

COPYRIGHT TECHNICAL CORRECTIONS ACT OF 2000

SEPTEMBER 18, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. COBLE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 5106]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5106) making technical corrections in copyright law, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Copyright Technical Corrections Act of 2000”.

SEC. 2. CORRECTIONS TO 1999 ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, is amended as follows:

(1) Section 1007 is amended—

- (A) in paragraph (2), by striking “paragraph (2)” and inserting “paragraph (2)(A)”; and
- (B) in paragraph (3), by striking “1005(e)” and inserting “1005(d)”.
- (2) Section 1006(b) is amended by striking “119(b)(1)(B)(iii)” and inserting “119(b)(1)(B)(ii)”.
- (3)(A) Section 1006(a) is amended—
 - (i) in paragraph (1) by adding “and” after the semicolon;
 - (ii) by striking paragraph (2); and
 - (iii) by redesignating paragraph (3) as paragraph (2).
- (B) Section 1011(b)(2)(A) is amended to read as follows:
 - “(A) in paragraph (1), by striking ‘primary transmission made by a superstation and embodying a performance or display of a work’ and inserting ‘performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed’;”.

SEC. 3. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

- (1) Section 119(a)(6) is amended by striking “of performance” and inserting “of a performance”.
- (2)(A) The section heading for section 122 is amended by striking “**rights; secondary**” and inserting “**rights; Secondary**”.
- (B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

“122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.”.

- (3)(A) The section heading for section 121 is amended by striking “**reproduction**” and inserting “**Reproduction**”.
- (B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking “reproduction” and inserting “Reproduction”.
- (4)(A) Section 106 is amended by striking “107 through 121” and inserting “107 through 122”.
- (B) Section 501(a) is amended by striking “106 through 121” and inserting “106 through 122”.
- (C) Section 511(a) is amended by striking “106 through 121” and inserting “106 through 122”.
- (5) Section 101 is amended—
 - (A) by moving the definition of “computer program” so that it appears after the definition of “compilation”; and
 - (B) by moving the definition of “registration” so that it appears after the definition of “publicly”.
- (6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking “conditions;” and inserting “conditions:”.
- (7) Section 118(b)(1) is amended in the second sentence by striking “to it”.
- (8) Section 119(b)(1)(A) is amended—
 - (A) by striking “transmitted” and inserting “retransmitted”; and
 - (B) by striking “transmissions” and inserting “retransmissions”.
- (9) Section 203(a)(2) is amended—
 - (A) in subparagraph (A)—
 - (i) by striking “(A) the” and inserting “(A) The”; and
 - (ii) by striking the semicolon at the end and inserting a period;
 - (B) in subparagraph (B)—
 - (i) by striking “(B) the” and inserting “(B) The”; and
 - (ii) by striking the semicolon at the end and inserting a period; and
 - (C) in subparagraph (C), by striking “(C) the” and inserting “(C) The”.
- (10) Section 304(c)(2) is amended—
 - (A) in subparagraph (A)—
 - (i) by striking “(A) the” and inserting “(A) The”; and
 - (ii) by striking the semicolon at the end and inserting a period;
 - (B) in subparagraph (B)—
 - (i) by striking “(B) the” and inserting “(B) The”; and
 - (ii) by striking the semicolon at the end and inserting a period; and
 - (C) in subparagraph (C), by striking “(C) the” and inserting “(C) The”.
- (11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking “licensure” and inserting “licensing”.
- (12) Section 109 is amended by striking subsection (e).

SEC. 4. OTHER AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking “107 through 120” and inserting “107 through 122”.

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94–553 is amended by striking “section 290(e) of title 15” and inserting “section 6 of the Standard Reference Data Act (15 U.S.C. 290e)”.

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking “Notwithstanding” and all that follows through “United States Code,” and inserting “Notwithstanding the limitations under section 105 of title 17, United States Code,”.

