

Media, Entertainment and First Amendment Newsletter, November 2021

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PRACTICES Media Entertainment and Sports, Intellectual Property, Copyright, Anti-SLAPP and First Amendment Rights, Intellectual Property Litigation, Social Media, Media and Entertainment Litigation

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The Copyright Small Claims Court: What You Need to Know Before Litigating in the U.S. Copyright Office's New Three-Judge Court for Copyright Claims Under \$30,000

Changes are coming for copyright law. Federal courts will soon no longer have exclusive jurisdiction over federal copyright claims. Instead, the Copyright Claims Board (CCB), a three-judge panel within the U.S. Copyright Office that will hear “small” copyright claims, will begin operating as soon as December 27, 2021 (but no later than June 2022). The copyright small claims court, designed to provide copyright claimants a quicker and less expensive way to enforce their rights, will hear limited types of copyright claims, counterclaims, and defenses. Monetary damages will be capped at \$30,000 per proceeding with statutory damages limited to \$15,000 per work infringed. Importantly, participation in this court is voluntary, and respondents who prefer to adjudicate in federal court can opt out of the CCB. Unlike federal courts, the CCB will operate online and through other remote means.

[Read more.](#)

The Shifting Legal Landscape Surrounding Web Scraping – Recent Developments

As reported in our [Fall 2019 newsletter](#), the Ninth Circuit's landmark decision in *hiQ v. LinkedIn* provided an important win for web scrapers. In *hiQ*, the Ninth Circuit upheld the trial court's injunction enjoining LinkedIn from using technological measures to prevent hiQ from scraping data from the public profiles of LinkedIn members. To reach this result, the Ninth Circuit found that the Computer Fraud & Abuse Act's prohibition against “unauthorized access” to “protected computers” did not apply to web scraping of data appearing on publicly available web pages. According to the Ninth Circuit, LinkedIn's attempts to “revoke” hiQ's authorization to access LinkedIn's members' public profiles – through cease-and-desist letters and technological anti-scraping means – could not establish CFAA liability, since profiles which were freely available and accessible to the public needed no “authorization” in the first place.

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