

investigation in these cases would serve no purpose since the petitioning group of workers cannot be covered by more than one certification at a time.
 TA-W-80,427; Coastal Lumber

Company, Hopwood, PA

I hereby certify that the aforementioned determinations were issued during the period of October 11, 2011 through October 14, 2011. Copies of these determinations may be requested under the Freedom of Information Act. Requests may be submitted by fax, courier services, or mail to FOIA Disclosure Officer, Office of Trade Adjustment Assistance (ETA), U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 or tofoiarequest@dol.gov. These determinations also are available on the Department's Web site at <http://www.doleta.gov/tradeact> under the searchable listing of determinations.

Dated: October 20, 2011.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2011-27847 Filed 10-26-11; 8:45 am]

BILLING CODE 4510-FN-P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 2011.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 7, 2011.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N-5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 20th day of October 2011.

Michael Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

APPENDIX

[20 TAA petitions instituted between 10/10/11 and 10/14/11]

TA-W	Subject firm (petitioners)	Location	Date of institution	Date of petition
80500	IBM (State/One-Stop)	San Francisco, CA	10/11/11	10/07/11
80501	TT Electronics (Company)	Boone, NC	10/11/11	10/10/11
80502	LexisNexis (Company)	Miamisburg, OH	10/11/11	10/06/11
80503	Viam Manufacturing, Inc. (Company)	Santa Fe Springs, CA	10/11/11	10/06/11
80504	BASF Corporation (Company)	Belvidere, NJ	10/14/11	10/11/11
80505	Haldex (State/One-Stop)	Kansas City, MO	10/14/11	10/12/11
80506	JVC-USA Product Return Center (State/One-Stop)	McAllen, TX	10/14/11	10/12/11
80507	Kerry Ingredients & Flavours (Union)	Turtle Lake, WI	10/14/11	10/12/11
80508	Stateline Warehouse (Workers)	Ridgeway, VA	10/14/11	10/07/11
80509	ON Semiconductor (Company)	Phoenix, AZ	10/14/11	10/06/11
80510	Suntron Corporation (Company)	Sugar Land, TX	10/14/11	10/12/11
80511	Specialty Bar Products Co. (Workers)	Blairsville, PA	10/14/11	10/05/11
80512	Pilgrim's Pride-Dallas Processing Plant (State/One-Stop)	Dallas, TX	10/14/11	09/30/11
80513	Centurion Medical Products (Workers)	Jeanette, PA	10/14/11	10/13/11
80514	Intier Magna (State/One-Stop)	Shreveport, LA	10/14/11	10/13/11
80515	AI Android Industries (State/One-Stop)	Shreveport, LA	10/14/11	10/13/11
80516	Travelers (Workers)	Elmira, NY	10/14/11	10/13/11
80517	AGS Automotive (State/One-Stop)	Shreveport, LA	10/14/11	10/13/11
80518	KV Pharmaceuticals (State/One-Stop)	Bridgeton, MO	10/14/11	10/13/11
80519	Verso Paper Corp. (Union)	Bucksport, ME	10/14/11	10/13/11

[FR Doc. 2011-27846 Filed 10-26-11; 8:45 am]

BILLING CODE 4510-FN-P

LIBRARY OF CONGRESS

Copyright Office

[Docket No. 2011-10]

Remedies for Small Copyright Claims

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of inquiry.

SUMMARY: The U.S. Copyright Office is undertaking a study at the request of Congress to assess whether and, if so, how the current legal system hinders or prevents copyright owners from pursuing copyright infringement claims that have a relatively small economic value ("small copyright claims"); and recommend potential changes in administrative, regulatory, and statutory authority to improve the adjudication of these small copyright claims. The Office

thus seeks comment on how copyright owners have handled small copyright claims and the obstacles they have encountered, as well as potential alternatives to the current legal system that could better accommodate such claims. This is a general inquiry and the Office will publish additional notices on this topic.

DATES: Comments are due January 16, 2012.

ADDRESSES: All comments and reply comments shall be submitted electronically. A comment page containing a comment form is posted on the Office Web site at <http://www.copyright.gov/docs/smallclaims>. The Web site interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, submitters must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and organization. The Office will post all comments publicly on the Office's Web site exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202-707-8380 for special instructions.

