



Glossary Terms

- **Abuse of discretion:** That a decision was clearly in error or clearly not justified by the facts, circumstances, and evidence before the CCB.
- **Access:** Reasonable opportunity to view or hear the work at issue in the claim before the alleged infringement took place.
- **Active Phase:** When the respondent has not opted out, the portion of the proceeding starting from the end of the sixty-day opt-out period and continuing until the CCB's final determination of your case.
- **Actual damages:** Money awarded based on the harm the claimant or counterclaimant suffered.
- **Adverse inference:** A negative conclusion that's drawn from silence or the failure to provide responsive information.
- **Amend:** To make changes to something previously filed at the CCB.
- **Authorized agent:** Someone who is allowed to act on behalf of the business or organization in a CCB proceeding.
- **Bad faith:** A finding that a party has made a claim, counterclaim, or defense, or taken any actions in support of a claim, counterclaim, or defense, for some inappropriate purpose, such as to harass someone, or without a reasonable factual or legal basis.
- **Beneficial Owner:** An owner of a work who has transferred those rights to another individual or entity but has retained some advantages of copyright ownership, such as the right to receive royalties.
- **Bind/Binding:** Establishing a legal obligation among the parties that cannot be relitigated.
- **Business entity:** For purposes of service, a corporation, partnership, or unincorporated association. Unincorporated associations include other business entities that are capable of being sued.
- **Citations:** The location of the material being discussed or quoted that provides the reader with enough specificity to refer back to the original document.
- **Conference:** A virtual meeting between the parties and the CCB to discuss issues related to the case.
- **Consolidate:** To combine proceedings for efficiency and to streamline certain procedures.
- **Copyright 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.
- **Counterclaim:** Similar to a claim, a counterclaim is a set of facts that allows you to enforce your rights against the claimant in the same proceeding as long as it arises out of the same facts and circumstances as the claim.

- **Counterclaim respondent:** The party that must respond to a counterclaim (typically the claimant).
- **Cure:** To fix or correct an issue or error.
- **Declaration of noninfringement:** A determination that particular actions did not or will not infringe a copyright owner's rights.
- **Default:** A determination that can be issued against a respondent or counterclaim respondent if they miss deadlines and fail to participate in their defense.
- **Derivative work:** A work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted.
- **Designated service agent:** A specific person or entity that a corporation, partnership, or unincorporated association has designated to receive service of CCB claims.
- **Determination:** see "Final Determination."
- **Discovery:** The process by which the parties exchange information and documents relevant to the issues in a case.
- **Dismissing:** An act of the CCB that ends the case.
- **Display a work publicly:** To display a work at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered, or to transmit a display to the public, including when members of the public receive the display at the same place or at different places or at the same time or different times.
- **DMCA:** Short for Digital Millennium Copyright Act, the part of the copyright law dealing with an online service provider's duties regarding online content posted by others, among other matters.
- **Docket:** Each proceeding has a unique case number associated with it. The docket is the list of all documents associated with that particular proceeding.
- **Docket number:** The unique case number associated with your proceeding.
- **eCCB:** The CCB's electronic filing and case management system.
- **eCCB:** The CCB's electronic case filing system, where all filings are made. (Response - Noninfringement chapter)
- **Elements:** Details or parts of a work. For example, specific lyrics, dialogue, or segments of a video.
- **Excusable neglect:** A justifiable reason for the failure to meet CCB deadlines such that a party may be excused from the consequences of defaulting in a proceeding.
- **Exclusive license:** A license is an agreement where the copyright owner allows someone else (a "licensee") to have certain rights in their work. A licensee is exclusive when the copyright owner agrees that they will only give those rights to that licensee.
- **Exclusive licensee:** A licensee is a person whom a copyright owner allows, through an agreement, to have certain rights to use their work. A licensee is exclusive when the copyright owner agrees that they will only give those rights to that licensee.
- **Exclusive rights:** The rights given to the copyright owner by the law. These include the right to make copies, distribute, publicly perform or display, or to make a "derivative work," which is a work based on the original work.