PURPOSE AND SUMMARY

The purpose of H.R. 5106, the “Copyright Technical Corrections Act of 2000”, is to make purely technical amendments to Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, Pub. L. No. 106–113 (IPCORA), and title 17, United States Code. H.R. 5106 corrects errors in references, spelling, and punctuation; conforms the table of contents with section headings; restores the definitions in chapter 1 to alphabetical order; deletes an expired paragraph; and conforms several provisions to the grammatical style used throughout title 17.

BACKGROUND AND NEED FOR THE LEGISLATION

The United States Copyright Office periodically forwards to Congress recommendations for technical corrections to title 17, the Copyright Act. Early in 2000, the Copyright Office forwarded recommended technical corrections to the Subcommittee on Courts and Intellectual Property. H.R. 5106 implements many of those recommendations. These are necessary amendments which clarify U.S. Copyright law.

COMMITTEE CONSIDERATION

On September 13, 2000, the committee met in open session and ordered favorably reported the bill H.R. 5106, with an amendment in the nature of a substitute, by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform were received as referred to in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the committee sets forth, with respect to the bill, H.R. 5106, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 15, 2000.

Hon. HENRY J. HYDE, *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5106, the Copyright Technical Corrections Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Ken Johnson, who can be reached at 226–2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers Jr.
Ranking Democratic Member

H.R. 5106—Copyright Technical Corrections Act of 2000.

H.R. 5106 would make certain technical changes to copyright law concerning retransmissions of television programming by satellite carriers. The bill also would renumber and retitling several sections of law related to copyrights. Finally, H.R. 5106 would repeal an expired provision of copyright law related to electronic audiovisual games.

CBO estimates that enacting the bill would have no significant impact on the federal budget because the bill's provisions are all technical in nature. Because the bill would not affect direct spending or receipts, pay-as-you-go procedures would not apply.

H.R. 5106 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact is Ken Johnson, who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8, clause 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title. This section states that the act may be cited as the "Copyright Technical Corrections Act of 2000".

Sec. 2. Corrections to 1999 Act. This section makes amendments to Title I of IPCORA.

Paragraph (1)(A) amends section 1007(2) by striking “paragraph (2)” and inserting “paragraph (2)(A)”.

Paragraph (1)(B) amends section 1007(3) by striking “1005(e)” and inserting “1005(d)”. In section 1007(3), the amendment instructions require paragraph 12 to be added to subsection 119(a) “as amended by section 1005(e)”. The reference to section 1005(e) is wrong. Section 1005(d) amended subsection 119(a), whereas section 1005(e) amended subsection 119(d). Section 1005(d) amended subsection 119(a) by adding paragraph 11. Section 1005(e) amended subsection 119(d) by rewriting its paragraph 11. This amendment corrects this.

Paragraph (2) amends section 1006(b) by striking “119(b)(1)(B)(iii)” and inserting “119(b)(1)(B)(ii)”. Section 1006(b) amended section 119(b)(1)(B)(iii) by inserting “or the Public Broadcasting Service satellite feed” after “network station”. Section 119(b)(1)(B)(ii), not (iii), should have been amended. Section 119(b)(1)(B)(iii) contains no reference to “network station”. Section 119(b)(1)(B)(ii) does contain that reference, and it is clear that section 1006(b) was intended to amend section 119(b)(1)(B)(ii).

Paragraphs (3)(A) and (3)(B) amend section 1006(a)(2) by repealing it, redesignating the paragraphs and changing the language in section 1011(b). The amendment in section 1006(b)(2) amends section 119(a)(1) by inserting new wording so that the text will read as follows, with the new wording italicized: “primary transmission made by a superstation *or by the Public Broadcasting Service satellite feed* and embodying a performance or display of a work”.

The amendment in section 1011(b)(2)(A) subsequently amends the same language but does not take the first amendment into account. It directs that section 119(a)(1) be amended to delete “primary transmission made by a superstation and embodying a performance or display of a work” (ignoring the fact that “*or by the Public Broadcasting Service satellite feed*” has been inserted into the middle of that phrase). In lieu of that phrase, it inserts “performance or display of a work embodied in a primary transmission made by a superstation” (but without taking into account the addition of “*or by the Public Broadcasting Service satellite feed*”). As a result, it is unclear what is to be done with the phrase “*or by the Public Broadcasting Service satellite feed*”. Although the intent is clear, the language of sections 1006(a)(2) and 1011(b)(2)(A) does not necessarily accomplish the intended result. These paragraphs clarify the ambiguity to achieve the intended result.

