mr. WATKINS, Mr. RASKIN, Mr. MCCLINTOCK, Mr. SUOZZI, Ms. SÁNCHEZ, Mr. CURTIS, Mr. RODNEY DAVIS of Illinois, Mr. DELGADO, Mr. BROWN of Maryland, Mr. TAYLOR, Ms. MENG, Mr. CUELLAR, Ms. ESCOBAR, Mr. BURCHETT, Mr. TRONE, Ms. WILD, Ms. CLARK of Massachusetts, Mr. KRISHNAMOORTHY, Ms. BASS, Ms. GABBARD, Mr. RUTHERFORD, Mr. FOSTER, Mr. BROOKS of Alabama, Mrs. LAWRENCE, Mr. DAVID SCOTT of Georgia, Ms. FUDGE, Ms. CLARKE of New York, Mr. EVANS, Mr. COSTA, Mrs. FLETCHER, Mr. PAYNE, Ms. GARCIA of Texas, Mr. LUJÁN, Mr. VAN DREW, Ms. JAYAPAL, Ms. KUSTER of New Hampshire, Mr. GOTTHEIMER, Mr. NEGUSE, Mrs. MURPHY of Florida, Mr. ESPAILLAT,

Mrs. HAYES, Mr. LOUDERMILK, Mr. GOMEZ, Mr. BABIN, Mr. GOODEN, Ms. CRAIG, Ms. HILL of California, Ms. LEE of California, Mrs. WATSON COLEMAN, Ms. PRESSLEY, Ms. JOHNSON of Texas, Mr. BISHOP of Georgia, Mr. CLAY, Mr. HICE of Georgia, Mr. HUFFMAN, Mr. VEASEY, Mr. KING of New York, Ms. SCHAKOWSKY, Mr. FLORES, Mr. RIGGLEMAN, Mr. COOPER, Mr. LAMB, Mr. LOWENTHAL, Mrs. NAPOLITANO, Mr. SHERMAN, Ms. WATERS, Mr. GREEN of Tennessee, Mr. STIVERS, Ms. STEFANIK, Mr. ZELDIN, Mr. CASTRO of Texas, Mr. DOGGETT, Mr. DESAULNIER, Mrs. WAGNER, Mr. ADERHOLT, Mr. COLE, Ms. FINKENAUER, Mr. CUNNINGHAM, Mr. VISCLOSKY, Ms. SPANBERGER, Mr. ALLRED, Miss RICE of New York, Ms. KENDRA S. HORN of Oklahoma, Mr. MEEKS, Mrs. BUSTOS, Mr. MALINOWSKI, Mr. POCAN, Ms. SPEIER, Mrs. AXNE, Mr. SCHNEIDER, Ms. BARRAGÁN, Mr. CISNEROS, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. KEVIN HERN of Oklahoma, Mr. CARBAJAL, Mr. SMITH of Washington, Ms. BLUNT ROCHESTER, Mr. ESTES, and Mr. CROW

OCTOBER 22, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on May 1, 2019]

A BILL

To amend title 17, United States Code, to establish an alternative dispute resolution program for copyright small claims, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Copyright Alternative*
 5 *in Small-Claims Enforcement Act of 2019” or the “CASE*
 6 *Act of 2019”.*

7 **SEC. 2. COPYRIGHT SMALL CLAIMS.**

8 *(a) IN GENERAL.—Title 17, United States Code, is*
 9 *amended by adding at the end the following:*

10 **“CHAPTER 15—COPYRIGHT SMALL CLAIMS**

“Sec.

“1501. Definitions.

“1502. Copyright Claims Board.

“1503. Authority and duties of the Copyright Claims Board.

“1504. Nature of proceedings.

“1505. Registration requirement.

“1506. Conduct of proceedings.

“1507. Effect of proceeding.

“1508. Review and confirmation by district court.

“1509. Relationship to other district court actions.

“1510. Implementation by Copyright Office.

“1511. Funding.

11 **“§ 1501. Definitions**

12 *“In this chapter—*

13 *“(1) the term ‘party’—*

14 *“(A) means a party; and*

15 *“(B) includes the attorney of a party, as*
 16 *applicable;*

17 *“(2) the term ‘claimant’ means the real party in*
 18 *interest that commences a proceeding before the Copy-*
 19 *right Claims Board under section 1506(e), pursuant*

1 to a permissible claim of infringement brought under
2 section 1504(c)(1), noninfringement brought under
3 section 1504(c)(2), or misrepresentation brought
4 under section 1504(c)(3);

5 “(3) the term ‘counterclaimant’ means a re-
6 spondent in a proceeding before the Copyright Claims
7 Board that—

8 “(A) asserts a permissible counterclaim
9 under section 1504(c)(4) against the claimant in
10 the proceeding; and

11 “(B) is the real party in interest with re-
12 spect to the counterclaim described in subpara-
13 graph (A); and

14 “(4) the term ‘respondent’ means any person
15 against whom a proceeding is brought before the
16 Copyright Claims Board under section 1506(e), pur-
17 suant to a permissible claim of infringement brought
18 under section 1504(c)(1), noninfringement brought
19 under section 1504(c)(2), or misrepresentation
20 brought under section 1504(c)(3).

21 **“§ 1502. Copyright Claims Board**

22 “(a) *IN GENERAL.*—There is established in the Copy-
23 right Office the Copyright Claims Board, which shall serve
24 as an alternative forum in which parties may voluntarily

1 *seek to resolve certain copyright claims regarding any cat-*
2 *egory of copyrighted work, as provided in this chapter.*

3 “(b) *OFFICERS AND STAFF.*—

4 “(1) *COPYRIGHT CLAIMS OFFICERS.*—*The Reg-*
5 *ister of Copyrights shall recommend 3 full-time Copy-*
6 *right Claims Officers to serve on the Copyright*
7 *Claims Board in accordance with paragraph (3)(A).*
8 *The Officers shall be appointed by the Librarian of*
9 *Congress to such positions after consultation with the*
10 *Register of Copyrights.*

11 “(2) *COPYRIGHT CLAIMS ATTORNEYS.*—*The Reg-*
12 *ister of Copyrights shall hire not fewer than 2 full-*
13 *time Copyright Claims Attorneys to assist in the ad-*
14 *ministration of the Copyright Claims Board.*

15 “(3) *QUALIFICATIONS.*—

16 “(A) *COPYRIGHT CLAIMS OFFICERS.*—

17 “(i) *IN GENERAL.*—*Each Copyright*
18 *Claims Officer shall be an attorney who has*
19 *not fewer than 7 years of legal experience.*

20 “(ii) *EXPERIENCE.*—*Two of the Copy-*
21 *right Claims Officers shall have—*

22 “(I) *substantial experience in the*
23 *evaluation, litigation, or adjudication*
24 *of copyright infringement claims; and*

1 “(II) *between those 2 Officers,*
2 *have represented or presided over a di-*
3 *versity of copyright interests, including*
4 *those of both owners and users of copy-*
5 *righted works.*

6 “(iii) *ALTERNATIVE DISPUTE RESOLU-*
7 *TION.—The Copyright Claims Officer not*
8 *described in clause (ii) shall have substan-*
9 *tial familiarity with copyright law and ex-*
10 *perience in the field of alternative dispute*
11 *resolution, including the resolution of litiga-*
12 *tion matters through that method of resolu-*
13 *tion.*

14 “(B) *COPYRIGHT CLAIMS ATTORNEYS.—*
15 *Each Copyright Claims Attorney shall be an at-*
16 *torney who has not fewer than 3 years of sub-*
17 *stantial experience in copyright law.*

18 “(4) *COMPENSATION.—*

19 “(A) *COPYRIGHT CLAIMS OFFICERS.—*

20 “(i) *DEFINITION.—In this subpara-*
21 *graph, the term ‘senior level employee of the*
22 *Federal Government’ means an employee,*
23 *other than an employee in the Senior Exec-*
24 *utive Service, the position of whom is classi-*
25 *fied above GS–15 of the General Schedule.*

1 “(i) *PAY RANGE.*—*Each Copyright*
2 *Claims Officer shall be compensated at a*
3 *rate of pay that is not less than the min-*
4 *imum, and not more than the maximum,*
5 *rate of pay payable for senior level employ-*
6 *ees of the Federal Government, including lo-*
7 *cality pay, as applicable.*

8 “(B) *COPYRIGHT CLAIMS ATTORNEYS.*—
9 *Each Copyright Claims Attorney shall be com-*
10 *pensated at a rate of pay that is not more than*
11 *the maximum rate of pay payable for level 10 of*
12 *GS–15 of the General Schedule, including local-*
13 *ity pay, as applicable.*

14 “(5) *TERMS.*—

15 “(A) *IN GENERAL.*—*Subject to subpara-*
16 *graph (B), a Copyright Claims Officer shall*
17 *serve for a renewable term of 6 years.*

18 “(B) *INITIAL TERMS.*—*The terms for the*
19 *first Copyright Claims Officers appointed under*
20 *this chapter shall be as follows:*

21 “(i) *The first such Copyright Claims*
22 *Officer appointed shall be appointed for a*
23 *term of 4 years.*

1 “(ii) *The second Copyright Claims Of-*
2 *ficer appointed shall be appointed for a*
3 *term of 5 years.*

4 “(iii) *The third Copyright Claims Offi-*
5 *cer appointed shall be appointed for a term*
6 *of 6 years.*