FOR FURTHER INFORMATION CONTACT: Catherine Rowland, Counsel, Office of Policy and International Affairs, by telephone at 202-707-8350 or by electronic mail at crowland@loc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Copyright Act (the "Act"), 17 U.S.C. 101 *et seq.*, protects a wide variety of works of authorship, ranging from individual articles or photographs that may not have a high commercial value to motion pictures worth hundreds of millions of dollars in the marketplace. Copyright owners of all of these works may seek remedies under the federal Copyright Act in the event of infringement. Not all of these copyright owners, however, have the same resources to bring a federal lawsuit, which can require substantial time, money, and effort. To the extent an infringement results in a relatively small amount of economic damage, the copyright owner may be dissuaded from filing a lawsuit because the potential

award may not justify the expense of litigation. Even where statutory damages and attorney fees are possible, they are not available until the conclusion of the litigation. Moreover, awards of statutory damages may be as low as \$750 (or, in cases of innocent infringement, \$200), and may not always make the copyright owner whole.

In light of these challenges, the House of Representatives' Subcommittee on Courts, the Internet, and Intellectual Property held a hearing in March 2006 to learn more about the problems faced by small copyright claimants (the "Small Claims Hearing").¹ The hearing focused on possible alternative dispute resolution systems such as a copyright "small claims court" or other mechanism. The testimony also addressed some of the problems that small copyright claim owners have with the current system, as well as concerns about defendants' rights in an alternative system. The Copyright Office submitted a statement to the Subcommittee regarding the small copyright claims issue, noting these difficulties, proposing to review potential alternatives, and welcoming the possibility of further study.² The Copyright Office also identified some of these "small claims" challenges in its 2006 Report on Orphan Works,³ and proposed legislation in 2006 and 2008 addressing orphan works included provisions that specifically directed the Copyright Office to conduct a study addressing remedies for small claims, but the legislation ultimately did not become law.⁴

The Chairman of the House Judiciary Committee has recently asked the U.S. Copyright Office to study the obstacles facing small copyright claims disputes, as well as possible alternatives. In a letter dated October 11, 2011, Chairman Lamar Smith requested that the Office "undertake a study to assess: (1) The extent to which authors and other

copyright owners are effectively prevented from seeking relief from infringements due to constraints in the current system; and (2) furnish specific recommendations, as appropriate, for changes in administrative, regulatory and statutory authority that will improve the adjudication of small copyright claims and thereby enable all copyright owners to more fully realize the promise of exclusive rights enshrined in our Constitution."

The Office therefore seeks comments on how parties—both copyright owners and those alleged to have infringed—view the current system, what their experiences with the current system have been, and what types of alternatives would be helpful and viable.

A. Challenges of the Current Legal System

Currently, copyright owners interested in bringing a lawsuit to enforce their copyrights must do so in federal district courts, which have exclusive jurisdiction over copyright claims. 28 U.S.C. 1338. This is true regardless of the monetary value of the copyright claim. Vesting exclusive jurisdiction in federal courts is generally beneficial because copyright law is federal law, and federal courts have become familiar with copyright analysis and thus should bring a level of consistency to copyright cases. Additionally, the Act aids some copyright claimants by permitting awards of reasonable attorney's fees and statutory damages to the prevailing party, but a plaintiff may recover statutory damages and attorney's fees only if the work was timely registered. 17 U.S.C. 412, 504, 505.

Despite the benefits of the current system, there are some drawbacks to requiring copyright owners and defendants to engage in potentially extensive federal litigation for all copyright disputes. One of the major impediments to federal lawsuits is the cost of litigation. Although copyright owners could proceed *pro se* in federal court, they often need the assistance of a lawyer to understand and handle federal procedures and substantive law. This is especially true because, unlike in the state court system, there is no streamlined "small claims" process for claims with a lower monetary value. If a copyright owner hires a lawyer, the expenses can add up quickly. Contingency fee arrangements are relatively rare in copyright lawsuits; thus most copyright owners will have to pay an hourly fee for representation. Lawyers charge hundreds of dollars per hour, which could reach a total of tens

¹ *Remedies for Small Copyright Claims, Before the Subcomm. on Courts, the Internet, and Intellectual Property of the H. Comm. on the Judiciary*, 109th Cong. (2006), available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_house_hearings&docid=f:26767.pdf.

² *Remedies for Small Copyright Claims, Before the Subcomm. on Courts, the Internet, and Intellectual Property of the H. Comm. on the Judiciary*, 109th Cong. (2006) (statement of the United States Copyright Office), available at <http://www.copyright.gov/docs/regstat032906.html>.

³ United States Copyright Office, *Report on Orphan Works 1* (2006), available at <http://www.copyright.gov/orphan/orphan-report-full.pdf>.

⁴ Proposed bills include the Shawn Bentley Orphan Works Act of 2008, S. 2913, 110th Cong. (2008), which was passed by the Senate; the Orphan Works Act of 2008, H.R. 5889, 110th Cong. (2008); and the Orphan Works Act of 2006, H.R. 5439, 109th Cong. (2006).

or hundreds of thousands of dollars when a case does not immediately settle and instead requires discovery, motion practice, and trial. In fact, one recent survey found that, as of 2011, the median cost for litigating a copyright infringement lawsuit with less than \$1 million at risk was \$350,000. Am. Intellectual Prop. Law Ass'n ("AIPLA"), Report of the Economic Survey 2011 35 (2011). Even if a copyright owner proceeds *pro se*, litigation itself includes court costs and fees, which can add up to a not insignificant sum. Many individual copyright owners simply do not have the resources to fund expensive litigation. Moreover, even though the Act allows some awards of attorney's fees, other costs, and statutory damages, these awards are not guaranteed—and may not be available at all depending on the timeliness of copyright registration—and are only awarded at the end of litigation, likely after a copyright owner has made significant out of pocket payment to cover legal fees and court costs. Additionally, an award of attorney's fees—assuming that it is collectible—will not necessarily reimburse the copyright owner for all fees expended in prosecuting a claim.

In federal litigation, the period of time between the filing of a case and the final determination can be lengthy. The Federal Rules of Civil Procedure allow parties to engage in extensive discovery and motion practice, which often take far more than a year to complete. In fact, the median time for all cases that went to trial—not just copyright suits—was twenty-three months in 2009–2010.⁵ This lengthy time frame requires litigants to expend energy and effort throughout a relatively long period of time. This investment of time, not to mention the associated expenses, may not be feasible for individual authors, who may not be able to dedicate sufficient time to handle all of the litigation burdens.

B. Potential Alternatives for Small Copyright Claims

The Office is interested in learning about alternatives to the current legal system that might help alleviate some of the burdens associated with pursuing small copyright claims. Some

alternatives were identified at the Small Claims Hearing, including: (1) Using the current Copyright Royalty Board (a panel of administrative law judges established under Chapter 8 of Title 17 that sets rates and terms for statutory licenses and decides how to distribute certain statutory license royalties); (2) creating a federal "small claims court" or otherwise streamlining federal procedures; (3) developing a staff of dedicated administrative law judges to specialize in small copyright claims; (4) amending the Act to allow state courts (including small claims courts) to hear small copyright claims; and (5) allowing trade associations or other group representatives to bring a single, large filing on behalf of a sizeable group of small copyright owners. While these alternatives deserve balanced discussion, there may be other potentially suitable options that were not discussed at the Small Claims Hearing.

There are, of course, a variety of issues that require further consideration. These include:

Degree of Difficulty Litigating Small Copyright Claims in the Current System: Before analyzing various alternatives to the current system, it is important to further explore the obstacles that the district court process presents in small copyright claim cases. This would help focus future analysis and any potential alternative legal processes.

State Court Involvement: State courts do not have expertise in copyright jurisprudence. As noted above, Section 1338 of Title 28 of the U.S. Code vests federal courts with exclusive jurisdiction over copyright claims. Moreover, Section 301 of the Act explicitly preempts state claims "that are equivalent to any of the exclusive rights within the general scope of copyright as specified by section 106 in works of authorship that are fixed in a tangible medium of expression and come within the subject matter of copyright as specified by sections 102 and 103." Thus, state courts are not experienced in the nuances of copyright law and may not have sufficient resources to devote to a claim's intricacies, especially when limited in a small claims court context. Nevertheless, state courts commonly handle small disputes, and thus they likely have the structure to handle the logistics of such claims. State court involvement, however, is only one possible avenue to explore and there are also several federal options that should be considered in the discussion.

Location of Federal Court/Tribunal: Creating a federal "small claims court" or administrative judge panel would

create logistical rather than jurisdictional challenges, including where the court(s) and panel(s) would be located. If there are several courts or panels located throughout the country, it may provide more convenience to the parties, but it may also reduce consistency and add to administrative costs. Alternatively, if there is only one court or panel, the guiding rules could allow for liberal use of telephone conferences and videoconferences, and the procedures could focus more on a paper practice with fewer (if any) hearings. The court or tribunal could also limit the types and amount of discovery in the interest of expediency.

Affiliation With the Copyright Office or Copyright Royalty Board: The Copyright Office administers the Copyright Act, is a substantive expert on provisions of copyright law, and has statutory responsibilities in both litigation and administrative law. It may thus be appropriate for the Office to be associated with a new process. Similarly, the Copyright Royalty Board is already proficient in handling administrative procedures under the Act, and it may have the capability of expanding its scope to handle additional claims.

Determination of "Small" Copyright Claims: Although many copyright owners are concerned about the cost of litigating "small" copyright claims in federal court, the definition of "small" is unclear. Any changes in legal process must take a balanced approach to determine which claims are deemed "small" enough to fit into the new system.

Voluntary or Mandatory: A major question is whether a new small copyright claim process would be voluntary or mandatory. Copyright owners may want the option of choosing which type of court hears a claim, and defendants might similarly wish to remove a claim filed in a new court or panel to federal district court. Additionally, the question arises about how to appeal an adverse decision—and to what court or other body.

Fair Use: The affirmative defense of fair use defense is extremely fact-specific and typically requires courts to examine decades of judicial precedent. The ability to present and have heard a fair use defense is therefore a concern.

Defendants' Appearance: It has been suggested that defendants should not be required to appear at a small copyright claim proceeding until the copyright owner provides a *prima facie* case of infringement. This ostensibly would prevent a copyright owner from dragging a defendant into a legal proceeding without cause. It is unclear

⁵ Federal Judicial Caseload Statistics, March 31, 2010, Office of Judges Programs, Statistics Division, Administrative Office of the United States Courts, Table C-5, available at <http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/Statistics/FederalJudicialCaseloadStatistics/2010/tables/C05Mar10.pdf>. The time frame differs significantly between districts—from 11.1 months in the U.S. District Court for the Eastern District of Virginia to 41.2 months in the U.S. District Court for the District of Columbia.

whether this would be necessary, or whether an alternative small copyright claims proceeding might instead rely upon a rule akin to Federal Rule of Civil Procedure 11, which requires plaintiffs to certify the veracity of the claim.

Available Remedies: Because a small copyright claim process likely would be limited to reduce costs and time, it is unclear what types of remedies should be offered. The Act itself offers a number of infringement remedies, including injunctions, monetary relief (including statutory damages), impounding of infringing copies and of the articles by means of which infringing copies may be reproduced, costs and attorney's fees. Consideration should be given to whether an alternative small claims process could or should provide this whole panoply of remedies, and whether the new system would also allow preliminary relief to prevent impending or continuing infringement, similar to a temporary restraining order or preliminary injunction under Federal Rule of Civil Procedure 65.

These are but a few of the factors to analyze before deciding whether to move forward with a new small copyright claim system, and, if so, what that new process might be.

II. Subjects of Inquiry

The Office seeks comment on how copyright owners and defendants use the current legal system for small copyright claims, including information on the obstacles and benefits of using federal district courts. Additionally, the Office requests comment on potential alternatives for handling copyright claims that have a relatively small economic value. The Office is interested in comment on the logistics of potential alternatives, as well as the benefits and risks presented by different types of processes.

III. Conclusion

The Office hereby seeks comment from the public on factual and policy matters related to the treatment of small copyright claims. If there are any additional pertinent issues not discussed above, the Office encourages interested parties to raise those matters in their comments. In addition, the Office is considering having one or more roundtables or formal hearings on the matters raised above in the coming months. It is also likely that, following receipt of the comments in response to this Notice, the Office will publish a further Notice of Inquiry posing specific questions and possibly exploring additional alternatives.

Dated: October 24, 2011.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2011-27824 Filed 10-26-11; 8:45 am]

BILLING CODE 1410-30-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before November 28, 2011. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: You may request a copy of any records schedule identified in this notice by contacting Records Management Services (ACNR) using one of the following means:

Mail: NARA (ACNR), 8601 Adelphi Road, College Park, MD 20740-6001.

E-mail: request.schedule@nara.gov.

Fax: 301-837-3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which

submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT:

Laurence Brewer, Director, National Records Management Program (ACN), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-1539. *E-mail:* request.schedule@nara.gov.

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

The schedules listed in this notice are media neutral unless specified otherwise. An item in a schedule is media neutral when the disposition instructions may be applied to records regardless of the medium in which the records are created and maintained. Items included in schedules submitted to NARA on or after December 17, 2007, are media neutral unless the item is limited to a specific medium. (See 36 CFR 1225.12(e).)

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an