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1ST SESSION

S. 543

IN THE SENATE OF THE UNITED STATES

JANUARY 22 (legislative day, JANUARY 10), 1969

Mr. McCLELLAN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GENERAL REVISION OF COPYRIGHT LAW

SEC. 101. Title 17 of the United States Code, entitled "Copyrights," is hereby amended in its entirety to read as follows:

TITLE 17—COPYRIGHTS

CHAPTER	Sec.
1. SUBJECT MATTER AND SCOPE OF COPYRIGHT.....	101
2. COPYRIGHT OWNERSHIP AND TRANSFER.....	201
3. DURATION OF COPYRIGHT.....	301
4. COPYRIGHT NOTICE, DEPOSIT, AND REGISTRATION.....	401
5. COPYRIGHT INFRINGEMENT AND REMEDIES.....	501
6. MANUFACTURING REQUIREMENT AND IMPORTATION.....	601
7. COPYRIGHT OFFICE.....	701

1 thology, or encyclopedia, in which a number of contributions,
2 constituting separate and independent works in themselves, are
3 assembled into a collective whole.

4 A "compilation" is a work formed by the collection and assem-
5 bling of pre-existing materials or of data that are selected, co-
6 ordinated, or arranged in such a way that the resulting work as a
7 whole constitutes an original work of authorship. The term
8 "compilation" includes collective works.

9 "Copies" are material objects, other than phonorecords, in
10 which a work is fixed by any method now known or later devel-
11 oped, and from which the work can be perceived, reproduced, or
12 otherwise communicated, either directly or with the aid of a
13 machine or device. The term "copies" includes the material ob-
14 ject, other than a phonorecord, in which the work is first fixed.

15 "Copyright owner," with respect to any one of the exclusive
16 rights comprised in a copyright, refers to the owner of that partic-
17 ular right.

18 A work is "created" when it is fixed in a copy or phonorecord
19 for the first time; where a work is prepared over a period of time,
20 the portion of it that has been fixed at any particular time con-
21 stitutes the work as of that time, and where the work has been
22 prepared in different versions, each version constitutes a separate
23 work.

24 A "derivative work" is a work based upon one or more pre-
25 existing works, such as a translation, musical arrangement, dra-
26 matization, fictionalization, motion picture version, sound record-
27 ing, art reproduction, abridgment, condensation, or any other form
28 in which a work may be recast, transformed, or adapted. A work
29 consisting of editorial revisions, annotations, elaborations, or other
30 modifications which, as a whole, represent an original work of
31 authorship, is a "derivative work."

32 A "device," "machine," or "process" is one now known or later
33 developed.

34 To "display" a work means to show a copy of it, either directly
35 or by means of a film, slide, television image, or any other device
36 or process or, in the case of a motion picture or other audiovisual
37 work, to show individual images nonsequentially.

38 A work is "fixed" in a tangible medium of expression when its
39 embodiment in a copy or phonorecord, by or under the authority
40 of the author, is sufficiently permanent or stable to permit it to

1 be perceived, reproduced, or otherwise communicated for a period
2 of more than transitory duration. A work consisting of sounds,
3 images, or both, that are being transmitted, is "fixed" for pur-
4 poses of this title if a fixation of the work is being made simultan-
5 eously with its transmission.

6 The terms "including" and "such as" are illustrative and not
7 limitative.

8 A "joint work" is a work prepared by two or more authors with
9 the intention that their contributions be merged into inseparable
10 or interdependent parts of a unitary whole.

11 "Literary works" are works expressed in words, numbers, or
12 other verbal or numerical symbols or indicia, regardless of the
13 nature of the material objects, such as books, periodicals, manu-
14 scripts, phonorecords, or film, in which they are embodied.

15 "Motion pictures" are audiovisual works consisting of a series
16 of related images which, when shown in succession, impart an
17 impression of motion, together with accompanying sounds, if any.

18 To "perform" a work means to recite, render, play, dance, or
19 act it, either directly or by means of any device or process or, in
20 the case of a motion picture or other audiovisual work, to show its
21 images in sequence or to make the sounds accompanying it
22 audible.