7 “(6) *VACANCIES AND INCAPACITY.—*

8 “(A) *VACANCY.—*

9 “(i) *IN GENERAL.—If a vacancy occurs*
10 *in the position of a Copyright Claims Offi-*
11 *cer, the Librarian of Congress shall, upon*
12 *the recommendation of and in consultation*
13 *with the Register of Copyrights, act expedi-*
14 *tiously to appoint a Copyright Claims Offi-*
15 *cer for that position.*

16 “(ii) *VACANCY BEFORE EXPIRATION.—*
17 *An individual appointed to fill a vacancy*
18 *occurring before the expiration of the term*
19 *for which the predecessor of the individual*
20 *was appointed shall be appointed to serve a*
21 *6-year term.*

22 “(B) *INCAPACITY.—If a Copyright Claims*
23 *Officer is temporarily unable to perform the du-*
24 *ties of the Officer, the Librarian of Congress*
25 *shall, upon recommendation of and in consulta-*

1 *tion with the Register of Copyrights, act expedi-*
2 *tiously to appoint an interim Copyright Claims*
3 *Officer to perform such duties during the period*
4 *of such incapacity.*

5 “(7) *SANCTION OR REMOVAL.*—*Subject to section*
6 *1503(b), the Librarian of Congress may sanction or*
7 *remove a Copyright Claims Officer.*

8 “(8) *ADMINISTRATIVE SUPPORT.*—*The Register*
9 *of Copyrights shall provide the Copyright Claims Of-*
10 *ficers and Copyright Claims Attorneys with necessary*
11 *administrative support, including technological facili-*
12 *ties, to carry out the duties of the Officers and Attor-*
13 *neys under this chapter.*

14 “(9) *LOCATION OF COPYRIGHT CLAIMS BOARD.*—
15 *The offices and facilities of the Copyright Claims Of-*
16 *ficers and Copyright Claims Attorneys shall be lo-*
17 *cated at the Copyright Office.*

18 **“§ 1503. Authority and duties of the Copyright Claims**

19 **Board**

20 “(a) *FUNCTIONS.*—

21 “(1) *COPYRIGHT CLAIMS OFFICERS.*—*Subject to*
22 *the provisions of this chapter and applicable regula-*
23 *tions, the functions of the Copyright Claims Officers*
24 *shall be as follows:*

1 “(A) To render determinations on the civil
2 copyright claims, counterclaims, and defenses
3 that may be brought before the Officers under
4 this chapter.

5 “(B) To ensure that claims, counterclaims,
6 and defenses are properly asserted and otherwise
7 appropriate for resolution by the Copyright
8 Claims Board.

9 “(C) To manage the proceedings before the
10 Officers and render rulings pertaining to the
11 consideration of claims, counterclaims, and de-
12 fenses, including with respect to scheduling, dis-
13 covery, evidentiary, and other matters.

14 “(D) To request, from participants and
15 nonparticipants in a proceeding, the production
16 of information and documents relevant to the
17 resolution of a claim, counterclaim, or defense.

18 “(E) To conduct hearings and conferences.

19 “(F) To facilitate the settlement by the par-
20 ties of claims and counterclaims.

21 “(G)(i) To award monetary relief; and

22 “(ii) to include in the determinations of the
23 Officers a requirement that certain activities
24 under section 1504(e)(2) cease or be mitigated, if

1 *the party to undertake the applicable measure*
2 *has so agreed.*

3 “(H) *To provide information to the public*
4 *concerning the procedures and requirements of*
5 *the Copyright Claims Board.*

6 “(I) *To maintain records of the proceedings*
7 *before the Officers, certify official records of such*
8 *proceedings as needed, and, as provided in sec-*
9 *tion 1506(t), make the records in such pro-*
10 *ceedings available to the public.*

11 “(J) *To carry out such other duties as are*
12 *set forth in this chapter.*

13 “(K) *When not engaged in performing the*
14 *duties of the Officers set forth in this chapter, to*
15 *perform such other duties as may be assigned by*
16 *the Register of Copyrights.*

17 “(2) *COPYRIGHT CLAIMS ATTORNEYS.—Subject to*
18 *the provisions of this chapter and applicable regula-*
19 *tions, the functions of the Copyright Claims Attorneys*
20 *shall be as follows:*

21 “(A) *To provide assistance to the Copyright*
22 *Claims Officers in the administration of the du-*
23 *ties of those Officers under this chapter.*

1 “(B) To provide assistance to members of
2 the public with respect to the procedures and re-
3 quirements of the Copyright Claims Board.

4 “(C) To provide information to potential
5 claimants contemplating bringing a permissible
6 action before the Copyright Claims Board about
7 obtaining a subpoena under section 512(h) for
8 the sole purpose of identifying a potential re-
9 spondent in such an action.

10 “(D) When not engaged in performing the
11 duties of the Attorneys set forth in this chapter,
12 to perform such other duties as may be assigned
13 by the Register of Copyrights.

14 “(b) INDEPENDENCE IN DETERMINATIONS.—

15 “(1) IN GENERAL.—The Copyright Claims Board
16 shall render the determinations of the Board in indi-
17 vidual proceedings independently on the basis of the
18 records in the proceedings before it and in accordance
19 with the provisions of this title, judicial precedent,
20 and applicable regulations of the Register of Copy-
21 rights.

22 “(2) CONSULTATION.—The Copyright Claims Of-
23 ficers and Copyright Claims Attorneys—

24 “(A) may consult with the Register of Copy-
25 rights on general issues of law; and

1 “(B) subject to section 1506(x), may not
2 consult with the Register of Copyrights with re-
3 spect to—

4 “(i) the facts of any particular matter
5 pending before the Officers and the Attor-
6 neys; or

7 “(ii) the application of law to the facts
8 described in clause (i).

9 “(3) *PERFORMANCE APPRAISALS.*—Notwith-
10 standing any other provision of law or any regulation
11 or policy of the Library of Congress or Register of
12 Copyrights, any performance appraisal of a Copy-
13 right Claims Officer or Copyright Claims Attorney
14 may not consider the substantive result of any indi-
15 vidual determination reached by the Copyright
16 Claims Board as a basis for appraisal except to the
17 extent that result may relate to any actual or alleged
18 violation of an ethical standard of conduct.

19 “(c) *DIRECTION BY REGISTER.*—Subject to subsection
20 (b), the Copyright Claims Officers and Copyright Claims
21 Attorneys shall, in the administration of their duties, be
22 under the general direction of the Register of Copyrights.

23 “(d) *INCONSISTENT DUTIES BARRED.*—A Copyright
24 Claims Officer or Copyright Claims Attorney may not un-
25 dertake any duty that conflicts with the duties of the Officer

1 *or Attorney in connection with the Copyright Claims*
2 *Board.*

3 “(e) *RECUSAL.*—*A Copyright Claims Officer or Copy-*
4 *right Claims Attorney shall recuse himself or herself from*
5 *participation in any proceeding with respect to which the*
6 *Copyright Claims Officer or Copyright Claims Attorney, as*
7 *the case may be, has reason to believe that he or she has*
8 *a conflict of interest.*

9 “(f) *EX PARTE COMMUNICATIONS.*—*Except as may*
10 *otherwise be permitted by applicable law, any party to a*
11 *proceeding before the Copyright Claims Board shall refrain*
12 *from ex parte communications with the Copyright Claims*
13 *Officers and the Register of Copyrights concerning the sub-*
14 *stance of any active or pending proceeding before the Copy-*
15 *right Claims Board.*

16 “(g) *JUDICIAL REVIEW.*—*Actions of the Copyright*
17 *Claims Officers and Register of Copyrights under this chap-*
18 *ter in connection with the rendering of any determination*
19 *are subject to judicial review as provided under section*
20 *1508(c) and not under chapter 7 of title 5.*

21 “**§ 1504. Nature of proceedings**

22 “(a) *VOLUNTARY PARTICIPATION.*—*Participation in a*
23 *Copyright Claims Board proceeding shall be on a voluntary*
24 *basis in accordance with this chapter and the right of any*
25 *party to instead pursue a claim, counterclaim, or defense*

1 *in a district court of the United States or any other court,*
2 *and to seek a jury trial, shall be preserved. The rights, rem-*
3 *edies, and limitations under this section may not be waived*
4 *except in accordance with this chapter.*

5 “(b) *STATUTE OF LIMITATIONS.*—

6 “(1) *IN GENERAL.*—*A proceeding may not be*
7 *maintained before the Copyright Claims Board unless*
8 *the proceeding is commenced, in accordance with sec-*
9 *tion 1506(e), before the Copyright Claims Board with-*
10 *in 3 years after the claim accrued.*

11 “(2) *TOLLING.*—*Subject to section 1507(a), a*
12 *proceeding commenced before the Copyright Claims*
13 *Board shall toll the time permitted under section*
14 *507(b) for the commencement of an action on the*
15 *same claim in a district court of the United States*
16 *during the period in which the proceeding is pending.*

17 “(c) *PERMISSIBLE CLAIMS, COUNTERCLAIMS, AND DE-*
18 *FENSES.*—*The Copyright Claims Board may render deter-*
19 *minations with respect to the following claims, counter-*
20 *claims, and defenses, subject to such further limitations and*
21 *requirements, including with respect to particular classes*
22 *of works, as may be set forth in regulations established by*
23 *the Register of Copyrights:*

24 “(1) *A claim for infringement of an exclusive*
25 *right in a copyrighted work provided under section*

1 106 by the legal or beneficial owner of the exclusive
2 right at the time of the infringement for which the
3 claimant seeks damages, if any, within the limita-
4 tions set forth in subsection (e)(1).

