September 6, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Doug Collins
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, D.C. 20515

Subject: H.R. 2426, the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2019

Dear Chairman Nadler and Ranking Member Collins:

I am writing on behalf of the American Bar Association (ABA) to express our support for the Copyright Alternative in Small-Claims Enforcement Act of 2019 (the “CASE Act”), which the House Judiciary Committee is scheduled to consider soon.

The CASE Act was drafted to provide an alternative forum to federal court for low-value copyright disputes. The copyright community recognizes the need for a more accessible tribunal, as the high cost of legal counsel, time-consuming nature of discovery, and significant likelihood of loss when proceeding pro se have all made federal copyright infringement litigation effectively unavailable for parties with limited resources. As a result, copyright holders who cannot afford to bring claims essentially must acquiesce to infringement and thus are deprived of the protections copyright is meant to afford. Moreover, copyright defendants are often burdened with significant legal costs and long-lasting suits, even where their use is a fair use or otherwise lawful. Overall, these risks hinder copyright law from fulfilling its primary function of incentivizing the creation of new, expressive works. If enacted, the CASE Act would establish a Copyright Claims Board within the United States Copyright Office to resolve copyright claims up to $15,000 for a single work and up to $30,000 in one proceeding in which two or more claims are asserted.

Last month, the ABA considered the issue of having a small claims procedure for civil copyright disputes at our annual meeting and adopted policy1 supporting the creation of a program similar to that now proposed by the CASE Act. An alternative small claims

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forum within the Copyright Office limited to claims seeking up to $30,000 in damages, staffed by lawyers well-versed in copyright and alternative dispute resolution, and open to consenting parties proceeding pro se or with legal representation is well worth pursuing because it will result in greater access to justice.

The CASE Act would bring positive change to the copyright system by providing copyright holders with a realistic means to protect their works, and we urge you to support the CASE Act when it comes before the Judiciary Committee this month.

Thank you for considering the policy of the ABA in support of the CASE Act. If you have any questions, please contact Kira Alvarez at 202-662-1779 or kira.alvarez@americanbar.org.

Sincerely,

Judy Perry Martinez