

103^D CONGRESS
1ST SESSION

H. R. 897

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 2), 1993

Received

NOVEMBER 23, 1993

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 17, United States Code, to modify certain registration requirements, and for other purposes.

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. SHORT TITLE.**

4 This Act may be cited as the “Copyright Reform Act
5 of 1993”.

6 **SEC. 2. DEPOSIT OF COPIES OR PHONORECORDS FOR LI-**
7 **BRARY OF CONGRESS.**

8 Section 407 of title 17, United States Code, is
9 amended as follows:

1 (1) Subsection (a) is amended by striking “(a)”
2 and all that follows through “publication—” and in-
3 serting the following:

4 “(a) REQUIRED DEPOSITS.—Except as provided in
5 subsection (c), the owner of copyright in a work or of the
6 exclusive right of publication of a work in the United
7 States shall deposit, after the earliest date of such
8 publication—”.

9 (2) Subsection (b) is amended—

10 (A) by inserting “DEPOSIT IN COPYRIGHT
11 OFFICE.—” after “(b)”; and

12 (B) by adding at the end the following: “A
13 deposit made under this section may be used to
14 satisfy the deposit requirements of section
15 408.”.

16 (3) Subsection (c) is amended—

17 (A) by inserting “REGULATIONS.—” after
18 “(c)”; and

19 (B) by striking “Register of Copyrights”
20 and inserting “Librarian of Congress”.

21 (4) Subsection (d) is amended—

22 (A) by redesignating paragraphs (1), (2),
23 and (3) as subparagraphs (A), (B), and (C), re-
24 spectively;

1 (B) by striking “(d) At any time after pub-
2 lication of a work as provided by subsection
3 (a)” and inserting the following:

4 “(d) PROCEDURES.—(1) During November of each
5 year, the Librarian of Congress shall publish in the Fed-
6 eral Register a statement of the categories of works of
7 which the Library of Congress wishes to acquire copies
8 or phonorecords under this section during the next cal-
9 endar year. The Librarian shall review such statement an-
10 nually in light of the changes in the Library’s policies and
11 procedures, changes in technology, and changes in pat-
12 terns of publication. The statement shall also describe—

13 “(A) the types of works of which only one copy
14 or phonorecord need be deposited;

15 “(B) the types of works for which the deposit
16 requirements may be fulfilled by placing the Library
17 of Congress on a subscription list; and

18 “(C) the categories of works which are exempt
19 under subsection (c) from the deposit requirements.

20 “(2) At any time after publication in the United
21 States of a work or body of works”;

22 (C) by striking “Register of Copyrights”
23 and inserting “Librarian of Congress”;

1 (D) by inserting after the first sentence
2 the following: “Such demand shall specify a
3 date for compliance with the demand.”;

4 (E) by inserting “in a civil action” after
5 “are liable”;

6 (F) in subparagraph (B) (as redesignated
7 by subparagraph (A) of this paragraph) by
8 striking “cost of” and inserting “cost to”;

9 (G) in subparagraph (C) (as redesignated
10 by subparagraph (A) of this paragraph) by
11 striking “clauses (1) and (2)” and inserting
12 “subparagraphs (A) and (B)”; and

13 (H) by adding after subparagraph (C) (as
14 so redesignated) the following:

15 “In addition to the penalties set forth in subparagraphs
16 (A), (B), and (C), the person against whom an action is
17 brought under this paragraph shall be liable in such action
18 for all costs of the United States in pursuing the demand,
19 including an amount equivalent to a reasonable attorney’s
20 fee.”.

21 (5) Subsection (e) is amended—

22 (A) by inserting “TRANSMISSION PRO-
23 GRAMS.—” after “(e)”;

24 (B) by striking “Register of Copyrights
25 shall, after consulting with the Librarian of

1 Congress and other interested organizations
2 and officials,” and inserting “Librarian of Con-
3 gress shall, after consulting with interested or-
4 ganizations and officials,”; and

5 (C) in paragraph (2) by striking “Register
6 of Copyrights” and inserting “Librarian of
7 Congress”.