5 “(2) A claim for a declaration of noninfringe-
6 ment of an exclusive right in a copyrighted work pro-
7 vided under section 106, consistent with section 2201
8 of title 28.

9 “(3) A claim under section 512(f) for misrepre-
10 sentation in connection with a notification of claimed
11 infringement or a counter notification seeking to re-
12 place removed or disabled material, except that any
13 remedies relating to such a claim in a proceeding be-
14 fore the Copyright Claims Board shall be limited to
15 those available under this chapter.

16 “(4) A counterclaim that is asserted solely
17 against the claimant in a proceeding—

18 “(A) pursuant to which the counterclaimant
19 seeks damages, if any, within the limitations set
20 forth in subsection (e)(1); and

21 “(B) that—

22 “(i) arises under section 106 or section
23 512(f) and out of the same transaction or
24 occurrence that is the subject of a claim of
25 infringement brought under paragraph (1),

1 *a claim of noninfringement brought under*
2 *paragraph (2), or a claim of misrepresenta-*
3 *tion brought under paragraph (3); or*

4 *“(ii) arises under an agreement per-*
5 *taining to the same transaction or occur-*
6 *rence that is the subject of a claim of in-*
7 *fringement brought under paragraph (1), if*
8 *the agreement could affect the relief awarded*
9 *to the claimant.*

10 *“(5) A legal or equitable defense under this title*
11 *or otherwise available under law, in response to a*
12 *claim or counterclaim asserted under this subsection.*

13 *“(6) A single claim or multiple claims permitted*
14 *under paragraph (1), (2), or (3) by one or more*
15 *claimants against one or more respondents, but only*
16 *if all claims asserted in any one proceeding arise out*
17 *of the same allegedly infringing activity or contin-*
18 *uous course of infringing activities and do not, in the*
19 *aggregate, result in the recovery of such claim or*
20 *claims for damages that exceed the limitations under*
21 *subsection (e)(1).*

22 *“(d) EXCLUDED CLAIMS.—The following claims and*
23 *counterclaims are not subject to determination by the Copy-*
24 *right Claims Board:*

1 “(1) *A claim or counterclaim that is not a per-*
2 *missible claim or counterclaim under subsection (c).*

3 “(2) *A claim or counterclaim that has been fi-*
4 *nally adjudicated by a court of competent jurisdiction*
5 *or that is pending before a court of competent juris-*
6 *isdiction, unless that court has granted a stay to per-*
7 *mit that claim or counterclaim to proceed before the*
8 *Copyright Claims Board.*

9 “(3) *A claim or counterclaim by or against a*
10 *Federal or State governmental entity.*

11 “(4) *A claim or counterclaim asserted against a*
12 *person or entity residing outside of the United States,*
13 *except in a case in which the person or entity initi-*
14 *ated the proceeding before the Copyright Claims*
15 *Board and is subject to counterclaims under this*
16 *chapter.*

17 “(e) *PERMISSIBLE REMEDIES.—*

18 “(1) *MONETARY RECOVERY.—*

19 “(A) *ACTUAL DAMAGES, PROFITS, AND*
20 *STATUTORY DAMAGES FOR INFRINGEMENT.—*

21 *With respect to a claim or counterclaim for in-*
22 *fringement of copyright, and subject to the limi-*
23 *tation on total monetary recovery under sub-*
24 *paragraph (D), the Copyright Claims Board*
25 *may award either of the following:*

1 “(i) *Actual damages and profits deter-*
2 *mined in accordance with section 504(b),*
3 *with that award taking into consideration,*
4 *in appropriate cases, whether the infringing*
5 *party has agreed to cease or mitigate the in-*
6 *fringing activity under paragraph (2).*

7 “(ii) *Statutory damages, which shall*
8 *be determined in accordance with section*
9 *504(c), subject to the following conditions:*

10 “(I) *With respect to works timely*
11 *registered under section 412, so that*
12 *the works are eligible for an award of*
13 *statutory damages in accordance with*
14 *that section, the statutory damages*
15 *may not exceed \$15,000 for each work*
16 *infringed.*

17 “(II) *With respect to works not*
18 *timely registered under section 412,*
19 *but eligible for an award of statutory*
20 *damages under this section, statutory*
21 *damages may not exceed \$7,500 per*
22 *work infringed, or a total of \$15,000*
23 *in any 1 proceeding.*

24 “(III) *The Copyright Claims*
25 *Board may not make any finding that,*

1 or consider whether, the infringement
2 was committed willfully in making an
3 award of statutory damages.

4 “(IV) The Copyright Claims
5 Board may consider, as an additional
6 factor in awarding statutory damages,
7 whether the infringer has agreed to
8 cease or mitigate the infringing activ-
9 ity under paragraph (2).

10 “(B) ELECTION OF DAMAGES.—With respect
11 to a claim or counterclaim of infringement, at
12 any time before final determination is rendered,
13 and notwithstanding the schedule established by
14 the Copyright Claims Board under section
15 1506(k), the claimant or counterclaimant shall
16 elect—

17 “(i) to recover actual damages and
18 profits or statutory damages under subpara-
19 graph (A); or

20 “(ii) not to recover damages.

21 “(C) DAMAGES FOR OTHER CLAIMS.—Dam-
22 ages for claims and counterclaims other than in-
23 fringement claims, such as those brought under
24 section 512(f), shall be subject to the limitation
25 under subparagraph (D).

1 “(D) *LIMITATION ON TOTAL MONETARY RE-*
2 *COVERY.—Notwithstanding any other provision*
3 *of law, a party that pursues any one or more*
4 *claims or counterclaims in any single proceeding*
5 *before the Copyright Claims Board may not seek*
6 *or recover in that proceeding a total monetary*
7 *recovery that exceeds the sum of \$30,000, exclu-*
8 *sive of any attorneys’ fees and costs that may be*
9 *awarded under section 1506(y)(2).*

10 “(2) *AGREEMENT TO CEASE CERTAIN ACTIV-*
11 *ITY.—In a determination of the Copyright Claims*
12 *Board, the Board shall include a requirement to cease*
13 *conduct if, in the proceeding relating to the deter-*
14 *mination—*

15 “(A) *a party agrees—*

16 “(i) *to cease activity that is found to*
17 *be infringing, including removing or dis-*
18 *abling access to, or destroying, infringing*
19 *materials; or*

20 “(ii) *to cease sending a takedown no-*
21 *tice or counter notice under section 512 to*
22 *the other party regarding the conduct at*
23 *issue before the Board if that notice or*
24 *counter notice was found to be a knowing*

1 material misrepresentation under section
2 512(f); and

3 “(B) the agreement described in subpara-
4 graph (A) is reflected in the record for the pro-
5 ceeding.

6 “(3) *ATTORNEYS’ FEES AND COSTS.*—Notwith-
7 standing any other provision of law, except in the
8 case of bad faith conduct as provided in section
9 1506(y)(2), the parties to proceedings before the Copy-
10 right Claims Board shall bear their own attorneys’
11 fees and costs.

12 “(f) *JOINT AND SEVERAL LIABILITY.*—Parties to a
13 proceeding before the Copyright Claims Board may be
14 found jointly and severally liable if all such parties and
15 relevant claims or counterclaims arise from the same activ-
16 ity or activities.

17 “(g) *PERMISSIBLE NUMBER OF CASES.*—The Register
18 of Copyrights may establish regulations relating to the per-
19 mitted number of proceedings each year by the same claim-
20 ant under this chapter, in the interests of justice and the
21 administration of the Copyright Claims Board.

22 **“§ 1505. Registration requirement**

23 “(a) *APPLICATION OR CERTIFICATE.*—A claim or
24 counterclaim alleging infringement of an exclusive right in

1 *a copyrighted work may not be asserted before the Copyright*
2 *Claims Board unless—*

3 “(1) *the legal or beneficial owner of the copyright*
4 *has first delivered a completed application, a deposit,*
5 *and the required fee for registration of the copyright*
6 *to the Copyright Office; and*

7 “(2) *a registration certificate has either been*
8 *issued or has not been refused.*

9 “(b) *CERTIFICATE OF REGISTRATION.—Notwith-*
10 *standing any other provision of law, a claimant or counter-*
11 *claimant in a proceeding before the Copyright Claims*
12 *Board shall be eligible to recover actual damages and profits*
13 *or statutory damages under this chapter for infringement*
14 *of a work if the requirements of subsection (a) have been*
15 *met, except that—*

16 “(1) *the Copyright Claims Board may not*
17 *render a determination in the proceeding until—*

18 “(A) *a registration certificate with respect*
19 *to the work has been issued by the Copyright Of-*
20 *fice, submitted to the Copyright Claims Board,*
21 *and made available to the other parties to the*
22 *proceeding; and*

23 “(B) *the other parties to the proceeding*
24 *have been provided an opportunity to address the*
25 *registration certificate;*

1 “(2) if the proceeding may not proceed further
2 because a registration certificate for the work is pend-
3 ing, the proceeding shall be held in abeyance pending
4 submission of the certificate to the Copyright Claims
5 Board, except that, if the proceeding is held in abey-
6 ance for more than 1 year, the Copyright Claims
7 Board may, upon providing written notice to the par-
8 ties to the proceeding, and 30 days to the parties to
9 respond to the notice, dismiss the proceeding without
10 prejudice; and

11 “(3) if the Copyright Claims Board receives no-
12 tice that registration with respect to the work has
13 been refused, the proceeding shall be dismissed with-
14 out prejudice.

