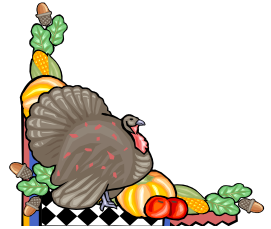




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Happy Thanksgiving!



“Tip of the Month”

Small Claims Tribunal in Copyright Office – Is It Time?

After receiving numerous comments from copyright stakeholders about copyright claims considered too small for federal court, the Copyright Office issued a report recommending a streamlined approach for small claims.

The Copyright Office report recommends the establishment of an alternative, voluntary forum for small claims within the Copyright Office. The recommendations include:

1. Creating a centralized tribunal within the Copyright Office.
2. The proceedings would be online or by teleconferencing without personal appearances.
3. The tribunal would be staffed by 3 adjudicators, two with significant experience in copyright law and the third having a background in alternative dispute resolution.
4. As a voluntary alternative to federal court, the tribunal would be for small infringement cases up to \$30,000 in actual damages.
5. Copyright owners would be required to have registered their works or filed an application before bringing an action.
6. In lieu of the \$30,000 cap for actual damages, statutory damages would be limited to \$15,000 per eligible work (\$7,500 for a work not eligible for statutory damages).
7. After claimants provide notice of the claim, the responding parties must agree to the process either through an opt-out mechanism or by written consent.
8. Respondents would be permitted to assert all relevant defenses including fair use as well as limited counterclaims arising from the infringing conduct at issue.
9. Parties threatened with a claim could seek a declaration of non-infringement.
10. Parties would provide written submissions with limited discovery and no formal motion practice; hearings would be conducted through telecommunications facilities.
11. Small claims tribunal rulings would be binding only on the parties and claims at issue, would have no precedential effect, would be subject to limited review for error, and could be challenged in federal court for fraud, misconduct or other improprieties.
12. Final rulings could be filed in federal court if necessary for enforcement.

If you have any questions about copyright or other IP matters, please contact the attorneys at Mesmer & Deleault, PLLC by calling 603-668-1971 or contacting us by email at *mailbox @ biz-patlaw.com*.

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