23 "Phonorecords" are material objects in which sounds other than
24 those accompanying a motion picture or other audiovisual work,
25 are fixed by any method now known or later developed, and from
26 which the sounds can be perceived, reproduced, or otherwise com-
27 municated, either directly or with the aid of a machine or device.
28 The term "phonorecords" includes the material object in which
29 the sounds are first fixed.

30 "Pictorial, graphic, and sculptural works" include two-dimen-
31 sional and three-dimensional works of fine, graphic, and applied
32 art, photographs, prints and art reproductions, maps, globes,
33 charts, plans, diagrams, and models.

34 A "pseudonymous work" is a work on the copies or phonorecords
35 of which the author is identified under a fictitious name.

36 "Publication" is the distribution of copies or phonorecords of a
37 work to the public by sale or other transfer of ownership, or by
38 rental, lease, or lending.

1 To perform or display a work "publicly" means:

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

6 (2) to transmit or otherwise communicate a performance
7 or display of the work to the public by means of any device
8 or process, whether the members of the public capable of re-
9 ceiving the performance or display receive it in the same
10 place or in separate places and at the same time or at different
11 times.

12 "Sound recordings" are works that result from the fixation of
13 a series of musical, spoken, or other sounds, but not including the
14 sounds accompanying a motion picture or other audiovisual work;
15 regardless of the nature of the material objects, such as disks,
16 tapes, or other phonorecords, in which they are embodied.

17 "State" includes the District of Columbia and the Common-
18 wealth of Puerto Rico, and any territories to which this title is
19 made applicable by an act of Congress.

20 A "transfer of copyright ownership" is an assignment, mort-
21 gage, exclusive license, or any other conveyance, alienation, or
22 hypothecation of a copyright or of any of the exclusive rights com-
23 prised in a copyright, whether or not it is limited in time or place
24 of effect, but not including a nonexclusive license.

25 A "transmission program" is a body of material that, as an ag-
26 gregate, has been produced for the sole purpose of transmission to
27 the public in sequence and as a unit.

28 To "transmit" a performance or display is to communicate it by
29 any device or process whereby images or sounds are received be-
30 yond the place from which they are sent.

31 The "United States," when used in a geographical sense, com-
32 prises the several States, the District of Columbia and the Com-
33 monwealth of Puerto Rico, and the organized territories under
34 the jurisdiction of the United States Government.

35 The author's "widow" or "widower" is the author's surviving
36 spouse under the law of his domicile at the time of his death,
37 whether or not the spouse has later remarried.

1 A "work made for hire" is:

2 (1) a work prepared by an employee within the scope of
3 his employment; or

4 (2) a work specially ordered or commissioned for use as
5 a contribution to a collective work, as a part of a motion
6 picture, as a translation, as a supplementary work, as a com-
7 pilation, as an instructional text, as a test, or as an atlas, if
8 the parties expressly agree in a written instrument signed by
9 them that the work shall be considered a work made for hire.

10 A "supplementary work" is a work prepared for publication
11 as a secondary adjunct to a work by another author for the
12 purpose of introducing, concluding, illustrating, explaining,
13 revising, commenting upon, or assisting in the use of the
14 other work, such as forewords, afterwords, pictorial illustra-
15 tions, maps, charts, tables, editorial notes, musical arrange-
16 ments, answer material for tests, bibliographies, appendixes,
17 and indexes. An "instructional text" is a literary, pictorial,
18 or graphic work prepared for publication with the purpose
19 of use in systematic instructional activities.

20 **§ 102. Subject matter of copyright: In general**

21 Copyright protection subsists, in accordance with this title, in orig-
22 inal works of authorship fixed in any tangible medium of expression,
23 now known or later developed, from which they can be perceived, re-
24 produced, or otherwise communicated, either directly or with the
25 aid of a machine or device. Works of authorship include the follow-
26 ing categories:

- 27 (1) literary works;
- 28 (2) musical works, including any accompanying words;
- 29 (3) dramatic works, including any accompanying music;
- 30 (4) pantomimes and choreographic works;
- 31 (5) pictorial, graphic, and sculptural works;
- 32 (6) motion pictures and other audiovisual works;
- 33 (7) sound recordings.