15 “(c) *PRESUMPTION.*—In a case in which a registration
16 certificate shows that registration with respect to a work
17 was issued not later than 5 years after the date of the first
18 publication of the work, the presumption under section
19 410(c) shall apply in a proceeding before the Copyright
20 Claims Board, in addition to relevant principles of law
21 under this title.

22 “(d) *REGULATIONS.*—In order to ensure that actions
23 before the Copyright Claims Board proceed in a timely
24 manner, the Register of Copyrights shall establish regula-
25 tions allowing the Copyright Office to make a decision, on

1 *an expedited basis, to issue or deny copyright registration*
2 *for an unregistered work that is at issue before the Board.*

3 **“§ 1506. Conduct of proceedings**

4 “(a) *IN GENERAL.*—

5 “(1) *APPLICABLE LAW.*—*Proceedings of the*
6 *Copyright Claims Board shall be conducted in accord-*
7 *ance with this chapter and regulations established by*
8 *the Register of Copyrights under this chapter, in ad-*
9 *dition to relevant principles of law under this title.*

10 “(2) *CONFLICTING PRECEDENT.*—*If it appears*
11 *that there may be conflicting judicial precedent on an*
12 *issue of substantive copyright law that cannot be rec-*
13 *onciled, the Copyright Claims Board shall follow the*
14 *law of the Federal jurisdiction in which the action*
15 *could have been brought if filed in a district court of*
16 *the United States, or, if the action could have been*
17 *brought in more than 1 such jurisdiction, the jurisdic-*
18 *tion that the Copyright Claims Board determines has*
19 *the most significant ties to the parties and conduct at*
20 *issue.*

21 “(b) *RECORD.*—*The Copyright Claims Board shall*
22 *maintain records documenting the proceedings before the*
23 *Board.*

24 “(c) *CENTRALIZED PROCESS.*—*Proceedings before the*
25 *Copyright Claims Board shall—*

1 “(1) be conducted at the offices of the Copyright
2 Claims Board without the requirement of in-person
3 appearances by parties or others; and

4 “(2) take place by means of written submissions,
5 hearings, and conferences carried out through inter-
6 net-based applications and other telecommunications
7 facilities, except that, in cases in which physical or
8 other nontestimonial evidence material to a pro-
9 ceeding cannot be furnished to the Copyright Claims
10 Board through available telecommunications facili-
11 ties, the Copyright Claims Board may make alter-
12 native arrangements for the submission of such evi-
13 dence that do not prejudice any other party to the
14 proceeding.

15 “(d) REPRESENTATION.—A party to a proceeding be-
16 fore the Copyright Claims Board may be, but is not re-
17 quired to be, represented by—

18 “(1) an attorney; or

19 “(2) a law student who is qualified under appli-
20 cable law governing representation by law students of
21 parties in legal proceedings and who provides such
22 representation on a pro bono basis.

23 “(e) COMMENCEMENT OF PROCEEDING.—In order to
24 commence a proceeding under this chapter, a claimant
25 shall, subject to such additional requirements as may be

1 *prescribed in regulations established by the Register of*
2 *Copyrights, file a claim with the Copyright Claims Board,*
3 *that—*

4 “(1) *includes a statement of material facts in*
5 *support of the claim;*

6 “(2) *is certified under subsection (y)(1); and*

7 “(3) *is accompanied by a filing fee in such*
8 *amount as may be prescribed in regulations estab-*
9 *lished by the Register of Copyrights.*

10 “(f) *REVIEW OF CLAIMS AND COUNTERCLAIMS.—*

11 “(1) *CLAIMS.—Upon the filing of a claim under*
12 *subsection (e), the claim shall be reviewed by a Copy-*
13 *right Claims Attorney to ensure that the claim com-*
14 *plies with this chapter and applicable regulations,*
15 *subject to the following:*

16 “(A) *If the claim is found to comply, the*
17 *claimant shall be notified regarding that compli-*
18 *ance and instructed to proceed with service of the*
19 *claim under subsection (g).*

20 “(B) *If the claim is found not to comply,*
21 *the claimant shall be notified that the claim is*
22 *deficient and be permitted to file an amended*
23 *claim not later than 30 days after the date on*
24 *which the claimant receives the notice, without*
25 *the requirement of an additional filing fee. If the*

1 *claimant files a compliant claim within that 30-*
2 *day period, the claimant shall be so notified and*
3 *be instructed to proceed with service of the claim.*
4 *If the claim is refiled within that 30-day period*
5 *and still fails to comply, the claimant shall*
6 *again be notified that the claim is deficient and*
7 *shall be provided a second opportunity to amend*
8 *the claim within 30 days after the date of that*
9 *second notice, without the requirement of an ad-*
10 *ditional filing fee. If the claim is refiled again*
11 *within that second 30-day period and is compli-*
12 *ant, the claimant shall be so notified and shall*
13 *be instructed to proceed with service of the claim,*
14 *but if the claim still fails to comply, upon con-*
15 *firmation of such noncompliance by a Copyright*
16 *Claims Officer, the proceeding shall be dismissed*
17 *without prejudice. The Copyright Claims Board*
18 *shall also dismiss without prejudice any pro-*
19 *ceeding in which a compliant claim is not filed*
20 *within the applicable 30-day period.*

21 *“(C)(i) Subject to clause (ii), for purposes of*
22 *this paragraph, a claim against an online serv-*
23 *ice provider for infringement by reason of the*
24 *storage of or referral or linking to infringing*
25 *material that may be subject to the limitations*

1 on liability set forth in subsection (b), (c), or (d)
2 of section 512 shall be considered noncompliant
3 unless the claimant affirms in the statement re-
4 quired under subsection (e)(1) of this section that
5 the claimant has previously notified the service
6 provider of the claimed infringement in accord-
7 ance with subsection (b)(2)(E), (c)(3), or (d)(3)
8 of section 512, as applicable, and the service pro-
9 vider failed to remove or disable access to the
10 material expeditiously upon the provision of
11 such notice.

12 “(i) If a claim is found to be noncompliant
13 under clause (i), the Copyright Claims Board
14 shall provide the claimant with information con-
15 cerning the service of such a notice under the ap-
16 plicable provision of section 512.

17 “(2) COUNTERCLAIMS.—Upon the filing and
18 service of a counterclaim, the counterclaim shall be
19 reviewed by a Copyright Claims Attorney to ensure
20 that the counterclaim complies with the provisions of
21 this chapter and applicable regulations. If the coun-
22 terclaim is found not to comply, the counterclaimant
23 and the other parties to the proceeding shall be noti-
24 fied that the counterclaim is deficient, and the
25 counterclaimant shall be permitted to file and serve

1 *an amended counterclaim within 30 days after the*
2 *date of such notice. If the counterclaimant files and*
3 *serves a compliant counterclaim within that 30-day*
4 *period, the counterclaimant and such other parties*
5 *shall be so notified. If the counterclaim is refiled and*
6 *served within that 30-day period but still fails to*
7 *comply, the counterclaimant and such other parties*
8 *shall again be notified that the counterclaim is defi-*
9 *cient, and the counterclaimant shall be provided a*
10 *second opportunity to amend the counterclaim within*
11 *30 days after the date of the second notice. If the*
12 *counterclaim is refiled and served again within that*
13 *second 30-day period and is compliant, the counter-*
14 *claimant and such other parties shall be so notified,*
15 *but if the counterclaim still fails to comply, upon con-*
16 *firmation of such noncompliance by a Copyright*
17 *Claims Officer, the counterclaim, but not the pro-*
18 *ceeding, shall be dismissed without prejudice.*

19 *“(3) DISMISSAL FOR UNSUITABILITY.—The*
20 *Copyright Claims Board shall dismiss a claim or*
21 *counterclaim without prejudice if, upon reviewing the*
22 *claim or counterclaim, or at any other time in the*
23 *proceeding, the Copyright Claims Board concludes*
24 *that the claim or counterclaim is unsuitable for deter-*

1 *mination by the Copyright Claims Board, including*
2 *on account of any of the following:*

3 *“(A) The failure to join a necessary party.*

4 *“(B) The lack of an essential witness, evi-*
5 *dence, or expert testimony.*

6 *“(C) The determination of a relevant issue*
7 *of law or fact that could exceed either the number*
8 *of proceedings the Copyright Claims Board could*
9 *reasonably administer or the subject matter com-*
10 *petence of the Copyright Claims Board.*

11 *“(g) SERVICE OF NOTICE AND CLAIMS.—In order to*
12 *proceed with a claim against a respondent, a claimant*
13 *shall, within 90 days after receiving notification under sub-*
14 *section (f) to proceed with service, file with the Copyright*
15 *Claims Board proof of service on the respondent. In order*
16 *to effectuate service on a respondent, the claimant shall*
17 *cause notice of the proceeding and a copy of the claim to*
18 *be served on the respondent, either by personal service or*
19 *pursuant to a waiver of personal service, as prescribed in*
20 *regulations established by the Register of Copyrights. Such*
21 *regulations shall include the following requirements:*

22 *“(1) The notice of the proceeding shall adhere to*
23 *a prescribed form and shall set forth the nature of the*
24 *Copyright Claims Board and proceeding, the right of*
25 *the respondent to opt out, and the consequences of opt-*

1 *ing out and not opting out, including a prominent*
2 *statement that, by not opting out within 60 days*
3 *after receiving the notice, the respondent—*

4 *“(A) loses the opportunity to have the dis-*
5 *pute decided by a court created under article III*
6 *of the Constitution of the United States; and*