- **Expert witness:** A person qualified by knowledge, skill, experience, training, or education to give testimony about a technical issue.
- **Fact witness:** A witness who knows firsthand about the evidence involved in the claim.
- **Failure to Prosecute:** When a claimant or counterclaimant stops participating in a CCB proceeding, for example if a claimant or counterclaimant misses a deadline without a valid excuse.
- **Fair use:** A legal doctrine that promotes freedom of expression by permitting the unlicensed use of copyright-protected works in certain circumstances. For more information, please visit copyright.gov.
- **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.
- **Findings of fact:** Preliminary factual findings about the merits of the case that the Officer issues for possible inclusion in the final determination.
- **Harm:** What the claimant has suffered or lost as a result of respondent's actions.
- **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.
- **Interests of justice:** Considerations of fairness in a particular situation.
- **Interrogatories:** A standard set of written questions that parties exchange and answer during the discovery process in order to prepare to present their case to the CCB.
- **Join:** To include a person or organization as an actual party in the proceeding.
- **Joint author:** One or more creators of a work who intend that their contributions will be merged into a single work.
- **Leave:** Permission that must be granted by the CCB in order for a party to take an action.
- **Legal cases and authorities:** Opinions and decisions written by judges or tribunals, as well as laws and other legal texts used to support a party's position.
- **Legal precedent:** A court decision that, due to the similarity of the facts and legal issues to the case before the court, is used as an authority that a court may consider when deciding the outcome of the case before it.
- **Material:** Important or significant.
- **Merits:** The substantive grounds or basis of a claim or defense to a claim.
- **Misrepresentation:** A false statement in a takedown notice or counter-notice made with knowledge that it is false and that causes an online service provider to remove or repost the allegedly infringing online content.
- **Mitigate:** Change or alter in a way to reduce the harm caused.
- **Necessary party:** A person or entity that absolutely needs to be included as a party in the proceeding because their interests will be directly affected by the outcome of the proceeding, or whose absence might create a substantial risk that an existing party would incur multiple or inconsistent obligations.

- **Online service provider:** Online service providers include websites that host content uploaded by users, such as YouTube and Instagram, and search engines that direct users to particular websites, such as Google and Bing.
- **Opt-out period:** The respondent's sixty days to decide whether to participate in or to opt out of the proceeding.
- **Order to Show Cause:** An Order that gives a participant a chance to explain why the CCB should not take action.
- **Pattern of bad faith:** A finding that a participant has engaged in bad-faith conduct at least twice in a twelve-month period.
- **Penalty of perjury:** A verification that you recognize you may be subject to penalties if what you say is not true.
- **Perform a work publicly:** To perform a work at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered, or to transmit a performance to the public, including when members of the public receive the performance at the same place or at different places or at the same time or different times.
- **Position Statement:** A document written by each party and submitted prior to a settlement conference explaining that party's side of the case, which may include the party's proposal for settlement and a brief summary of prior settlement negotiations.
- **Pre-existing work:** A work that a derivative work is based on.
- **Privileged:** Any confidential communications with legal counsel reflecting or seeking legal advice about the merits of a proceeding or other legal issue.
- **Pro bono:** Legal services without a charge for the attorney's or law student's time or work.
- **Process server:** Someone hired to serve a party in a proceeding with formal papers in one of the ways allowed by law, such as by hand delivery.
- **Produce:** To send to the other parties in the proceeding the results of a reasonable search of responsive records.
- **Profits:** The money that the infringer earned in profits from the unlawful use of another's work.
- **Protective order:** An order that requires the parties to take steps to safeguard confidential material.
- **Public domain:** A work of authorship not protected by copyright is in the public domain. The status of a creative work which, through expiration of term or failure to comply with statutory formalities, is not protected by copyright.
- **Rebuttal:** A party's argument or evidence used to contradict the other side's argument or evidence.
- **Redacted:** To block out or remove particular pieces of information.
- **Remand:** To send a case back to the CCB for further consideration of its prior decision.
- **Request for the production of documents:** Written requests provided by the CCB that require parties to provide documents, other information, or evidence as part of discovery in an active proceeding.
- **Responsive:** Documents that are requested for production in response to discovery requests.
- **Sanctions:** Penalties imposed by the CCB for misconduct during proceedings.

- **Safe harbor:** Protections from copyright infringement liability provided to qualifying online service providers that follow the procedures required in section 512 of the Copyright Act regarding the storage of, referral to, or linking to material posted by third parties.
- **Service:** The process of having the claim, initial notice, and opt-out formally delivered to the respondent.
- **Service Request Number:** The Copyright Office's official term for the application number.
- **Settlement:** An agreement between parties containing the terms by which they agree to resolve their dispute.
- **Settlement agreement:** A legally binding contract between the parties that sets forth the resolution of all or part of the dispute.
- **Statute of Limitations:** A law that sets a time limit by which you must begin legal proceedings.
- **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.
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- **Stay:** A temporary pause in the proceedings.
- **Sufficient to show:** Presenting information or material with enough detail and clarity that it satisfies the request.
- **Under seal:** Filing documents with the CCB with restricted or private document access so that the general public may not view the content.
- **Vacated:** To set aside or cancel a prior decision.
- **With prejudice:** The claim cannot be filed again.
- **Without prejudice:** The claim can be filed again in the future.
- **Witness:** Someone with personal knowledge about factual information that is relevant to the proceeding.
- **Work made for hire:** A work that has been created by an employee in the scope of their employment, or created (for certain types of works) based on a written agreement commissioning that work and stating that the work should be treated as a work made for hire.
- **Written direct testimony:** The combination of witness statements, evidence, list of evidence, and a document containing an explanation of why the party thinks it should win the case submitted to the CCB by a claimant or counterclaimant to help the CCB make its decision.
- **Written testimony:** The combination of witness statements, evidence, and a 'party statement' containing an explanation of why the party thinks it should win the case. (Presenting Your Case chapter)