34 **§ 103. Subject matter of copyright: Compilations and derivative**
35 **works**

36 (a) The subject matter of copyright as specified by section 102 in-
37 cludes compilations and derivative works, but protection for a work
38 employing pre-existing material in which copyright subsists does not

1 extend to any part of the work in which such material has been used
2 unlawfully.

3 (b) The copyright in a compilation or derivative work extends only
4 to the material contributed by the author of such work, as distin-
5 guished from the pre-existing material employed in the work, and does
6 not imply any exclusive right in the pre-existing material. The copy-
7 right in such work is independent of, and does not affect or enlarge
8 the scope, duration, ownership, or subsistence of, any copyright pro-
9 tection in the pre-existing material.

10 **§ 104. Subject matter of copyright: National origin**

11 (a) **UNPUBLISHED WORKS.**—The works specified by sections 102 and
12 103, while unpublished, are subject to protection under this title with-
13 out regard to the nationality or domicile of the author.

14 (b) **PUBLISHED WORKS.**—The works specified by sections 102 and
15 103, when published, are subject to protection under this title if—

16 (1) on the date of first publication, one or more of the authors
17 is a national or domiciliary of the United States, or is a national,
18 domiciliary, or sovereign authority of a foreign nation that is a
19 party to a copyright treaty to which the United States is also a
20 party; or

21 (2) the work is first published in the United States or in a for-
22 eign nation that, on the date of first publication, is a party to the
23 Universal Copyright Convention of 1952; or

24 (3) the work is first published by the United Nations or any
25 of its specialized agencies, or by the Organization of American
26 States; or

27 (4) the work comes within the scope of a Presidential proclama-
28 tion. Whenever the President finds that a particular foreign
29 nation extends, to works by authors who are nationals or domicili-
30 aries of the United States or to works that are first published in
31 the United States, copyright protection on substantially the same
32 basis as that on which the foreign nation extends protection to
33 works of its own nationals and domiciliaries and works first pub-
34 lished in that nation, he may by proclamation extend protection
35 under this title to works of which one or more of the authors is,
36 on the date of first publication, a national, domiciliary, or sov-
37 ereign authority of that nation, or which was first published in
38 that nation. The President may revise, suspend, or revoke any

1 such proclamation or impose any conditions or limitations on
2 protection under a proclamation.

3 **§ 105. Subject matter of copyright: United States Government**
4 **works**

5 (a) Copyright protection under this title is not available for any
6 work of the United States Government, but the United States Govern-
7 ment is not precluded from receiving and holding copyrights trans-
8 ferred to it by assignment, bequest, or otherwise.

9 (b) A "work of the United States Government" is a work prepared
10 by an officer or employee of the United States Government as part of
11 his official duties.

12 **§ 106. Exclusive rights in copyrighted works**

13 Subject to sections 107 through 116, the owner of copyright under
14 this title has the exclusive rights to do and to authorize any of the
15 following:

16 (1) to reproduce the copyrighted work in copies or phono-
17 records;

18 (2) to prepare derivative works based upon the copyrighted
19 work;

20 (3) to distribute copies or phonorecords of the copyrighted
21 work to the public by sale or other transfer of ownership, or by
22 rental, lease, or lending;

23 (4) in the case of literary, musical, dramatic, and choreo-
24 graphic works, pantomimes, and motion pictures and other audio-
25 visual works, to perform the copyrighted work publicly;

26 (5) in the case of literary, musical, dramatic and choreo-
27 graphic works, pantomimes, and pictorial, graphic, or sculptural
28 works, to display the copyrighted work publicly.

29 **§ 107. Limitations on exclusive rights: Fair use**

30 Notwithstanding the provisions of section 106, the fair use of a
31 copyrighted work, including such use by reproduction in copies or
32 phonorecords or by any other means specified by that section, for pur-
33 poses such as criticism, comment, news reporting, teaching, scholar-
34 ship, or research, is not an infringement of copyright. In determining
35 whether the use made of a work in any particular case is a fair use,
36 the factors to be considered shall include:

37 (1) the purpose and character of the use;

38 (2) the nature of the copyrighted work;

39 (3) the amount and substantiality of the portion used in re-
40 lation to the copyrighted work as a whole; and

1 (4) the effect of the use upon the potential market for or
2 value of the copyrighted work.