8 (6) Section 407 of title 17, United States Code,
9 is further amended by adding at the end the follow-
10 ing:

11 “(f) OBLIGATION TO MAKE DEPOSITS.—Imme-
12 diately upon the publication in the United States of any
13 work in which copyright subsists under this title, it shall
14 be the obligation of the persons identified in subsection
15 (a) with respect to that work, subject to the requirements
16 and exceptions specified in this section, to deposit, for the
17 use or disposition of the Library of Congress, the copies
18 or phonorecords specified in such subsection. The obliga-
19 tion to make such deposit arises without any prior notifi-
20 cation or demand for compliance with subsection (a).

21 “(g) RECORDS OF DEPOSITS.—The Librarian of
22 Congress shall establish and maintain public records of
23 the receipt of copies and phonorecords deposited under
24 this section.

1 “(h) DATABASE OF DEPOSIT RECORDS.—The Li-
2 brarian of Congress shall establish and maintain an elec-
3 tronic database containing its records of all deposits made
4 under this section on and after October 1, 1995, and shall
5 make such database available to the public through one
6 or more international information networks.

7 “(i) DELEGATION AUTHORITY.—The Librarian of
8 Congress may delegate to the Register of Copyrights or
9 other officer or employee of the Library of Congress any
10 of the Librarian’s responsibilities under this section.”.

11 **SEC. 3. COPYRIGHT REGISTRATION IN GENERAL.**

12 Section 408 of title 17, United States Code, is
13 amended—

14 (1) in subsection (c)—

15 (A) in paragraph (1) by adding at the end
16 the following: “The Register is also authorized
17 to specify by regulation classes of material in
18 which registration may be made without deposit
19 of any copy or phonorecord, in cases in which
20 the Register determines that the purposes of
21 examination, registration, and deposit can be
22 adequately served by deposit of descriptive ma-
23 terial only, or by a written obligation to deposit
24 copies or phonorecords at a later date.”; and

1 (B) in paragraph (2) by striking “periodicals,
2 including newspapers” and all that follows
3 through the end of subparagraph (B) and in-
4 serting “collective works, including periodicals,
5 published within a 5-year period, on the basis
6 of a single deposit and application and upon
7 payment of any special registration fee imposed
8 under section 708(a)(10), if the application
9 identifies each work separately, including the
10 collective work containing it and its date of first
11 publication.”; and

12 (2) by adding at the end the following:

13 “(f) COPYRIGHT OFFICE HEARINGS.—Not later than
14 1 year after the effective date of this subsection, and at
15 1-year intervals thereafter, the Register of Copyrights
16 shall hold public hearings to consider proposals to amend
17 the regulations and practices of the Copyright Office with
18 respect to deposit of works in order to eliminate deposits
19 that are unnecessary for copyright examination or the col-
20 lections of the Library of Congress, and in order to sim-
21 plify the registration procedures.”.

22 **SEC. 4. APPLICATION FOR COPYRIGHT REGISTRATION.**

23 (a) APPLICATIONS.—Section 409 of title 17, United
24 States Code, is amended—

1 (1) by striking “The application” and inserting
2 “(a) CONTENTS OF APPLICATION.—The applica-
3 tion”;

4 (2) in paragraph (5) by inserting before the
5 semicolon the following: “, and if the document by
6 which ownership was obtained has been recorded in
7 the Copyright Office, the volume and page number
8 of such recordation”;

9 (3) by striking paragraphs (9) and (10) and in-
10 serting the following:

11 “(9) in the case of a compilation or derivative
12 work, an identification of any preexisting work or
13 works that it is substantially based on or substan-
14 tially incorporates, and a brief, general statement of
15 the additional material covered by the copyright
16 claim being registered;

17 “(10) at the option of the applicant, names, ad-
18 dresses, and telephone numbers of persons or orga-
19 nizations that potential users of the work should
20 contact concerning permissions or licenses to use the
21 work, and any information with respect to the terms
22 of such permissions or licenses; and”;

23 (4) by adding at the end the following:

24 “(b) SHORT-FORM APPLICATION.—

1 “(1) USE OF SHORT-FORM.—The Register of
2 Copyrights shall prescribe a short-form application
3 which may be used whenever—

4 “(A) the work is by a living author;

5 “(B) the claimant is the author;

6 “(C) the work is not anonymous, pseudon-
7 ymous, or made for hire; and

8 “(D) the work as a whole, or substantial
9 portions of it, have not been previously pub-
10 lished or registered.

