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ALERTS

Getting Your Website Ready For The New Library Of Congress Copyright Claims Board

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Highlights

Audit your web content for wayward copyrights to avoid the downstream effects of the CASE Act

Plagiarism tools can be your best friend in avoiding inadvertent copying

Registering your own content via GRTX can put your content in the best format for protection

Two significant copyright changes occurred in 2020 at the Library of Congress: the availability of a short-term copyright called Group Registration for Short Online Literary Works (GRTX) for online content and the formation of a "small claims" court.

The Copyright Claims Board (CCB) will be administered by the Library of Congress as enacted by the Copyright Alternative in Small-Claims Enforcement Act of 2020 (CASE Act). What constitutes the scope and process of the CCB hasn't been defined yet, but there is ample evidence in copyright law, as well as in commercial copyright strike policies of major content distributors, that website content may be the next warzone for copyright infringement assertions.

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The new CCB has maximum penalties per case amounting to $15,000 per infringement and $30,000 per plaintiff, which may cause significant pain for the small-business owner. Avoiding this type of penalty should easily justify cleaning up your website and its content before a problem arises.

Rather than wait for the rules to be solidified, there are a number of items that you can do for your website now. Here are some best practices –for cleaning up your copyright vulnerabilities on your website and preliminary steps to take if you receive a demand.

Before you get a demand letter from an author or a lawyer:

1) **Audit your web content.** There is a significant amount of copied content on many webpages, especially in the areas of consumer targeted sites. Most assertions against your web content will include an assertion of copying based on a plagiarism detector that has compared the "complainant's" content against your content. Here are some simple steps to work through an audit.

a. Use a plagiarism detector to scan your website and see what elements of your web content may have come from another place. This is also a good test as well to determine if others maybe using your content.
b. Review your content with your web developer(s) and determine where your content is coming from and replace any "cut and paste" content that you cannot validate
c. Look at your content creation and web contracts to understand if your content authors have warranted the originality of their works and indemnify you

2) **Replace any ambiguous content.** Remove items that appear to have been authored elsewhere.

a. If there are copyrighted articles you want to retain, after you have removed them, seek written permission to republish the content from the author
b. Hire an author to write your desired content or write your own content
c. If you want to attribute articles, always link back to the original content

3) **Register your own original content under standard copyright or using the new GRTX process.** The U.S. Copyright Office announced GRTX in October 2020 and outlined the new registration process and what content qualifies. This registration also puts you in the best possible position to chase down infringers of your content later.

4) **Rinse and repeat** this process at least once a year, more often if your content changes.

Whether you are defending in the new CCB or Federal court, copyright law is complex and there are potential pitfalls. If you don't currently have copyright counsel, such counsel should be retained to respond to such infringement events. Do not immediately assume you are infringing, but consider having your counsel conduct a forensic review of the alleged infringement to see whether an "original" piece of content is merely copied from elsewhere. You must waive your Federal court rights to be sued in the CCB, but only waive this right in consultation with your copyright counsel.

The best approach with the new copyright paradigm is to know where your content comes from, who owns it and whether you have permission.

To obtain more information, please contact the Barnes & Thornburg attorney with whom you work or Mark Stignani at 612-367-8745 or mark.stignani@btlaw.com.

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