7 *“(B) waives the right to a jury trial regard-*
8 *ing the dispute.*

9 *“(2) The copy of the claim served on the respond-*
10 *ent shall be the same as the claim that was filed with*
11 *the Copyright Claims Board.*

12 *“(3) Personal service of a notice and claim may*
13 *be effected by an individual who is not a party to the*
14 *proceeding and is older than 18 years of age.*

15 *“(4) An individual, other than a minor or in-*
16 *competent individual, may be served by—*

17 *“(A) complying with State law for serving*
18 *a summons in an action brought in courts of*
19 *general jurisdiction in the State where service is*
20 *made;*

21 *“(B) delivering a copy of the notice and*
22 *claim to the individual personally;*

23 *“(C) leaving a copy of the notice and claim*
24 *at the individual’s dwelling or usual place of*

1 *abode with someone of suitable age and discre-*
2 *tion who resides there; or*

3 *“(D) delivering a copy of the notice and*
4 *claim to an agent designated by the respondent*
5 *to receive service of process or, if not so des-*
6 *ignated, an agent authorized by appointment or*
7 *by law to receive service of process.*

8 *“(5)(A) A corporation, partnership, or unincor-*
9 *porated association that is subject to suit in courts of*
10 *general jurisdiction under a common name shall be*
11 *served by delivering a copy of the notice and claim*
12 *to its service agent. If such service agent has not been*
13 *designated, service shall be accomplished—*

14 *“(i) by complying with State law for serv-*
15 *ing a summons in an action brought in courts*
16 *of general jurisdiction in the State where service*
17 *is made; or*

18 *“(ii) by delivering a copy of the notice and*
19 *claim to an officer, a managing or general agent,*
20 *or any other agent authorized by appointment or*
21 *by law to receive service of process in an action*
22 *brought in courts of general jurisdiction in the*
23 *State where service is made and, if the agent is*
24 *one authorized by statute and the statute so re-*

1 quires, by also mailing a copy of the notice and
2 claim to the respondent.

3 “(B) A corporation, partnership or unincor-
4 porated association that is subject to suit in courts of
5 general jurisdiction under a common name may elect
6 to designate a service agent to receive notice of a
7 claim against it before the Copyright Claims Board
8 by complying with requirements that the Register of
9 Copyrights shall establish by regulation. The Register
10 of Copyrights shall maintain a current directory of
11 service agents that is available to the public for in-
12 spection, including through the internet, and may re-
13 quire such corporations, partnerships, and unincor-
14 porated associations designating such service agents
15 to pay a fee to cover the costs of maintaining the di-
16 rectory.

17 “(6) In order to request a waiver of personal
18 service, the claimant may notify a respondent, by
19 first class mail or by other reasonable means, that a
20 proceeding has been commenced, such notice to be
21 made in accordance with regulations established by
22 the Register of Copyrights, subject to the following:

23 “(A) Any such request shall be in writing,
24 shall be addressed to the respondent, and shall be
25 accompanied by a prescribed notice of the pro-

1 *ceeding, a copy of the claim as filed with the*
2 *Copyright Claims Board, a prescribed form for*
3 *waiver of personal service, and a prepaid or*
4 *other means of returning the form without cost.*

5 *“(B) The request shall state the date on*
6 *which the request is sent, and shall provide the*
7 *respondent a period of 30 days, beginning on the*
8 *date on which the request is sent, to return the*
9 *waiver form signed by the respondent. The*
10 *signed waiver form shall, for purposes of this*
11 *subsection, constitute acceptance and proof of*
12 *service as of the date on which the waiver is*
13 *signed.*

14 *“(7)(A) A respondent’s waiver of personal service*
15 *shall not constitute a waiver of the respondent’s right*
16 *to opt out of the proceeding.*

17 *“(B) A respondent who timely waives personal*
18 *service under paragraph (6) and does not opt out of*
19 *the proceeding shall be permitted a period of 30 days,*
20 *in addition to the period otherwise permitted under*
21 *the applicable procedures of the Copyright Claims*
22 *Board, to submit a substantive response to the claim,*
23 *including any defenses and counterclaims.*

24 *“(8) A minor or an incompetent individual may*
25 *only be served by complying with State law for serv-*

1 *ing a summons or like process on such an individual*
2 *in an action brought in the courts of general jurisdic-*
3 *tion of the State where service is made.*

4 *“(9) Service of a claim and waiver of personal*
5 *service may only be effected within the United States.*

6 *“(h) NOTIFICATION BY COPYRIGHT CLAIMS BOARD.—*
7 *The Register of Copyrights shall establish regulations pro-*
8 *viding for a written notification to be sent by, or on behalf*
9 *of, the Copyright Claims Board to notify the respondent of*
10 *a pending proceeding against the respondent, as set forth*
11 *in those regulations, which shall—*

12 *“(1) include information concerning the respond-*
13 *ent’s right to opt out of the proceeding, the con-*
14 *sequences of opting out and not opting out, and a*
15 *prominent statement that, by not opting out within*
16 *60 days after the date of service under subsection (g),*
17 *the respondent loses the opportunity to have the dis-*
18 *pute decided by a court created under article III of*
19 *the Constitution of the United States and waives the*
20 *right to a jury trial regarding the dispute; and*

21 *“(2) be in addition to, and separate and apart*
22 *from, the notice requirements under subsection (g).*

23 *“(i) OPT-OUT PROCEDURE.—Upon being properly*
24 *served with a notice and claim, a respondent who chooses*
25 *to opt out of the proceeding shall have a period of 60 days,*

1 *beginning on the date of service, in which to provide written*
2 *notice of such choice to the Copyright Claims Board, in ac-*
3 *cordance with regulations established by the Register of*
4 *Copyrights. If proof of service has been filed by the claimant*
5 *and the respondent does not submit an opt-out notice to*
6 *the Copyright Claims Board within that 60-day period, the*
7 *proceeding shall be deemed an active proceeding and the*
8 *respondent shall be bound by the determination in the pro-*
9 *ceeding to the extent provided under section 1507(a). If the*
10 *respondent opts out of the proceeding during that 60-day*
11 *period, the proceeding shall be dismissed without prejudice,*
12 *except that, in exceptional circumstances and upon written*
13 *notice to the claimant, the Copyright Claims Board may*
14 *extend that 60-day period in the interests of justice.*

15 “(j) *SERVICE OF OTHER DOCUMENTS.—Documents*
16 *submitted or relied upon in a proceeding, other than the*
17 *notice and claim, shall be served in accordance with regula-*
18 *tions established by the Register of Copyrights.*

19 “(k) *SCHEDULING.—Upon confirmation that a pro-*
20 *ceeding has become an active proceeding, the Copyright*
21 *Claims Board shall issue a schedule for the future conduct*
22 *of the proceeding. The schedule shall not specify a time that*
23 *a claimant or counterclaimant is required make an election*
24 *of damages that is inconsistent with section 1504(e). A*
25 *schedule issued by the Copyright Claims Board may be*

1 *amended by the Copyright Claims Board in the interests*
2 *of justice.*

3 “(l) *CONFERENCES.*—*One or more Copyright Claims*
4 *Officers may hold a conference to address case management*
5 *or discovery issues in a proceeding, which shall be noted*
6 *upon the record of the proceeding and may be recorded or*
7 *transcribed.*

8 “(m) *PARTY SUBMISSIONS.*—*A proceeding of the*
9 *Copyright Claims Board may not include any formal mo-*
10 *tion practice, except that, subject to applicable regulations*
11 *and procedures of the Copyright Claims Board—*

12 “(1) *the parties to the proceeding may make re-*
13 *quests to the Copyright Claims Board to address case*
14 *management and discovery matters, and submit re-*
15 *sponses thereto; and*

16 “(2) *the Copyright Claims Board may request or*
17 *permit parties to make submissions addressing rel-*
18 *evant questions of fact or law, or other matters, in-*
19 *cluding matters raised sua sponte by the Copyright*
20 *Claims Officers, and offer responses thereto.*

21 “(n) *DISCOVERY.*—*Discovery in a proceeding shall be*
22 *limited to the production of relevant information and docu-*
23 *ments, written interrogatories, and written requests for ad-*
24 *mission, as provided in regulations established by the Reg-*
25 *ister of Copyrights, except that—*

1 “(1) upon the request of a party, and for good
2 cause shown, the Copyright Claims Board may ap-
3 prove additional relevant discovery, on a limited
4 basis, in particular matters, and may request specific
5 information and documents from participants in the
6 proceeding and voluntary submissions from non-
7 participants, consistent with the interests of justice;

8 “(2) upon the request of a party, and for good
9 cause shown, the Copyright Claims Board may issue
10 a protective order to limit the disclosure of documents
11 or testimony that contain confidential information;
12 and

13 “(3) after providing notice and an opportunity
14 to respond, and upon good cause shown, the Copy-
15 right Claims Board may apply an adverse inference
16 with respect to disputed facts against a party who
17 has failed to timely provide discovery materials in re-
18 sponse to a proper request for materials that could be
19 relevant to such facts.