11 “(2) CONTENTS OF SHORT-FORM.—The short-
12 form application shall include—

13 “(A) the name and address of the author;

14 “(B) the title of the work;

15 “(C) the nationality or domicile of the au-
16 thor;

17 “(D) the year in which creation of the
18 work was completed;

19 “(E) if the work has been published, the
20 date and nation of its first publication;

21 “(F) any other information regarded by
22 the Register of Copyrights as bearing upon the
23 preparation or identification of the work or the
24 existence, ownership, or duration of the copy-
25 right; and

1 “(G) at the option of the applicant, names,
2 addresses, and telephone numbers of persons or
3 organizations that potential users of the work
4 should contact concerning permissions or li-
5 censes to use the work, and any information
6 with respect to the terms of such permissions or
7 licenses.”.

8 (b) EFFECTIVE DATE.—The amendments made by
9 this section take effect 6 months after the date of the en-
10 actment of this Act.

11 **SEC. 5. REGISTRATION OF CLAIM AND ISSUANCE OF CER-**
12 **TIFICATE.**

13 (a) DETERMINATION OF REGISTRATION.—Section
14 410 of title 17, United States Code, is amended by strik-
15 ing subsections (a) and (b) and inserting the following:

16 “(a) DETERMINATION OF REGISTER.—If, after ex-
17 amination, the Register of Copyrights determines, in ac-
18 cordance with the provisions of this title, that there is no
19 reasonable possibility that a court would hold the work
20 for which a deposit is made pursuant to section 408(c)
21 to be copyrightable subject matter, or the Register deter-
22 mines that the claim is invalid for any other reason, the
23 Register shall refuse registration and notify the applicant
24 in writing of the reasons for such refusal. In all other
25 cases, the Register shall register the claim and issue to

1 the applicant a certificate of registration under the seal
2 of the Copyright Office. A certificate of registration issued
3 under this section extends only to those component parts
4 of the work that both are the subject matter of copyright
5 and the copyright owner has the right to claim. The cer-
6 tificate shall contain the information set forth in the appli-
7 cation, together with the number and effective date of the
8 registration.

9 “(b) APPEALS PROCEDURE.—The Register of Copy-
10 rights shall establish, and publish in the Federal Register,
11 a formal procedure by which appeals may be taken from
12 refusals under subsection (a) to register claims to copy-
13 right. Such procedure shall include a final appeal to the
14 Register.”.

15 (b) JUDICIAL PROCEEDINGS.—Subsection (c) of sec-
16 tion 410 of title 17, United States Code, is amended—

17 (1) by inserting “EVIDENTIARY WEIGHT OF
18 CERTIFICATE.—” after “(c)”; and

19 (2) by adding at the end the following: “Any
20 error or omission made in good faith or upon rea-
21 sonable reliance on counsel shall not affect the valid-
22 ity of the registration. In no case shall an incorrect
23 statement made in an application for copyright reg-
24 istration invalidate the copyright.”.

1 (c) TECHNICAL AMENDMENT.—Subsection (d) of sec-
2 tion 410 of title 17, United States Code, is amended by
3 inserting “EFFECTIVE DATE OF REGISTRATION.—” after
4 “(d)”.

5 **SEC. 6. COPYRIGHT REGISTRATION PROVISIONS.**

6 (a) REGISTRATION AND INFRINGEMENT ACTIONS.—
7 (1) Section 411 of title 17, United States Code, is amend-
8 ed—

9 (A) by amending the section caption to read as
10 follows:

11 **“§411. Registration and infringement actions for cer-
12 tain works”;**

13 (B) by striking subsection (a); and

14 (C) in subsection (b)—

15 (i) by striking “(b)”;

16 (ii) by striking paragraphs (1) and (2) and
17 inserting the following:

18 “(1) serves notice upon the infringer, not less
19 than 10 or more than 30 days before such fixation,
20 identifying the work and the specific time and source
21 of its first transmission; and

22 “(2) submits an application for registration of
23 the copyright claim in the work, in accordance with
24 this title, within 3 months after the first trans-
25 mission of the work.”.

1 (2) The item relating to section 411 in the table of
2 sections at the beginning of chapter 4 of title 17, United
3 States Code, is amended to read as follows:

“411. Registration and infringement actions for certain works.”.