Sec. 3. Amendments to Title 17, United States Code. This section makes amendments to title 17, United States Code.

Paragraph (1) amends section 119(a)(6) by striking “of performance” and inserting “of a performance”. Section 1011(b)(2) of IPCORA amended section 119(a)(6) so that “performance or display of a work embodied in” is inserted after “by a satellite carrier of”. The word “a” is missing between these two phrases. This section inserts it before “performance” so that the language will read “by a satellite carrier of a performance or display of a work embodied in”.

Paragraph (2)(A) amends the section heading for section 122 by striking “rights; secondary” and inserting “rights: Secondary”. Section 1002(a) of IPCORA added section 122 to title 17. The title of section 122 has editorial errors. To make it consistent with the

style used throughout title 17, the title is changed to substitute a colon in lieu of the semicolon and “secondary” is capitalized. Paragraph (2)(B) amends the item relating to section 122 in the table of contents for chapter 1 to make it consistent with the change made by paragraph (2)(A).

Paragraph (3)(A) amends the section heading for section 121 by striking “reproduction” and inserting “Reproduction”. Paragraph 3(B) amends the item relating to section 121 in the table of contents from chapter 1 by striking “reproduction” and inserting “Reproduction”. This makes the heading for section 121 and the table of contents for Chapter 1 conform to the editorial style used for the rest of the headings for title 17 by capitalizing “reproduction”.

Paragraphs (4)(A), (4)(B), and (4)(C) amend cross references to the limitations on exclusive rights in copyright to include section 122. Throughout title 17, such references to “121” are changed to “122”. Paragraph 4(A) amends section 106 by striking “107 through 121” and inserting “107 through 122”. Paragraph (4)(B) amends section 501(a) by striking “106 through 121” and inserting “106 through 122”. Paragraph (4)(C) amends section 511(a) by striking “106 through 121” and inserting “106 through 122”.

Paragraph (5)(A) amends section 101 by moving the definition of “computer program” so that it appears after the definition of “compilation”. Paragraph (5)(B) amends section 101 by moving the definition of “registration” so that it appears after the definition of “publicly”. This amendment ensures that the definitions appear in alphabetical order.

Paragraph (6) amends section 110(4)(B) in the matter preceding clause (i) by striking “conditions;” and inserting “conditions:”. A colon is the proper punctuation when a phrase that introduces multiple subparts is worded to include “the following”.

Paragraph (7) amends section 118(b)(1) in the second sentence by striking “to it”. This section was amended by the Copyright Royalty Tribunal Reform Act of 1993 to substitute “Librarian of Congress” for references to the “Copyright Royalty Tribunal” (CRT). As originally enacted by the Copyright Act of 1976, the second sentence in subsection(b) used the pronoun “it” to refer to the CRT. As amended in 1993, the sentence now states, “The Librarian of Congress shall proceed on the basis of the proposals submitted to it. . . .” This amendment corrects that reference.

Paragraphs (8)(A) and (B) amend section 119(b)(1)(A). Paragraph (A) strikes “transmitted” and inserts “retransmitted”. Paragraph (B) strikes “transmissions” and inserts “retransmissions”. These paragraphs correct two drafting errors in section 119(b)(1)(A) when it was enacted by the Satellite Home Viewer Act of 1988.

Paragraphs (9)(A), (B) and (C) amend section 203(a)(2). Paragraph (9)(A)(i) amends subparagraph (A) by striking “(A) the” and inserts “(A) The”. Paragraph (9)(A)(ii) amends subparagraph (A) by striking the semicolon at the end and inserting a period. Paragraph (9)(B)(i) amends subparagraph (B) by striking “(B) the” and inserting “(B) The”. Paragraph (9)(B)(ii) amends subparagraph (B) by striking the semicolon at the end and inserting a period. Paragraph (9)(C) amends subparagraph (C) by striking “(C) the” and inserting “(C) The”.

