(2) is in the custody or control of the violator or has been impounded under subsection (f).

(Added Pub. L. 102–563, § 2, Oct. 28, 1992, 106 Stat. 4245.)

§ 1010. Determination of certain disputes

(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.

(Added Pub. L. 102–563, § 2, Oct. 28, 1992, 106 Stat. 4246; amended Pub. L. 103–198, § 6(b)(5), Dec. 17, 1993, 107 Stat. 2312; Pub. L. 108–419, § 5(i)(4)(A), Nov. 30, 2004, 118 Stat. 2368.)

AMENDMENTS

2004—Pub. L. 108–419 amended section catchline and text generally, substituting provisions relating to determination of certain disputes for provisions relating to arbitration of certain disputes.

1993—Subsec. (b). Pub. L. 103–198, § 6(b)(5)(A), substituted ''Librarian of Congress'' for ''Copyright Royalty Tribunal'' before ''requesting the commencement'' and for ''Tribunal'' wherever appearing.

Subsec. (e). Pub. L. 103–198, § 6(b)(5)(B), substituted ''Librarian of Congress'' for ''Copyright Royalty Tribunal'' in heading and text.

Subsec. (f). Pub. L. 103–198, § 6(b)(5)(C), substituted ''Librarian of Congress'' for ''Copyright Royalty Tribunal'' in heading and before ''shall adopt or reject'' in text, substituted ''Librarian of Congress'' for ''Tribunal'' wherever appearing, and substituted ''the Librarian's'' for ''its''.

Subsec. (g). Pub. L. 103–198, § 6(b)(5)(D), substituted ''Librarian of Congress'' for ''Copyright Royalty Tribunal'' after ''Any decision of the'', ''decision of the Librarian of Congress'' for ''Tribunal's decision'' in second sentence, and ''Librarian of Congress'' for ''Tribunal'' wherever appearing in third through fifth sentences.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108–419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

CHAPTER 11—SOUND RECORDINGS AND MUSIC VIDEOS

Sec.
1101. Unauthorized fixation and trafficking in sound recordings and music videos.

§ 1101. Unauthorized fixation and trafficking in sound recordings and music videos

(a) UNAUTHORIZED ACTS.—Anyone who, without the consent of the performer or performers involved—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation,

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance, or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States,

shall be subject to the remedies provided in sections 502 through 505, to the same extent as an infringer of copyright.

(b) DEFINITION.—In this section, the term ''traffic'' has the same meaning as in section 2320(e) of title 18.

(c) APPLICABILITY.—This section shall apply to any act or acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

(d) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the common law or statutes of any State.

(Added Pub. L. 103–465, title V, § 512(a), Dec. 8, 1994, 108 Stat. 4974; amended Pub. L. 109–181, § 2(c)(3), Mar. 16, 2006, 120 Stat. 288.)

REFERENCES IN TEXT

The date of the enactment of the Uruguay Round Agreements Act, referred to in subsec. (c), is the date of enactment of Pub. L. 103–465, which was approved Dec. 8, 1994.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–181 added subsec. (b) and struck out heading and text of former subsec. (b). Text