3 **§ 108. Limitations on exclusive rights: Reproduction of works in**
4 **archival collections**

5 Notwithstanding the provisions of section 106, it is not an infringe-
6 ment of copyright for a nonprofit institution, having archival custody
7 over collections of manuscripts, documents, or other unpublished works
8 of value to scholarly research, to reproduce, without any purpose of
9 direct or indirect commercial advantage, any such work in its collec-
10 tions in facsimile copies or phonorecords for purposes of preservation
11 and security, or for deposit for research use in any other such
12 institution.

13 **§ 109. Limitations on exclusive rights: Effect of transfer of par-**
14 **ticular copy or phonorecord**

15 (a) Notwithstanding the provisions of section 106(3), the owner of
16 a particular copy or phonorecord lawfully made under this title, or any
17 person authorized by him, is entitled, without the authority of the
18 copyright owner, to sell or otherwise dispose of the possession of that
19 copy or phonorecord.

20 (b) Notwithstanding the provisions of section 106(5), the owner
21 of a particular copy lawfully made under this title, or any person
22 authorized by him, is entitled, without the authority of the copyright
23 owner, to display that copy publicly, either directly or by the projec-
24 tion of no more than one image at a time, to viewers present at the
25 place where the copy is located.

26 (c) The privileges prescribed by subsections (a) and (b) do not,
27 unless authorized by the copyright owner, extend to any person who
28 has acquired possession of the copy or phonorecord from the copy-
29 right owner, by rental, lease, loan, or otherwise, without acquiring
30 ownership of it.

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

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

35 (1) performance or display of a work by instructors or pupils
36 in the course of face-to-face teaching activities of a nonprofit edu-
37 cational institution, in a classroom or similar place devoted to
38 instruction, unless, in the case of a motion picture or other audio-
39 visual work, the performance is given by means of a copy that was

1 not lawfully made under this title and that the person responsible
2 for the performance knew or had reason to believe was not lawfully
3 made;

4 (2) performance of a nondramatic literary or musical work, or
5 display of a work, by or in the course of a transmission by a
6 governmental body or other nonprofit organization, if:

7 (A) the performance or display is a regular part of the
8 systematic instructional activities of a governmental body or
9 a nonprofit educational institution; and

10 (B) the radius of the area normally encompassed by the
11 transmission is no more than one hundred miles; and

12 (C) the transmission is made primarily for:

13 (i) reception in classrooms or similar places normally
14 devoted to instruction, or

15 (ii) reception by persons to whom the transmission is
16 directed because their disabilities or other special circum-
17 stances prevent their attendance in classrooms or similar
18 places normally devoted to instruction, or

19 (iii) reception by officers or employees of governmental
20 bodies as a part of their official duties or employment; and

21 (D) the time and content of the transmission are controlled
22 by the transmitting organization and do not depend on a
23 choice by individual recipients in activating transmission
24 from an information storage and retrieval system or any simi-
25 lar device, machine, or process;

26 (3) performance of a nondramatic literary or musical work or
27 of a dramatico-musical work of a religious nature, or display of a
28 work, in the course of services at a place of worship or other re-
29 ligious assembly;

30 (4) performance of a nondramatic literary or musical work,
31 otherwise than in a transmission to the public, without any pur-
32 pose of direct or indirect commercial advantage and without pay-
33 ment of any fee or other compensation for the performance to any
34 of its performers, promoters, or organizers, if:

35 (A) there is no direct or indirect admission charge, or

36 (B) the proceeds, after deducting the reasonable costs of
37 producing the performance, are used exclusively for educa-
38 tional, religious, or charitable purposes and not for private
39 financial gain, except where the copyright owner has served

1 notice of his objections to the performance under the follow-
2 ing conditions:

3 (i) the notice shall be in writing and signed by the
4 copyright owner or his duly authorized agent; and

5 (ii) The notice shall be served on the person respon-
6 sible for the performance at least seven days before the
7 date of the performance, and shall state the reasons for
8 his objections; and

9 (iii) The notice shall comply, in form, content, and
10 manner of service, with requirements that the Register
11 of Copyrights shall prescribe by regulation;

12 (5) communication of a transmission embodying a perform-
13 ance or display of a work by the public reception of the trans-
14 mission on a single receiving apparatus of a kind commonly used
15 in private homes, unless:

16 (A) a direct charge is made to see or hear the transmission;

17 or

18 (B) the transmission thus received is further transmitted
19 to the public.