Paragraphs (10)(A), (B) and (C) amend section 304(c)(2). Paragraph (10)(A)(i) amends subparagraph (A) by striking “(A) the” and

inserting “(A) The”. Paragraph (10)(A)(ii) amends subparagraph (A) by striking the semicolon at the end and inserting a period. Paragraph (10)(B)(i) amends subparagraph (B) by striking “(B) the” and inserting “(B) The”. Paragraph (10)(B)(ii) amends subparagraph (B) by striking the semicolon at the end and inserting a period. Paragraph (10)(C) amends subparagraph (C) by striking “(C) the” and inserting “(C) The”. The addition of subparagraph (C) to sections 203(a)(2) and 304(c)(2) resulted in inconsistent punctuation and this amendment makes the punctuation in sections 203(a)(2) and 304(c)(2) internally consistent.

Paragraph (11) amends the item relating to section 903 in the table of contents for chapter 9 by striking “licensure” and inserting “licensing”. As originally enacted in 1984, the table of contents for chapter 9 and the text each had a different heading for section 903. The heading in the text was the same as it is now, which is “Ownership, transfer, licensing, and recordation”. The heading in the table of contents was, “Ownership and transfer.” In 1997, a technical amendment changed the heading in the table of sections to its present form, which is, “Ownership, transfer, licensure, and recordation.” The 1997 amendment did not change the heading in the text to make it the same. This amendment makes both the table of contents and the heading in the text the same.

Paragraph (12) amends section 109 by striking subsection (e). Section 803 of the Computer Software Rental Amendments Act of 1990 amended section 109 of title 17 by adding subsection (e). According to section 804(c) the amendments made by section 803 shall not apply to public performances or displays that occur on or after October 1, 1995. Therefore, section 109 is expired.

Sec. 4. Other Amendments. This section makes other technical and conforming amendments. Paragraph (a) amends title 18, section 2319(e)(2) by striking “107 through 120” and inserting “107 through 122”. Paragraph (b)(1) and (2) correct an incorrect reference to an uncodified title. It is incorrect to directly cite to an uncodified title.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

* * * * *

TITLE I—SATELLITE HOME VIEWER IMPROVEMENT

* * * * *

SEC. 1006. PUBLIC BROADCASTING SERVICE SATELLITE FEED.

(a) SECONDARY TRANSMISSIONS.—Section 119(a)(1) of title 17, United States Code, is amended—

(1) by striking the paragraph heading and inserting “(1) SUPERSTATIONS AND PBS SATELLITE FEED.—”; and

[(2) by inserting “or by the Public Broadcasting Service satellite feed” after “superstation”; and]

[(3)] (2) by adding at the end the following: “In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.”.

(b) ROYALTY FEES.—Section [119(b)(1)(B)(iii)] 119(b)(1)(B)(ii) of title 17, United States Code, is amended by inserting “or the Public Broadcasting Service satellite feed” after “network station”.

* * * * *

SEC. 1007. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

Section 119(a) of title 17, United States Code, is amended—

(1) * * *

(2) in [paragraph (2)] *paragraph (2)(A)*, by inserting “with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,” after “satellite carrier to the public for private home viewing.”; and

(3) by adding at the end of such subsection (as amended by section [1005(e)] 1005(d) of this Act) the following new paragraph:

“(12) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—Notwithstanding any other provision of this section, the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.”.

* * * * *

SEC. 1011. TECHNICAL AMENDMENTS.