20 “(o) *EVIDENCE.*—The Copyright Claims Board may
21 consider the following types of evidence in a proceeding, and
22 such evidence may be admitted without application of for-
23 mal rules of evidence:

1 “(1) *Documentary and other nontestimonial evi-*
2 *dence that is relevant to the claims, counterclaims, or*
3 *defenses in the proceeding.*

4 “(2) *Testimonial evidence, submitted under pen-*
5 *alty of perjury in written form or in accordance with*
6 *subsection (p), limited to statements of the parties*
7 *and nonexpert witnesses, that is relevant to the*
8 *claims, counterclaims, and defenses in a proceeding,*
9 *except that, in exceptional cases, expert witness testi-*
10 *mony or other types of testimony may be permitted*
11 *by the Copyright Claims Board for good cause shown.*

12 “(p) *HEARINGS.—The Copyright Claims Board may*
13 *conduct a hearing to receive oral presentations on issues*
14 *of fact or law from parties and witnesses to a proceeding,*
15 *including oral testimony, subject to the following:*

16 “(1) *Any such hearing shall be attended by not*
17 *fewer than two of the Copyright Claims Officers.*

18 “(2) *The hearing shall be noted upon the record*
19 *of the proceeding and, subject to paragraph (3), may*
20 *be recorded or transcribed as deemed necessary by the*
21 *Copyright Claims Board.*

22 “(3) *A recording or transcript of the hearing*
23 *shall be made available to any Copyright Claims Of-*
24 *ficer who is not in attendance.*

25 “(q) *VOLUNTARY DISMISSAL.—*

1 “(1) *BY CLAIMANT.*—Upon the written request of
2 a claimant that is received before a respondent files
3 a response to the claim in a proceeding, the Copyright
4 Claims Board shall dismiss the proceeding, or a claim
5 or respondent, as requested, without prejudice.

6 “(2) *BY COUNTERCLAIMANT.*—Upon written re-
7 quest of a counterclaimant that is received before a
8 claimant files a response to the counterclaim, the
9 Copyright Claims Board shall dismiss the counter-
10 claim, such dismissal to be without prejudice.

11 “(3) *CLASS ACTIONS.*—Any party in an active
12 proceeding before the Copyright Claims Board who re-
13 ceives notice of a pending or putative class action,
14 arising out of the same transaction or occurrence, in
15 which that party is a class member may request in
16 writing dismissal of the proceeding before the Board.
17 Upon notice to all claimants and counterclaimants,
18 the Copyright Claims Board shall dismiss the pro-
19 ceeding without prejudice.

20 “(r) *SETTLEMENT.*—

21 “(1) *IN GENERAL.*—At any time in an active
22 proceeding, some or all of the parties may—

23 “(A) jointly request a conference with a
24 Copyright Claims Officer for the purpose of fa-
25 cilitating settlement discussions; or

1 “(B) submit to the Copyright Claims Board
2 an agreement providing for settlement and dis-
3 missal of some or all of the claims and counter-
4 claims in the proceeding.

5 “(2) *ADDITIONAL REQUEST.*—A submission
6 under paragraph (1)(B) may include a request that
7 the Copyright Claims Board adopt some or all of the
8 terms of the parties’ settlement in a final determina-
9 tion in the proceeding.

10 “(s) *FACTUAL FINDINGS.*—Subject to subsection
11 (n)(3), the Copyright Claims Board shall make factual find-
12 ings based upon a preponderance of the evidence.

13 “(t) *DETERMINATIONS.*—

14 “(1) *NATURE AND CONTENTS.*—A determination
15 rendered by the Copyright Claims Board in a pro-
16 ceeding shall—

17 “(A) be reached by a majority of the Copy-
18 right Claims Board;

19 “(B) be in writing, and include an expla-
20 nation of the factual and legal basis of the deter-
21 mination;

22 “(C) set forth any terms by which a re-
23 spondent or counterclaim respondent has agreed
24 to cease infringing activity under section
25 1504(e)(2);

1 “(D) to the extent requested under sub-
2 section (r)(2), set forth the terms of any settle-
3 ment agreed to under subsection (r)(1); and

4 “(E) include a clear statement of all dam-
5 ages and other relief awarded, including under
6 subparagraphs (C) and (D).

7 “(2) *DISSENT.*—A Copyright Claims Officer who
8 dissents from a decision contained in a determination
9 under paragraph (1) may append a statement setting
10 forth the grounds for that dissent.

11 “(3) *PUBLICATION.*—Each final determination of
12 the Copyright Claims Board shall be made available
13 on a publicly accessible website. The Register shall es-
14 tablish regulations with respect to the publication of
15 other records and information relating to such deter-
16 minations, including the redaction of records to pro-
17 tect confidential information that is the subject of a
18 protective order under subsection (n)(2).

19 “(4) *FREEDOM OF INFORMATION ACT.*—All infor-
20 mation relating to proceedings of the Copyright
21 Claims Board under this title is exempt from disclo-
22 sure to the public under section 552(b)(3) of title 5,
23 except for determinations, records, and information
24 published under paragraph (3).

1 “(u) *RESPONDENT’S DEFAULT.*—If a proceeding has
2 been deemed an active proceeding but the respondent has
3 failed to appear or has ceased participating in the pro-
4 ceeding, as demonstrated by the respondent’s failure, with-
5 out justifiable cause, to meet one or more deadlines or re-
6 quirements set forth in the schedule adopted by the Copy-
7 right Claims Board under subsection (k), the Copyright
8 Claims Board may enter a default determination, including
9 the dismissal of any counterclaim asserted by the respond-
10 ent, as follows and in accordance with such other require-
11 ments as the Register of Copyrights may establish by regu-
12 lation:

13 “(1) *The Copyright Claims Board shall require*
14 *the claimant to submit relevant evidence and other*
15 *information in support of the claimant’s claim and*
16 *any asserted damages and, upon review of such evi-*
17 *dence and any other requested submissions from the*
18 *claimant, shall determine whether the materials so*
19 *submitted are sufficient to support a finding in favor*
20 *of the claimant under applicable law and, if so, the*
21 *appropriate relief and damages, if any, to be award-*
22 *ed.*

23 “(2) *If the Copyright Claims Board makes an af-*
24 *firmative determination under paragraph (1), the*
25 *Copyright Claims Board shall prepare a proposed de-*

1 *fault determination, and shall provide written notice*
2 *to the respondent at all addresses, including email ad-*
3 *resses, reflected in the records of the proceeding be-*
4 *fore the Copyright Claims Board, of the pendency of*
5 *a default determination by the Copyright Claims*
6 *Board and of the legal significance of such determina-*
7 *tion. Such notice shall be accompanied by the pro-*
8 *posed default determination and shall provide that*
9 *the respondent has a period of 30 days, beginning on*
10 *the date of the notice, to submit any evidence or other*
11 *information in opposition to the proposed default de-*
12 *termination.*

13 *“(3) If the respondent responds to the notice pro-*
14 *vided under paragraph (2) within the 30-day period*
15 *provided in such paragraph, the Copyright Claims*
16 *Board shall consider respondent’s submissions and,*
17 *after allowing the other parties to address such sub-*
18 *missions, maintain, or amend its proposed deter-*
19 *mination as appropriate, and the resulting deter-*
20 *mination shall not be a default determination.*

21 *“(4) If the respondent fails to respond to the no-*
22 *tice provided under paragraph (2), the Copyright*
23 *Claims Board shall proceed to issue the default deter-*
24 *mination as a final determination. Thereafter, the re-*
25 *spondent may only challenge such determination to*

1 *the extent permitted under section 1508(c), except*
2 *that, before any additional proceedings are initiated*
3 *under section 1508, the Copyright Claims Board may,*
4 *in the interests of justice, vacate the default deter-*
5 *mination.*

6 *“(v) CLAIMANT’S FAILURE TO PROCEED.—*

7 *“(1) FAILURE TO COMPLETE SERVICE.—If a*
8 *claimant fails to complete service on a respondent*
9 *within the 90-day period required under subsection*
10 *(g), the Copyright Claims Board shall dismiss that*
11 *respondent from the proceeding without prejudice. If*
12 *a claimant fails to complete service on all respondents*
13 *within that 90-day period, the Copyright Claims*
14 *Board shall dismiss the proceeding without prejudice.*

15 *“(2) FAILURE TO PROSECUTE.—If a claimant*
16 *fails to proceed in an active proceeding, as dem-*
17 *onstrated by the claimant’s failure, without justifiable*
18 *cause, to meet one or more deadlines or requirements*
19 *set forth in the schedule adopted by the Copyright*
20 *Claims Board under subsection (k), the Copyright*
21 *Claims Board may, upon providing written notice to*
22 *the claimant and a period of 30 days, beginning on*
23 *the date of the notice, to respond to the notice, and*
24 *after considering any such response, issue a deter-*
25 *mination dismissing the claimants’ claims, which*

1 *shall include an award of attorneys’ fees and costs, if*
2 *appropriate, under subsection (y)(2). Thereafter, the*
3 *claimant may only challenge such determination to*
4 *the extent permitted under section 1508(c), except*
5 *that, before any additional proceedings are initiated*
6 *under section 1508, the Copyright Claims Board may,*
7 *in the interests of justice, vacate the determination of*
8 *dismissal.*

9 “(w) *REQUEST FOR RECONSIDERATION.*—*A party*
10 *may, within 30 days after the date on which the Copyright*
11 *Claims Board issues a final determination in a proceeding*
12 *under this chapter, submit a written request for reconsider-*
13 *ation of, or an amendment to, such determination if the*
14 *party identifies a clear error of law or fact material to the*
15 *outcome, or a technical mistake. After providing the other*
16 *parties an opportunity to address such request, the Copy-*
17 *right Claims Board shall either deny the request or issue*
18 *an amended final determination.*

19 “(x) *REVIEW BY REGISTER.*—*If the Copyright Claims*
20 *Board denies a party a request for reconsideration of a final*
21 *determination under subsection (w), that party may, with-*
22 *in 30 days after the date of such denial, request review of*
23 *the final determination by the Register of Copyrights in ac-*
24 *cordance with regulations established by the Register. Such*
25 *request shall be accompanied by a reasonable filing fee, as*