4 (b) REGISTRATION AS PREREQUISITE TO CERTAIN
5 REMEDIES FOR INFRINGEMENT.—Section 412 of title 17,
6 United States Code, and the item relating to section 412
7 in the table of sections at the beginning of chapter 4 of
8 title 17, United States Code, are repealed.

9 **SEC. 7. REMEDIES FOR INFRINGEMENT.**

10 Section 504(c)(2) of title 17, United States Code, is
11 amended in the second sentence—

12 (1) by striking “court it” and inserting “court
13 in”;

14 (2) by inserting “or eliminate” after “reduce”;
15 and

16 (3) by striking “to a sum of not less than
17 \$200”.

18 **SEC. 8. NOTIFICATION OF FILING AND DETERMINATION OF**
19 **ACTIONS.**

20 Section 508 of title 17, United States Code, is
21 amended—

22 (1) in subsection (a)—

23 (A) in the first sentence by inserting “and
24 the party filing the action” after “United
25 States”; and

1 (B) in the second sentence by inserting
2 “and the party filing the action” after “clerk”;
3 and

4 (2) in subsection (b) by inserting “and the
5 party filing the action” after “clerk of the court”.

6 **SEC. 9. STUDY ON MANDATORY DEPOSIT.**

7 (a) SUBJECT MATTER OF STUDY.—Upon the enact-
8 ment of this Act, the Librarian of Congress shall conduct
9 a study of the mandatory deposit provisions of section 407
10 of title 17, United States Code. Such study shall place
11 particular emphasis on the implementation of section
12 407(e) of such title with respect to the deposit of trans-
13 mission programs, as well as possible alternative methods
14 of obtaining deposits if the mandatory deposit require-
15 ments of such section 407 are expanded to authorize the
16 collection, archival preservation, and use by the Library
17 of Congress of other publicly transmitted works, including
18 unpublished works such as computer programs and online
19 databases.

20 (b) CONDUCT OF STUDY.—The study under sub-
21 section (a) shall be conducted by the Register of Copy-
22 right, in consultation with any affected interests, and may
23 include the voluntary establishment, in collaboration with
24 representatives of such interests, of practical tests and
25 pilot projects.

1 (c) REPORT TO CONGRESS.—Not later than 18
2 months after the date of the enactment of this Act, the
3 Librarian shall submit to the Congress a report on the
4 results of the study conducted under this section, together
5 with recommendations the Librarian has on—

6 (1) safeguarding the interests of copyright own-
7 ers whose works are subject to the mandatory de-
8 posit provisions referred to in subsection (a);

9 (2) fulfilling the present and future needs of
10 the Library of Congress with respect to archival and
11 other collections development; and

12 (3) any legislation that may be necessary.

13 **SEC. 10. STUDIES OF EFFECTS OF REGISTRATION AND DE-**
14 **POSIT PROVISIONS.**

15 Upon the enactment of this Act, the Librarian of
16 Congress, after consultation with the Register of Copy-
17 rights and any affected interests, shall commence a study
18 of the extent to which changes in the registration and de-
19 posit provisions of title 17, United States Code, that are
20 made by this Act have affected the acquisitions of the Li-
21 brary of Congress and the operations of the copyright reg-
22 istration system, and any recommendations the Librarian
23 may have with respect to such effects. Not later than 3
24 years after the date of the enactment of this Act, the Li-
25 brarian shall submit to the Congress a report on such

1 study. The Librarian may conduct further studies de-
2 scribed in the first sentence, and report to the Congress
3 on such studies.

4 **SEC. 11. CONFORMING AMENDMENTS.**

5 (a) DEFINITIONS.—Section 101 of title 17, United
6 States Code, is amended by striking the definition of the
7 “country of origin” of a Berne Convention work.

8 (b) INFRINGEMENT OF COPYRIGHT.—Section 501(b)
9 of title 17, United States Code, is amended in the first
10 sentence by striking “, subject to the requirements of sec-
11 tion 411,”.

12 (c) REMEDIES FOR INFRINGEMENT.—Section 504(a)
13 of title 17, United States Code, is amended by striking
14 “Except as otherwise provided by this title, an” and in-
15 serting “An”.

16 **SEC. 12. ADDITIONAL TECHNICAL AMENDMENTS.**

17 (a) AMENDMENTS TO TITLE 17, UNITED STATES
18 CODE.—Title 17, United States Code, is amended as fol-
19 lows:

20 (1) The definition of “publicly” contained in
21 section 101 is amended—

22 (A) by striking “clause” and inserting
23 “paragraph”; and

24 (B) by striking “processs” and inserting
25 “process”.