20 **§ 111. Limitations on exclusive rights: Secondary transmissions**

21 (a) **CERTAIN SECONDARY TRANSMISSIONS EXEMPTED.—**

22 (1) Notwithstanding the provisions of subsections (b) and
23 (c), the secondary transmission to the public of a primary trans-
24 mission embodying a performance or display of a work is not an
25 infringement of copyright if:

26 (A) the secondary transmission consists entirely of relay-
27 ing the primary transmission to the private rooms of a hotel
28 or other public establishment, and no direct charge is made
29 to the occupants of the private rooms to see or hear the sec-
30 ondary transmission; or

31 (B) the secondary transmission is made solely for the
32 purpose and under the conditions specified by clause (2) of
33 section 110; or

34 (C) the secondary transmission is made by a common car-
35 rier who has no direct or indirect control over the content or
36 selection of the primary transmission or over the particular
37 recipients of the secondary transmission, and whose activities
38 with respect to the secondary transmission consist solely of

1 providing wires, cables, or other communications channels
2 for the use of others.

3 (2) Notwithstanding the provisions of subsection (c), but sub-
4 ject to the provisions of subsection (b), the secondary transmission
5 to the public of a primary transmission embodying a performance
6 or display of a work is not an infringement of copyright if the
7 secondary transmission is made by a governmental body, or other
8 nonprofit organization, without any purpose of direct or indirect
9 commercial advantage, and without any charge to the recipients
10 of the secondary transmission other than assessments necessary
11 to defray the actual and reasonable costs of maintaining and
12 operating the secondary transmission service.

13 (3) Subject to the provisions of subsections (b) and (c), the
14 secondary transmission to the public of a primary transmission
15 embodying a performance or display of a work is not an infringe-
16 ment of copyright if the secondary transmission is made for re-
17 ception solely within the limits of the area normally encompassed
18 by the primary transmission.

19 (b) CERTAIN SECONDARY TRANSMISSIONS FULLY ACTIONABLE.—Not-
20 withstanding the provisions of subsection (c) and of clauses (2) and
21 (3) of subsection (a), the secondary transmission to the public of a
22 primary transmission embodying a performance or display of a work
23 is actionable as an act of infringement under section 501, and is fully
24 subject to the remedies provided by sections 502 through 506, if:

25 (1) the content of the particular transmission program in which
26 the performance or display is embodied, together with any sepa-
27 rate commercial advertising or station announcements trans-
28 mitted by the primary transmitter immediately before or after
29 the transmission program, is in any way altered by changes, de-
30 letions, or additions during its secondary transmission; or

31 (2) the secondary transmitter, within one month before or after
32 the particular secondary transmission, originates any transmis-
33 sions to those members of the public to whom it also makes the
34 secondary transmission, except for no more than two transmission
35 programs at any one time unaccompanied by any commercial or
36 political advertising and consisting solely of: weather, time, and
37 news reports free from editorial comment; agricultural reports;
38 religious services; and local proceedings of governmental bodies:
39 or

40 (3) the secondary transmitter, within one month before or

1 after the particular secondary transmission, makes any separate,
2 direct charge for any particular transmission it makes to those
3 members of the public to whom it also makes the secondary trans-
4 mission; or

5 (4) the primary transmission is not made for reception by the
6 public at large but is controlled and limited to reception by par-
7 ticular members of the public; or

8 (5) the secondary transmission is made for reception wholly or
9 partly outside the limits of the area normally encompassed by the
10 primary transmission, and