(a) * * *

* * * * *

(b) TECHNICAL AMENDMENTS RELATING TO PERFORMANCE OR DISPLAYS OF WORKS.—

(1) * * *

* * * * *

(2) Section 119(a) of title 17, United States Code, is amended—

[(A) in paragraph (1), by striking “primary transmission made by a superstation and embodying a perform-

ance or display of a work” and inserting “performance or display of a work embodied in a primary transmission made by a superstation”];

(A) *in paragraph (1), by striking “primary transmission made by a superstation and embodying a performance or display of a work” and inserting “performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed”;*

* * * * *

TITLE 17, UNITED STATES CODE

* * * * *

CHAPTER 1—SUBJECT MATTER AND SCOPE OF COPYRIGHT

- Sec. 101. Definitions.
* * * * *
- 121. Limitations on exclusive rights: [reproduction] *Reproduction* for blind or other people with disabilities.
- [122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local market.]
- 122. *Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.*
* * * * *

§ 101. Definitions

Except as otherwise provided in this title, as used in this title, the following terms and their variant forms mean the following:

An “anonymous work” is a work on the copies or phonorecords of which no natural person is identified as author.

* * * * *

A “compilation” is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term “compilation” includes collective works.

A “computer program” is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

* * * * *

To perform or display a work “publicly” means—

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the

performance or display receive it in the same place or in separate places and at the same time or at different times. “Registration”, for purposes of sections 205(c)(2), 405, 406, 410(d), 411, 412, and 506(e), means a registration of a claim in the original or the renewed and extended term of copyright.

* * * * *

§ 106. Exclusive rights in copyrighted works

Subject to sections [107 through 121] 107 through 122, the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) * * *

* * * * *

§ 109. Limitations on exclusive rights: Effect of transfer of particular copy or phonorecord

(a) * * *

* * * * *

[(e) Notwithstanding the provisions of sections 106(4) and 106(5), in the case of an electronic audiovisual game intended for use in coin-operated equipment, the owner of a particular copy of such a game lawfully made under this title, is entitled, without the authority of the copyright owner of the game, to publicly perform or display that game in coin-operated equipment, except that this subsection shall not apply to any work of authorship embodied in the audiovisual game if the copyright owner of the electronic audiovisual game is not also the copyright owner of the work of authorship.]

§ 110. Limitations on exclusive rights: Exemption of certain performances and displays

Notwithstanding the provisions of section 106, the following are not infringements of copyright:

(1) * * *

* * * * *

(4) performance of a nondramatic literary or musical work otherwise than in a transmission to the public, without any purpose of direct or indirect commercial advantage and without payment of any fee or other compensation for the performance to any of its performers, promoters, or organizers, if—

(A) * * *

(B) the proceeds, after deducting the reasonable costs of producing the performance, are used exclusively for educational, religious, or charitable purposes and not for private financial gain, except where the copyright owner has served notice of objection to the performance under the following [conditions;] conditions:

(i) * * *

* * * * *

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) * * *

(b) Notwithstanding any provision of the antitrust laws, any owners of copyright in published nondramatic musical works and published pictorial, graphic, and sculptural works and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive payments.

(1) Any owner of copyright in a work specified in this subsection or any public broadcasting entity may submit to the Librarian of Congress proposed licenses covering such activities with respect to such works. The Librarian of Congress shall proceed on the basis of the proposals submitted [to it] as well as any other relevant information. The Librarian of Congress shall permit any interested party to submit information relevant to such proceedings.

* * * * *

§ 119. Limitations on exclusive rights: Secondary transmissions of superstations and network stations for private home viewing

(a) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

(1) * * *

* * * * *

(6) DISCRIMINATION BY A SATELLITE CARRIER.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier [of performance] of a performance or display of a work embodied in a primary transmission made by a superstation or a network station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier unlawfully discriminates against a distributor.