1 (2) The definition of “registration” contained in
2 section 101 is amended by striking “412,”.

3 (3) Section 108(e) is amended in the matter
4 preceding paragraph (1) by striking “pair” and in-
5 serting “fair”.

6 (4) Section 109(b)(2)(B) is amended by strik-
7 ing “Copyright” and inserting “Copyrights”.

8 (5) Section 304(c) is amended in the matter
9 preceding paragraph (1) by striking “the subsection
10 (a)(1)(C) and inserting “subsection (a)(1)(C)”.

11 (6) Section 405(b) is amended by striking “con-
12 dition or” and inserting “condition for”.

13 (7) The item relating to section 504 in the table
14 of sections at the beginning of chapter 5 is amended
15 by striking “Damage” and inserting “Damages”.

16 (8) Section 501(a) is amended by striking “sec-
17 tions 106 through 118” and inserting “section 106”.

18 (9) Section 509(b) is amended by striking
19 “merchandise; and baggage” and inserting “mer-
20 chandise, and baggage”.

21 (10) Section 601 of title 17, United States
22 Code, is amended—

23 (A) in subsection (a) by striking
24 “nondramtic” and inserting “nondramatic”;
25 and

1 (B) in subsection (b)(1) by striking
2 “subsustantial” and inserting “substantial”.

3 (11) Section 801(b)(4) of title 17, United
4 States Code, is amended by adding a period after
5 “chapter 10”.

6 (12) The item relating to section 903 in the
7 table of sections at the beginning of chapter 9 is
8 amended to read as follows:

“903. Ownership, transfer, licensing, and recordation.”.

9 (13) Section 909(b)(1) is amended—

10 (A) by striking “force” and inserting
11 “work”; and

12 (B) by striking “sumbol” and inserting
13 “symbol”.

14 (14) Section 910(a) is amended in the second
15 sentence by striking “as used” and inserting “As
16 used”.

17 (15) Section 1006(b)(1) is amended by striking
18 “Federation Television” and inserting “Federation
19 of Television”.

20 (16) Section 1007 is amended—

21 (A) in subsection (a)(1) by striking “the
22 calendar year in which this chapter takes ef-
23 fect” and inserting “calendar year 1992”; and

1 (B) in subsection (b) by striking “the year
2 in which this section takes effect” and inserting
3 “1992”.

4 (17) The table of chapters at the beginning of
5 title 17, United States Code, is amended—

6 (A) by amending the item relating to chap-
7 ter 6 to read as follows:

“6. Manufacturing Requirements and Importation 601”;

8 (B) by amending the item relating to chap-
9 ter 9 to read as follows:

“9. Protection of Semiconductor Chip Products 901”;

10 and

11 (C) by adding at the end the following:

“10. Digital Audio Recording Devices and Media 1001”.

12 (b) OTHER PROVISIONS OF LAW.—(1) Section
13 2319(b)(1) of title 18, United States Code, is amended
14 by striking “at last” and inserting “at least”.

15 (2) Section 1(a)(1) of the Act entitled “An Act to
16 amend chapter 9 of title 17, United States Code, regard-
17 ing protection extended to semiconductor chip products of
18 foreign entities”, approved November 9, 1987 (17 U.S.C.
19 914 note), is amended by striking “orginating” and insert-
20 ing “originating”.

21 (3) Section 3(a)(1)(C) of the Audio Home Recording
22 Act of 1992 is amended by striking “adding the following

1 new paragraph at the end” and inserting “inserting after
2 paragraph (3) the following new paragraph”.

3 **SEC. 13. EFFECTIVE DATE.**

4 (a) IN GENERAL.—Except as provided in section
5 4(b), and subject to subsection (b) of this section, this Act
6 and the amendments made by this Act take effect on the
7 date of the enactment of this Act.

8 (b) PENDING ACTIONS.—The amendments and re-
9 peals made by section 6 shall not affect any action brought
10 under title 17, United States Code, before the date of the
11 enactment of this Act.

Passed the House of Representatives November 20,
1993.

Attest: DONNALD K. ANDERSON,
Clerk.

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