1 *provided in such regulations. The review by the Register*
2 *shall be limited to consideration of whether the Copyright*
3 *Claims Board abused its discretion in denying reconsider-*
4 *ation of the determination. After providing the other parties*
5 *an opportunity to address the request, the Register shall ei-*
6 *ther deny the request for review, or remand the proceeding*
7 *to the Copyright Claims Board for reconsideration of issues*
8 *specified in the remand and for issuance of an amended*
9 *final determination. Such amended final determination*
10 *shall not be subject to further consideration or review, other*
11 *than under section 1508(c).*

12 “(y) *CONDUCT OF PARTIES AND ATTORNEYS.*—

13 “(1) *CERTIFICATION.*—*The Register of Copy-*
14 *rights shall establish regulations requiring certifi-*
15 *cation of the accuracy and truthfulness of statements*
16 *made by participants in proceedings before the Copy-*
17 *right Claims Board.*

18 “(2) *BAD FAITH CONDUCT.*—*Notwithstanding*
19 *any other provision of law, in any proceeding in*
20 *which a determination is rendered and it is estab-*
21 *lished that a party pursued a claim, counterclaim, or*
22 *defense for a harassing or other improper purpose, or*
23 *without a reasonable basis in law or fact, then, unless*
24 *inconsistent with the interests of justice, the Copy-*
25 *right Claims Board shall in such determination*

1 *award reasonable costs and attorneys' fees to any ad-*
2 *versely affected party of in an amount of not more*
3 *than \$5,000, except that—*

4 “(A) *if an adversely affected party appeared*
5 *pro se in the proceeding, the award to that party*
6 *shall be for costs only, in an amount of not more*
7 *than \$2,500; and*

8 “(B) *in extraordinary circumstances, such*
9 *as where a party has demonstrated a pattern or*
10 *practice of bad faith conduct as described in this*
11 *paragraph, the Copyright Claims Board may, in*
12 *the interests of justice, award costs and attor-*
13 *neys' fees in excess of the limitations under this*
14 *paragraph.*

15 “(3) *ADDITIONAL PENALTY.—If the Board finds*
16 *that on more than one occasion within a 12-month*
17 *period a party pursued a claim, counterclaim, or de-*
18 *fense before the Copyright Claims Board for a*
19 *harassing or other improper purpose, or without a*
20 *reasonable basis in law or fact, that party shall be*
21 *barred from initiating a claim before the Copyright*
22 *Claims Board under this chapter for a period of 12*
23 *months beginning on the date on which the Board*
24 *makes such a finding. Any proceeding commenced by*
25 *that party that is still pending before the Board when*

1 *such a finding is made shall be dismissed without*
2 *prejudice, except that if a proceeding has been deemed*
3 *active under subsection (i), the proceeding shall be*
4 *dismissed under this paragraph only if the respondent*
5 *provides written consent thereto.*

6 “(z) *REGULATIONS FOR SMALLER CLAIMS.—The Reg-*
7 *ister of Copyrights shall establish regulations to provide for*
8 *the consideration and determination, by at least one Copy-*
9 *right Claims Officer, of any claim under this chapter in*
10 *which total damages sought do not exceed \$5,000 (exclusive*
11 *of attorneys’ fees and costs) that are otherwise consistent*
12 *with this chapter. A determination issued under this sub-*
13 *section shall have the same effect as a determination issued*
14 *by the entire Copyright Claims Board.*

15 **“§ 1507. Effect of proceeding**

16 “(a) *DETERMINATION.—Subject to the reconsideration*
17 *and review processes provided under subsections (w) and*
18 *(x) of section 1506 and section 1508(c), the issuance of a*
19 *final determination by the Copyright Claims Board in a*
20 *proceeding, including a default determination or deter-*
21 *mination based on a failure to prosecute, shall, solely with*
22 *respect to the parties to such determination, preclude reliti-*
23 *gation before any court or tribunal, or before the Copyright*
24 *Claims Board, of the claims and counterclaims asserted and*
25 *finally determined by the Board, and may be relied upon*

1 *for such purpose in a future action or proceeding arising*
2 *from the same specific activity or activities, subject to the*
3 *following:*

4 “(1) *A determination of the Copyright Claims*
5 *Board shall not preclude litigation or relitigation as*
6 *between the same or different parties before any court*
7 *or tribunal, or the Copyright Claims Board, of the*
8 *same or similar issues of fact or law in connection*
9 *with claims or counterclaims not asserted or not fi-*
10 *nally determined by the Copyright Claims Board.*

11 “(2) *A determination of ownership of a copy-*
12 *righted work for purposes of resolving a matter before*
13 *the Copyright Claims Board may not be relied upon,*
14 *and shall not have any preclusive effect, in any other*
15 *action or proceeding before any court or tribunal, in-*
16 *cluding the Copyright Claims Board.*

17 “(3) *Except to the extent permitted under this*
18 *subsection and section 1508, any determination of the*
19 *Copyright Claims Board may not be cited or relied*
20 *upon as legal precedent in any other action or pro-*
21 *ceeding before any court or tribunal, including the*
22 *Copyright Claims Board.*

23 “(b) *CLASS ACTIONS NOT AFFECTED.—*

24 “(1) *IN GENERAL.—A proceeding before the*
25 *Copyright Claims Board shall not have any effect on*

1 *a class action proceeding in a district court of the*
2 *United States, and section 1509(a) shall not apply to*
3 *a class action proceeding in a district court of the*
4 *United States.*

5 *“(2) NOTICE OF CLASS ACTION.—Any party to*
6 *an active proceeding before the Copyright Claims*
7 *Board who receives notice of a pending class action,*
8 *arising out of the same transaction or occurrence as*
9 *the proceeding before the Copyright Claims Board, in*
10 *which the party is a class member shall either—*

11 *“(A) opt out of the class action, in accord-*
12 *ance with regulations established by the Register*
13 *of Copyrights; or*

14 *“(B) seek dismissal under section*
15 *1506(q)(3) of the proceeding before the Copyright*
16 *Claims Board.*

17 *“(c) OTHER MATERIALS IN PROCEEDING.—Except as*
18 *permitted under this section and section 1508, a submission*
19 *or statement of a party or witness made in connection with*
20 *a proceeding before the Copyright Claims Board, including*
21 *a proceeding that is dismissed, may not be cited or relied*
22 *upon in, or serve as the basis of, any action or proceeding*
23 *concerning rights or limitations on rights under this title*
24 *before any court or tribunal, including the Copyright*
25 *Claims Board.*

1 “(d) *APPLICABILITY OF SECTION 512(g).*—A claim or
2 counterclaim before the Copyright Claims Board that is
3 brought under subsection (c)(1) or (c)(4) of section 1504,
4 or brought under subsection (c)(6) of section 1504 and that
5 relates to a claim under subsection (c)(1) or (c)(4) of such
6 section, qualifies as an action seeking an order to restrain
7 a subscriber from engaging in infringing activity under sec-
8 tion 512(g)(2)(C) if—

9 “(1) notice of the commencement of the Copy-
10 right Claims Board proceeding is provided by the
11 claimant to the service provider’s designated agent be-
12 fore the service provider replaces the material fol-
13 lowing receipt of a counter notification under section
14 512(g); and

15 “(2) the claim brought alleges infringement of
16 the material identified in the notification of claimed
17 infringement under section 512(c)(1)(C).

18 “(e) *FAILURE TO ASSERT COUNTERCLAIM.*—The fail-
19 ure or inability to assert a counterclaim in a proceeding
20 before the Copyright Claims Board shall not preclude the
21 assertion of that counterclaim in a subsequent court action
22 or proceeding before the Copyright Claims Board.

23 “(f) *OPT-OUT OR DISMISSAL OF PARTY.*—If a party
24 has timely opted out of a proceeding under section 1506(i)
25 or is dismissed from a proceeding before the Copyright

1 *Claims Board issues a final determination in the pro-*
2 *ceeding, the determination shall not be binding upon and*
3 *shall have no preclusive effect with respect to that party.*

4 **“§ 1508. Review and confirmation by district court**

5 “(a) *IN GENERAL.—In any proceeding in which a*
6 *party has failed to pay damages, or has failed otherwise*
7 *to comply with the relief, awarded in a final determination*
8 *of the Copyright Claims Board, including a default deter-*
9 *mination or a determination based on a failure to pros-*
10 *ecute, the aggrieved party may, not later than 1 year after*
11 *the date on which the final determination is issued, any*
12 *reconsideration by the Copyright Claims Board or review*
13 *by the Register of Copyrights is resolved, or an amended*
14 *final determination is issued, whichever occurs last, apply*
15 *to the United States District Court for the District of Co-*
16 *lumbia or any other appropriate district court of the*
17 *United States for an order confirming the relief awarded*
18 *in the final determination and reducing such award to*
19 *judgment. The court shall grant such order and direct entry*
20 *of judgment unless the determination is or has been vacated,*
21 *modified, or corrected under subsection (c). If the United*
22 *States District Court for the District of Columbia or other*
23 *district court of the United States, as the case may be, issues*
24 *an order confirming the relief awarded by the Copyright*
25 *Claims Board, the court shall impose on the party who*

1 *failed to pay damages or otherwise comply with the relief,*
2 *the reasonable expenses required to secure such order, in-*
3 *cluding attorneys' fees, that were incurred by the aggrieved*
4 *party.*

5 “(b) *FILING PROCEDURES.*—

6 “(1) *APPLICATION TO CONFIRM DETERMINA-*
7 *TION.*—*Notice of the application under subsection (a)*
8 *for confirmation of a determination of the Copyright*
9 *Claims Board and entry of judgment shall be pro-*
10 *vided to all parties to the proceeding before the Copy-*
11 *right Claims Board that resulted in the determina-*
12 *tion, in accordance with the procedures applicable to*
13 *service of a motion in the district court of the United*
14 *States where the application is made.*

15 “(2) *CONTENTS OF APPLICATION.*—*The applica-*
16 *tion shall include the following:*

17 “(A) *A certified copy of the final or amend-*
18 *ed final determination of the Copyright Claims*
19 *Board, as reflected in the records of the Copy-*
20 *right Claims Board, following any process of re-*
21 *consideration or review by the Register of Copy-*
22 *rights, to be confirmed and rendered to judg-*
23 *ment.*

24 “(B) *A declaration by the applicant, under*
25 *penalty of perjury—*

1 “(i) that the copy is a true and correct
2 copy of such determination;

3 “(ii) stating the date it was issued;

4 “(iii) stating the basis for the challenge
5 under subsection (c)(1); and

6 “(iv) stating whether the applicant is
7 aware of any other proceedings before the
8 court concerning the same determination of
9 the Copyright Claims Board.