11 (A) the secondary transmitter, at least one month before
12 the date of the secondary transmission, has not recorded in
13 the Copyright Office, in accordance with requirements that
14 the Register of Copyrights shall prescribe by regulation, the
15 identity and address of the person who owns the secondary
16 transmission service or has power to exercise primary control
17 over it, together with the name and location of the primary
18 transmitter; or

19 (B) the secondary transmission is made for reception
20 wholly or partly within the limits of an area that is ade-
21 quately served by transmitting facilities other than the pri-
22 mary transmitter; or

23 (6) the secondary transmission is made for reception wholly
24 or partly within the limits of an area normally encompassed by
25 one or more transmitting facilities, other than the primary trans-
26 mitter, if—

27 (A) a transmitting facility other than the primary trans-
28 mitter has the exclusive right within that area, under an
29 exclusive license or other transfer of copyright, to transmit
30 the same performance or display of the work, and

31 (B) the transmitter having the exclusive right or any
32 other copyright owner has given written notice of such ex-
33 clusive right to the secondary transmitter at least ten days
34 before the primary transmission, in accordance with require-
35 ments that the Register of Copyrights shall prescribe by
36 regulation.

37 (c) LIMITATIONS ON LIABILITY FOR CERTAIN SECONDARY TRANSMIS-
38 SIONS.—

39 (1) Subject to the provisions of subsection (b), in the following
40 cases involving a secondary transmission to the public of a pri-

1 mary transmission embodying a performance or display of a work,
2 liability of the secondary transmitter for infringement under sec-
3 tion 501 does not include the remedies provided by sections 502,
4 503, and 506, and its liability for the remedies provided by sections
5 504 and 505 is limited as provided by clause (2) of this subsection :

6 (A) where the secondary transmission is outside the scope
7 of subclause (B) of subsection (b) (5), but comes within the
8 scope of subclause (A) of subsection (b) (6) and the second-
9 ary transmitter has not been given notice as provided by sub-
10 clause (B) of subsection (b) (6) ; or

11 (B) where the secondary transmissison is outside the scope
12 of subclause (B) of subsection (b) (5) and of subsection (b)
13 (6), but is made for reception wholly or partly outside the
14 limits of the area normally encompassed by the primary trans-
15 mission, and—

16 (i) the secondary transmission is made for reception
17 wholly or partly within the limits of an area normally
18 encompassed by one or more transmitting facilities, other
19 than the primary transmitter, if no such facility has the
20 exclusive right within that area, under an exclusive li-
21 cense or other transfer of copyright, to transmit the same
22 performance or display of the work ; or

23 (ii) the secondary transmission is made for reception
24 wholly or partly within the limits of an area not normally
25 encompassed by any transmitting facility.

26 (2) In any case coming within the scope of subclauses (A) or
27 (B) of clause (1) of this sub section, the infringer's liability under
28 section 504 does not include any of the infringer's profits, and the
29 copyright owner's right to recover damages is, except as provided
30 in subclauses (A) and (B) of this clause, limited to recovery of a
31 reasonable license fee, as found by the court under the circum-
32 stances of the case.

33 (A) where the court finds that the infringer has refused
34 or failed to accept an offer of a license for a reasonable fee,
35 in writing and signed by the copyright owner, it shall award
36 as statutory damages under section 504(c) a sum of \$250, but
37 if three times the amount of a reasonable license fee exceeds
38 \$250, then not less than \$250 or more than three times the
39 amount of a reasonable license fee, as the court considers

1 just, to which may be added a discretionary award of costs and
2 attorney's fees under section 505;

3 (B) where the court finds that the copyright owner has
4 refused or failed to accept the written offer, accompanied
5 by a tender, of a reasonable license fee, it may in its discre-
6 tion award costs and attorney's fees under section 505 to the
7 infringer, and may reduce or withhold any award of damages
8 under section 504.

9 (d) DEFINITIONS.—As used in this section, the following terms and
10 their variant forms mean the following:

11 (1) A "primary transmission" is one made to the public by the
12 transmitting facility whose signals are being received and further
13 transmitted by the secondary transmission service, regardless of
14 where or when the performance or display was first transmitted.

15 (2) A "secondary transmission" is the further transmitting
16 of a primary transmission simultaneously with the primary trans-
17 mission.

