



October 4, 2021

Dear United States Copyright Office,

We are writing to urge you to include employees of libraries and archives working within the scope of their employment in the preemptive opt-out of the Copyright Claims Board (CCB) proceedings.

The CASE Act allows libraries and archives to preemptively opt out of the Copyright Claims Board process by filing a single notice with the US Copyright Office. As executive directors of consortia representing 75 leading research libraries, and ourselves employees of academic research libraries, we know that employees of libraries and archives will be limited in their ability to do their jobs if they are not included in this preemptive opt-out. If a library opts out of the proceeding, its employees working within the scope of their employment should also be covered.

Excluding employees working within the scope of their employment from the preemptive opt-out would hinder librarians and archivists in performing their daily work. Many sections of the Copyright Act provide protection from litigation to librarians and archivists when performing their daily work, including Section 108, limitations on exclusive rights for library reproductions, and the Section 504(c)(2), limitation on damages for good faith exercises of fair use.

Allowing librarians and archivists to be brought before the CCB in their individual capacities when they are doing work on behalf of a library or archive will completely eviscerate any intended protection the CASE Act drafters intended to provide to libraries and archives. Why allow the library itself to opt out of small claims litigation, but allow litigants to name each individual librarian/archivist working in that same library? Surely the drafters of the CASE Act did not intend this result. It threatens to hamper the work of library employees and to pull libraries and archives into CCB

ASERL

540 Asbury Circle, #316
Atlanta, GA 30322
404-727-0137
www.aserl.org

GWLA

5200 W. 94th Terrace, #200
Prairie Village, KS 66207
913-370-4422
www.gwla.org

TRLN

Box 90275 / 411 Chapel Drive
Durham, NC 27708
919-660-8756
www.trln.org

proceedings despite their desire to opt-out.

We urge you to include employees of libraries and archives working in the scope of their duties in the preemptive opt out provisions from the CASE Act Copyright Claims Board. We also encourage you to further consider and clarify the administrative processes, communication, and impact of the Act on employees of libraries and archives.

Sincerely,

Joni Blake, Executive Director, Greater Western Library Alliance (GWLA)
John Burger, Executive Director, Association of Southeastern Research Libraries (ASERL)
Lisa Croucher, Executive Director, Triangle Research Libraries Network (TRLN)