10 “(c) CHALLENGES TO THE DETERMINATION.—

11 “(1) BASES FOR CHALLENGE.—Not later than 90
12 days after the date on which Copyright Claims Board
13 issues a final or amended final determination in a
14 proceeding, or not later than 90 days after the date
15 on which the Register of Copyrights completes any
16 process of reconsideration or review of the determina-
17 tion, whichever occurs later, a party may seek a court
18 order vacating, modifying, or correcting the deter-
19 mination of the Copyright Claims Board in the fol-
20 lowing cases:

21 “(A) If the determination was issued as a
22 result of fraud, corruption, misrepresentation, or
23 other misconduct.

1 “(B) *If the Copyright Claims Board exceed-*
2 *ed its authority or failed to render a final deter-*
3 *mination concerning the subject matter at issue.*

4 “(C) *In the case of a default determination*
5 *or determination based on a failure to prosecute,*
6 *if it is established that the default or failure was*
7 *due to excusable neglect.*

8 “(2) *PROCEDURE TO CHALLENGE.—*

9 “(A) *NOTICE OF APPLICATION.—Notice of*
10 *the application to challenge a determination of*
11 *the Copyright Claims Board shall be provided to*
12 *all parties to the proceeding before the Copyright*
13 *Claims Board, in accordance with the procedures*
14 *applicable to service of a motion in the court*
15 *where the application is made.*

16 “(B) *STAYING OF PROCEEDINGS.—For pur-*
17 *poses of an application under this subsection,*
18 *any judge who is authorized to issue an order to*
19 *stay the proceedings in an any other action*
20 *brought in the same court may issue an order,*
21 *to be served with the notice of application, stay-*
22 *ing proceedings to enforce the award while the*
23 *challenge is pending.*

1 **“§ 1509. Relationship to other district court actions**

2 “(a) *STAY OF DISTRICT COURT PROCEEDINGS.*—Sub-
3 *ject to section 1507(b), a district court of the United States*
4 *shall issue a stay of proceedings or such other relief as the*
5 *court determines appropriate with respect to any claim*
6 *brought before the court that is already the subject of a*
7 *pending or active proceeding before the Copyright Claims*
8 *Board.*

9 “(b) *ALTERNATIVE DISPUTE RESOLUTION PROCESS.*—
10 *A proceeding before the Copyright Claims Board under this*
11 *chapter shall qualify as an alternative dispute resolution*
12 *process under section 651 of title 28 for purposes of referral*
13 *of eligible cases by district courts of the United States upon*
14 *the consent of the parties.*

15 **“§ 1510. Implementation by Copyright Office**

16 “(a) *REGULATIONS.*—

17 “(1) *IMPLEMENTATION GENERALLY.*—*The Reg-*
18 *ister of Copyrights shall establish regulations to carry*
19 *out this chapter. Such regulations shall include the*
20 *fees prescribed under subsections (e) and (x) of section*
21 *1506. The authority to issue such fees shall not limit*
22 *the authority of the Register of Copyrights to establish*
23 *fees for services under section 708. All fees received by*
24 *the Copyright Office in connection with the activities*
25 *under this chapter shall be deposited by the Register*
26 *of Copyrights and credited to the appropriations for*

1 *necessary expenses of the Office in accordance with*
2 *section 708(d). In establishing regulations under this*
3 *subsection, the Register of Copyrights shall provide for*
4 *the efficient administration of the Copyright Claims*
5 *Board, and for the ability of the Copyright Claims*
6 *Board to timely complete proceedings instituted under*
7 *this chapter, including by implementing mechanisms*
8 *to prevent harassing or improper use of the Copyright*
9 *Claims Board by any party.*

10 *“(2) LIMITS ON MONETARY RELIEF.—*

11 *“(A) IN GENERAL.—Subject to subpara-*
12 *graph (B), not earlier than 3 years after the date*
13 *on which Copyright Claims Board issues the*
14 *first determination of the Copyright Claims*
15 *Board, the Register of Copyrights may, in order*
16 *to further the goals of the Copyright Claims*
17 *Board, conduct a rulemaking to adjust the limits*
18 *on monetary recovery or attorneys’ fees and costs*
19 *that may be awarded under this chapter.*

20 *“(B) EFFECTIVE DATE OF ADJUSTMENT.—*

21 *Any rule under subparagraph (A) that makes an*
22 *adjustment shall take effect at the end of the 120-*
23 *day period beginning on the date on which the*
24 *Register of Copyrights submits the rule to Con-*
25 *gress and only if Congress does not, during that*

1 120-day period, enact a law that provides in
2 substance that Congress does not approve the
3 rule.

4 “(b) *NECESSARY FACILITIES*.—Subject to applicable
5 law, the Register of Copyrights may retain outside vendors
6 to establish internet-based, teleconferencing, and other fa-
7 cilities required to operate the Copyright Claims Board.

8 “(c) *FEEES*.—Any filing fees, including the fee to com-
9 mence a proceeding under section 1506(e), shall be pre-
10 scribed in regulations established by the Register of Copy-
11 rights. The sum total of such filing fees shall be in an
12 amount of at least \$100, may not exceed the cost of filing
13 an action in a district court of the United States, and shall
14 be fixed in amounts that further the goals of the Copyright
15 Claims Board.

16 **“§ 1511. Funding**

17 “*There are authorized to be appropriated such sums*
18 *as may be necessary to pay the costs incurred by the Copy-*
19 *right Office under this chapter that are not covered by fees*
20 *collected for services rendered under this chapter, including*
21 *the costs of establishing and maintaining the Copyright*
22 *Claims Board and its facilities.”.*

23 (b) *CLERICAL AMENDMENT*.—The table of chapters for
24 title 17, United States Code, is amended by adding after
25 the item relating to chapter 14 the following:

“15. Copyright Small Claims 1501”.

1 **SEC. 3. IMPLEMENTATION.**

2 *Not later 1 year after the date of enactment of this*
3 *Act, the Copyright Claims Board established under section*
4 *1502 of title 17, United States Code, as added by section*
5 *2 of this Act, shall begin operations.*

6 **SEC. 4. STUDY.**

7 *Not later than 3 years after the date on which Copy-*
8 *right Claims Board issues the first determination of the*
9 *Copyright Claims Board under chapter 15 of title 17,*
10 *United States Code, as added by section 2 of this Act, the*
11 *Register of Copyrights shall conduct, and report to Congress*
12 *on, a study that addresses the following:*

13 *(1) The use and efficacy of the Copyright Claims*
14 *Board in resolving copyright claims, including the*
15 *number of proceedings the Copyright Claims Board*
16 *could reasonably administer.*

17 *(2) Whether adjustments to the authority of the*
18 *Copyright Claims Board are necessary or advisable,*
19 *including with respect to—*

20 *(A) eligible claims, such as claims under*
21 *section 1202 of title 17, United States Code; and*

22 *(B) works and applicable damages limita-*
23 *tions.*

24 *(3) Whether greater allowance should be made to*
25 *permit awards of attorneys' fees and costs to pre-*

1 *vailing parties, including potential limitations on*
2 *such awards.*

3 *(4) Potential mechanisms to assist copyright*
4 *owners with small claims in ascertaining the identity*
5 *and location of unknown online infringers.*

6 *(5) Whether the Copyright Claims Board should*
7 *be expanded to offer mediation or other nonbinding*
8 *alternative dispute resolution services to interested*
9 *parties.*

10 *(6) Such other matters as the Register of Copy-*
11 *rights believes may be pertinent concerning the Copy-*
12 *right Claims Board.*

13 **SEC. 5. SEVERABILITY.**

14 *If any provision of this Act, an amendment made by*
15 *this Act, or the application of such provision or amendment*
16 *to any person or circumstance is held to be unconstitu-*
17 *tional, the remainder of this Act and the amendments made*
18 *by this Act, and the application of the provision or the*
19 *amendment to any other person or circumstance, shall not*
20 *be affected.*

Union Calendar No. 201

116TH CONGRESS
1ST Session

H. R. 2426

[Report No. 116-252]

A BILL

To amend title 17, United States Code, to establish an alternative dispute resolution program for copyright small claims, and for other purposes.

OCTOBER 22, 2019

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed