

January 17, 2012

Maria A. Pallante Register of Copyrights  
U.S. Copyright Office  
101 Independence Ave. S.E.  
Washington, D.C. 20559-6000

Re: Comments on Remedies for Copyright Small Claims

These comments are submitted by Barry Rosen, a professional photographer, who has brought numerous lawsuits for infringement of his photographic works.

To Whom It May Concern:

I am writing to express my support for the creation of a new system akin to small claims court for the purpose of pursuing copyright claims. The reason why I would like to see a new system is that the current system is burdensome and expensive for the pursuit of the vast majority of copyright claims against direct infringers. My experience is that under the current system, the need to hire an attorney and expend at least a few thousand dollars just to start an action in the federal courts puts filing such actions out of reach of the vast majority of copyright owners.

I have seen copyright infringement grow over the last decade to an unprecedented level, yet it has become increasingly more difficult and more expensive to file copyright actions in the federal courts. It is my belief that the DMCA has in large part been responsible for this significant increase in infringing activities. It has now become a situation where infringers are aware of the fact that it is unlikely that anyone will ever file a lawsuit against them and even if they do, there are only so many lawsuits that can realistically be filed. As such, it is like putting your finger in the dyke, while it crumbles around you. Thus, there are little to no consequences and little deterrent for infringers, who are essentially free to reap great financial rewards from their activities. A change to the system that would easily allow smaller copyright owners (aka the vast majority of copyright owners) to easily file actions to protect their rights would greatly help to level the playing field and act as a deterrent to copyright infringement.

The fact of the matter is that when a lawsuit is brought against a direct infringer for copyright the copyright owner bringing the action will already have strong proof that the infringement took place in the first instance. As such the issue at hand is generally not if they infringed, but about what the damages would be. Thus, such cases could be and should be handled in a much easier and simpler fashion than is currently available to copyright owners.

Streamlining of the federal legal process to deal specifically with copyright issues would allow for quicker, easier, cheaper and faster handling by the courts. This could easily be achieved by the creation of a specific copyright court that would function similar to most state small claims courts. This specific purpose of this court would be as follows:

- a) To grant quick and easy injunctions to copyright owners for removal of materials from websites or stopping ongoing, persistent or serial infringing activities.
- b) To grant quick and easy injunctions to copyright owners for blocking replacement of materials via counter-notices.
- c) For judgments regarding damages from infringement of copyrights.
- d) To deal with all other simple issues related to infringement of copyrights

The court could function by using Magistrates specially designated to deal specifically with copyright issues and filings could be done via a set of easy to use streamlined forms that could be done by any layman. The court would also use a set of procedures for quickly and easily doing “small claims” types of hearings for issues related to damages, injunctions, etc.

In this way, ordinary “small” copyright owners like myself would be allowed direct access to quick legal remedies without the need to spend a great deal of money or time on enforcing their rights.

I appreciate the opportunity to submit these comments and hope that they will result in system that will be friendly to “small” copyright owners.

Best Regards,

Barry Rosen