18 (3) An area is "adequately served" when it is normally en-
19 compassed by transmitting facilities that regularly transmit to
20 the public at large a preponderance of the transmission programs
21 regularly transmitted by each of the major broadcasting networks
22 (or similar organizations) to transmitting facilities throughout
23 the continental United States. The Register of Copyrights may,
24 by regulation, further particularize this definition, taking into
25 account any pertinent definition in a Federal statute or regulation.

26 **§ 112. Limitations on exclusive rights: Ephemeral recordings**

27 (a) Notwithstanding the provisions of section 106, and except in the
28 case of a motion picture or other audiovisual work, it is not an infringe-
29 ment of copyright for a transmitting organization entitled to transmit
30 to the public a performance or display of a work, under a license or
31 transfer of the copyright or under the limitations on exclusive rights
32 in sound recordings specified by section 114(a), to make no more than
33 one copy or phonorecord of a particular transmission program em-
34 bodying the performance or display, if—

35 (1) the copy or phonorecord is retained and used solely by the
36 transmitting organization that made it, and no further copies or
37 phonorecords are reproduced from it; and

38 (2) the copy or phonorecord is used solely for the transmitting
39 organization's own transmissions within the area normally encom-

1 passed by its transmissions, or for purposes of archival preserva-
2 tion or security; and

3 (3) unless preserved exclusively for archival purposes, the copy
4 or phonorecord is destroyed within six months from the date the
5 transmission program was first transmitted to the public.

6 (b) Notwithstanding the provisions of section 106, it is not an in-
7 fringement of copyright for a governmental body or other nonprofit
8 organization entitled to transmit a performance or display of a work,
9 under section 110(2) or under the limitations on exclusive rights in
10 sound recordings specified by section 114(a), to make no more than
11 two copies or phonorecords of a particular transmission program em-
12 bodying the performance or display, if—

13 (1) no further copies or phonorecords are reproduced from the
14 copies or phonorecords made under this clause; and

15 (2) where only one copy or phonorecord is made, it is used
16 solely for transmissions under section 110(2) or for purposes of
17 archival preservation or security; and

18 (3) where two copies or phonorecords are made, one is used
19 solely for transmissions under section 110(2) and the other is
20 used solely for purposes of archival preservation or security; and,

21 (4) except for one copy or phonorecord that may be preserved
22 exclusively for archival purposes, the copies or phonorecords are
23 destroyed within one year from the date the transmission program
24 was first transmitted to the public.

25 (c) The transmission program embodied in a copy or phonorecord
26 made under this section is not subject to protection as a derivative
27 work under this title except with the express consent of the owners of
28 copyright in the pre-existing works employed in the program.

29 **§ 113. Scope of exclusive rights in pictorial, graphic, and sculp-**
30 **tural works**

31 (a) Subject to the provisions of clauses (1) and (2) of this sub-
32 section, the exclusive right to reproduce a copyrighted pictorial,
33 graphic, or sculptural work in copies under section 106 includes the
34 right to reproduce the work in or on any kind of article, whether useful
35 or otherwise.

36 (1) This title does not afford, to the owner of copyright in a
37 work that portrays a useful article as such, any greater rights with
38 respect to the making, distribution, or display of the useful article
39 so portrayed than those afforded to such copyrighted works under
40 the law in effect on December 31, 1970.

1 (2) In the case of a work lawfully reproduced in useful articles
2 that have been offered for sale or other distribution to the public,
3 copyright does not include any right to prevent the making, dis-
4 tribution, or display of pictures or photographs of such articles
5 in connection with advertisements or commentaries relating to the
6 distribution or display of such articles, or in connection with news
7 reports.

8 (b) A "useful article" is an article having an intrinsic utilitarian
9 function that is not merely to portray the appearance of the article or
10 to convey information. An article that is normally a part of a useful
11 article is considered a "useful article."

12 § 114. Scope of exclusive rights in sound recordings

13 (a) The exclusive rights of the owner of copyright in a sound record-
14 ing are limited to the rights specified by clauses (1) and (3) of section
15 106, and do not include any right of performance under section 106(4).

