

Union Calendar No. 31

109TH CONGRESS
1ST SESSION

H. R. 1036

[Report No. 109-64]

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2005

Mr. SMITH of Texas (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 28, 2005

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENTS TO CHAPTER 8 OF TITLE 17,**

4 **UNITED STATES CODE.**

5 Chapter 8 of title 17, United States Code, is amended

6 as follows:

1 (1) Section 801(b)(1) is amended, in the matter
2 preceding subparagraph (A), by striking “119 and
3 1004” and inserting “119, and 1004”.

4 (2) Section 802(f)(1)(A) is amended—

5 (A) in clause (i), by striking “clause (ii) of
6 this subparagraph and subparagraph (B)” and
7 inserting “subparagraph (B) and clause (ii) of
8 this subparagraph”; and

9 (B) in clause (ii)—

10 (i) in the first sentence—

11 (I) by striking “A Copyright
12 Judge or Judges, or by motion to the
13 Copyright Judge or Judges,” and in-
14 serting “One or more Copyright Roy-
15 alty Judges or, by motion to one or
16 more Copyright Royalty Judges,”; and

17 (II) by striking “(not including”
18 and inserting “(other than”;

19 (ii) in the third sentence, by inserting
20 a comma after “substantive law”; and

21 (iii) in the fourth sentence, by striking
22 “Copyrights” and inserting “Copyrights”.

23 (3) Section 802(f)(1)(D) is amended by insert-
24 ing a comma after “undertakes to consult with”.

25 (4) Section 803(a)(1) is amended—

1 (A) by striking “The Copyright” and in-
2 serting “The Copyright Royalty Judges shall
3 act in accordance with this title, and to the ex-
4 tent not inconsistent with this title, in accord-
5 ance with subchapter II of chapter 5 of title 5,
6 in carrying out the purposes set forth in section
7 801. The Copyright”; and

8 (B) by inserting after “Congress, the Reg-
9 ister of Copyrights,” the following: “copyright
10 arbitration royalty panels (to the extent those
11 determinations are not inconsistent with a deci-
12 sion of the Librarian of Congress or the Reg-
13 ister of Copyrights),”.

14 (5) Section 803(b) is amended—

15 (A) in paragraph (1)(A)(i)(V)—

16 (i) by striking “in the case of” and in-
17 serting “the publication of notice require-
18 ment shall not apply in the case of”; and

19 (ii) by striking “, such notice may not
20 be published”; and

21 (B) in paragraph (6)(C)(i)—

22 (i) in the first sentence, by inserting
23 “and written rebuttal statements” after
24 “written direct statements”;

1 (ii) in the first sentence, by striking
2 “which may” and inserting “which, in the
3 case of written direct statements, may”;
4 and

5 (iii) by striking “clause (iii)” and in-
6 serting “clause (iv)”.

7 (6) Section 803(c)(2)(B) is amended by striking
8 “concerning rates and terms”.

9 (7) Section 803(c)(7) is amended by striking
10 “of Copyright” and inserting “of the Copyright”.

11 (8) Section 803(d)(2)(C)(i)(I) is amended by
12 striking “statements of account and any report of
13 use” and inserting “applicable statements of account
14 and reports of use”.

15 (9) Section 804(b)(1)(B) is amended—

16 (A) by striking “801(b)(3)(B) or (C)” and
17 inserting “801(b)(2)(B) or (C)”; and

18 (B) in the last sentence, by striking
19 “change is” and inserting “change in”.

20 (10) Section 804(b)(3) is amended—

21 (A) in subparagraph (A), strike “effective
22 date” and insert “date of enactment”; and

23 (B) in subparagraph (C)—

24 (i) in clause (ii), by striking “that is
25 filed” and inserting “is filed”; and

1 (ii) in clause (iii), by striking “such
2 subsections (b)” and inserting “subsections
3 (b)”.