* * * * *

(b) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS FOR PRIVATE HOME VIEWING.—

(1) DEPOSITS WITH THE REGISTER OF COPYRIGHTS.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall prescribe by regulation—

(A) a statement of account, covering the preceding 6-month period, specifying the names and locations of all superstations and network stations whose signals were [transmitted] retransmitted, at any time during that period, to subscribers for private home viewing as described in subsections (a)(1) and (a)(2), the total number of subscribers that received such [transmissions] retrans-

missions, and such other data as the Register of Copyrights may from time to time prescribe by regulation; and

* * * * *

§ 121. Limitations on exclusive rights: [reproduction] *Reproduction for blind or other people with disabilities*

(a) * * *

* * * * *

§ 122. Limitations on exclusive [rights; secondary] *rights: Secondary transmissions by satellite carriers within local markets*

(a) * * *

* * * * *

CHAPTER 2—COPYRIGHT OWNERSHIP AND TRANSFER

* * * * *

§ 203. Termination of transfers and licenses granted by the author

(a) CONDITIONS FOR TERMINATION.—In the case of any work other than a work made for hire, the exclusive or nonexclusive grant of a transfer or license of copyright or of any right under a copyright, executed by the author on or after January 1, 1978, otherwise than by will, is subject to termination under the following conditions:

(1) * * *

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, as follows:

(A) [the] *The* widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest[;].

(B) [the] *The* author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them[;].

(C) [the] *The* rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

* * * * *

CHAPTER 3—DURATION OF COPYRIGHT

* * * * *

§ 304. Duration of copyright: Subsisting copyrights

(a) * * *

* * * * *

(c) **TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.**—In the case of any copyright subsisting in either its first or renewal term on January 1, 1978, other than a copyright in a work made for hire, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated by subsection (a)(1)(C) of this section, otherwise than by will, is subject to termination under the following conditions:

(1) * * *

(2) Where an author is dead, his or her termination interest is owned, and may be exercised, as follows:

(A) **[the]** *The* widow or widower owns the author's entire termination interest unless there are any surviving children or grandchildren of the author, in which case the widow or widower owns one-half of the author's interest**;**

(B) **[the]** *The* author's surviving children, and the surviving children of any dead child of the author, own the author's entire termination interest unless there is a widow or widower, in which case the ownership of one-half of the author's interest is divided among them**;**

(C) **[the]** *The* rights of the author's children and grandchildren are in all cases divided among them and exercised on a per stirpes basis according to the number of such author's children represented; the share of the children of a dead child in a termination interest can be exercised only by the action of a majority of them.

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CHAPTER 5—COPYRIGHT INFRINGEMENT AND REMEDIES

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§ 501. Infringement of copyright

(a) Anyone who violates any of the exclusive rights of the copyright owner as provided by sections **[106 through 121]** *106 through 122* or of the author as provided in section 106A(a), or who imports copies or phonorecords into the United States in violation of section 602, is an infringer of the copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a). As used in this subsection, the term "anyone" includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any non-governmental entity.

* * * * *

§ 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or non-governmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections [106 through 121] 106 through 122, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

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CHAPTER 9—PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

Sec.	
901.	Definitions.
	* * * * *
903.	Ownership, transfer, [licensure] <i>licensing</i> , and recordation.
	* * * * *

SECTION 2319 OF TITLE 18, UNITED STATES CODE

§ 2319. Criminal infringement of a copyright

(a) * * *

* * * * *

(e) As used in this section—

- (1) * * *
- (2) the terms “reproduction” and “distribution” refer to the exclusive rights of a copyright owner under clauses (1) and (3) respectively of section 106 (relating to exclusive rights in copyrighted works), as limited by sections [107 through 120] 107 through 122, of title 17.

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SECTION 105 OF THE ACT OF OCTOBER 19, 1976

AN ACT For the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes

SEC. 105. (a) * * *

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(f) Subsection (a) of [section 290(e) of title 15] *section 6 of the Standard Reference Data Act (15 U.S.C. 290e)* is amended by deleting the phrase “section 8” and inserting in lieu thereof the phrase “section 105”.

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SECTION 6 OF THE STANDARD REFERENCE DATA ACT

SEC. 6. (a) **【Notwithstanding the limitations contained in section 105 of title 17 of the United States Code,】** *Notwithstanding the limitations under section 105 of title 17, United States Code,* the Secretary may secure copyright and renewal thereof on behalf of the United States as author or proprietor in all or any part of any standard reference data which he prepares or makes available under this Act, and may authorize the reproduction and publication thereof by others.

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