4 **SEC. 2. ADDITIONAL TECHNICAL AMENDMENTS.**

5 (a) DISTRIBUTION OF ROYALTY FEES.—Section
6 111(d) of title 17, United States Code, is amended—

7 (1) in the second sentence of paragraph (2), by
8 striking all that follows “Librarian of Congress” and
9 inserting “upon authorization by the Copyright Roy-
10 alty Judges.”;

11 (2) in paragraph (4)—

12 (A) in subparagraph (B)—

13 (i) by striking the second sentence
14 and inserting the following: “If the Copy-
15 right Royalty Judges determine that no
16 such controversy exists, the Copyright Roy-
17 alty Judges shall authorize the Librarian
18 of Congress to proceed to distribute such
19 fees to the copyright owners entitled to re-
20 ceive them, or to their designated agents,
21 subject to the deduction by the Librarian
22 of reasonable administrative costs under
23 this section.”; and

24 (ii) in the last sentence, by striking
25 “finds” and inserting “find”; and

1 (B) by striking subparagraph (C) and in-
2 serting the following:

3 “(C) During the pendency of any pro-
4 ceeding under this subsection, the Copyright
5 Royalty Judges shall have the discretion to au-
6 thorize the Librarian of Congress to proceed to
7 distribute any amounts that are not in con-
8 troversy.”.

9 (b) SOUND RECORDINGS.—Section 114(f) of title 17,
10 United States Code, is amended—

11 (1) in paragraph (1)(A), in the first sentence,
12 by striking “except where” and all that follows
13 through the end period and inserting “, except in
14 the case of a different transitional period provided
15 under section 6(b)(3) of the Copyright Royalty and
16 Distribution Reform Act of 2004, or such other pe-
17 riod as the parties may agree.”; and

18 (2) in paragraph (2)(A), by striking “except
19 where a different transitional period is provided”
20 and inserting “except in the case of a different tran-
21 sitional period provided”.

22 (c) PHONORECORDS OF NONDRAMATIC MUSICAL
23 WORKS.—Section 115(c)(3) of title 17, United States
24 Code, is amended—

1 (1) in subparagraph (B), by striking “subpara-
2 graphs (B) through (F)” and inserting “this sub-
3 paragraph and subparagraphs (C) through (E)”;
4 and

5 (2) in subparagraph (E), in clauses (i) and
6 (ii)(I), by striking “(C) or (D)” each place it ap-
7 pears and inserting “(C) and (D)”.

8 (d) NONCOMMERCIAL BROADCASTING.—Section 118
9 of title 17, United States Code, is amended—

10 (1) in subsection (b)(3), by striking “copyright
11 owners in works” and inserting “owners of copyright
12 in works”; and

13 (2) in subsection (c), by striking “Copyright
14 Royalty Judges” and all that follows through “Li-
15 brarian of Congress” and inserting “Copyright Roy-
16 alty Judges under subsection (b)(4)”.

17 (e) SATELLITE CARRIERS.—Section 119(b)(4) of title
18 17, United States Code, is amended—

19 (1) in subparagraph (B), by striking the second
20 sentence and inserting the following: “If the Copy-
21 right Royalty Judges determine that no such con-
22 troversy exists, the Copyright Royalty Judges shall
23 authorize the Librarian of Congress to proceed to
24 distribute such fees to the copyright owners entitled
25 to receive them, or to their designated agents, sub-

1 ject to the deduction by the Librarian of reasonable
2 administrative costs under this section.”; and

3 (2) by amending subparagraph (C) to read as
4 follows:

5 “(C) WITHHOLDING OF FEES DURING
6 CONTROVERSY.—During the pendency of any
7 proceeding under this subsection, the Copyright
8 Royalty Judges shall have the discretion to au-
9 thorize the Librarian of Congress to proceed to
10 distribute any amounts that are not in con-
11 troversy.”.

12 (f) DIGITAL AUDIO RECORDING DEVICES.—Section
13 1007 of title 17, United States Code, is amended—

14 (1) in subsection (b)—

15 (A) in the second sentence, by striking
16 “Librarian of Congress” and inserting “Copy-
17 right Royalty Judges”; and

18 (B) in the last sentence, by striking “by
19 the Librarian”; and

20 (2) in subsection (c), in the last sentence, by
21 striking “by the Librarian”.

22 (g) EFFECTIVE DATE.—Section 6(b)(1) of the Copy-
23 right Royalty and Distribution Reform Act of 2004 (Pub-
24 lic Law 108–419) is amended by striking “commenced be-
25 fore the date of enactment of this Act” and inserting

1 “commenced before the effective date provided in sub-
2 section (a)”.

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