16 (b) The exclusive right of the owner of copyright in a sound record-
17 ing to reproduce it under section 106(1) is limited to the right to dupli-
18 cate the sound recording in the form of phonorecords that directly
19 or indirectly recapture the actual sounds fixed in the recording. This
20 right does not extend to the making or duplication of another sound
21 recording that is an independent fixation of other sounds, even though
22 such sounds imitate or simulate those in the copyrighted sound
23 recording.

24 (c) This section does not limit or impair the exclusive right to per-
25 form publicly, by means of a phonorecord, any of the works specified
26 by section 106(4).

27 § 115. Scope of exclusive rights in nondramatic musical works: 28 Compulsory license for making and distributing 29 phonorecords

30 In the case of nondramatic musical works, the exclusive rights pro-
31 vided by clauses (1) and (3) of section 106, to make and to distribute
32 phonorecords of such works, are subject to compulsory licensing under
33 the conditions specified by this section.

34 (a) AVAILABILITY AND SCOPE OF COMPULSORY LICENSE.—

35 (1) When phonorecords of a nondramatic musical work have
36 been distributed to the public under the authority of the copyright
37 owner, any other person may, by complying with the provisions of
38 this section, obtain a compulsory license to make and distribute
39 phonorecords of the work. A person may obtain a compulsory

1 license only if his primary purpose in making phonorecords is to
2 distribute them to the public for private use.

3 (2) A compulsory license includes the privilege of making a
4 musical arrangement of the work to the extent necessary to con-
5 form it to the style or manner of interpretation of the performance
6 involved, but the arrangement shall not change the basic melody
7 or fundamental character of the work, and shall not be subject
8 to protection as a derivative work under this title, except with
9 the express consent of the copyright owner.

10 (b) NOTICE OF INTENTION TO OBTAIN COMPULSORY LICENSE; DESIG-
11 NATION OF OWNER OF PERFORMANCE RIGHT.—

12 (1) Any person who wishes to obtain a compulsory license
13 under this section shall, before or within thirty days after making,
14 and before distributing any phonorecords of the work, serve notice
15 of his intention to do so on the copyright owner. If the registra-
16 tion or other public records of the Copyright Office do not identify
17 the copyright owner and include an address at which notice can
18 be served on him, it shall be sufficient to file the notice of intention
19 in the Copyright Office. The notice shall comply, in form, con-
20 tent, and manner of service, with requirements that the Register
21 of Copyrights shall prescribe by regulation.

22 (2) If the copyright owner so requests in writing not later than
23 ten days after service or filing of the notice required by clause (1),
24 the person exercising the compulsory license shall designate, on a
25 label or container accompanying each phonorecord of the work dis-
26 tributed by him, and in the form and manner that the Register of
27 Copyrights shall prescribe by regulation, the name of the copy-
28 right owner or his agent to whom royalties for public performance
29 of the work are to be paid.

30 (3) Failure to serve or file the notice required by clause (1), or
31 to designate the name of the owner or agent as required by clause
32 (2), forecloses the possibility of a compulsory license and, in the
33 absence of a negotiated license, renders the making and distribu-
34 tion of phonorecords actionable as acts of infringement under sec-
35 tion 501 and fully subject to the remedies provided by sections 502
36 through 506.

37 (c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

38 (1) To be entitled to receive royalties under a compulsory li-
39 cense, the copyright owner must be identified in the registration or
40 other public records of the Copyright Office. The owner is en-

1 titled to royalties for phonorecords made after he is so identified
2 but he is not entitled to recover for any phonorecords previously
3 made.

4 (2) Except as provided by clause (1), the royalty under a com-
5 pulsory license shall be payable for every phonorecord made in
6 accordance with the license. With respect to each work embodied
7 in the phonorecord, the royalty shall be either two and one-half
8 cents, or one-half cent per minute of playing time or fraction
9 thereof, whichever amount is larger.

10 (3) Royalty payments shall be made quarterly, in January,
11 April, July, and October, and shall include all royalties for the
12 three months next preceding. Each quarterly payment shall
13 be accompanied by a detailed statement of account, which shall
14 include such pertinent information as the Register of Copyrights
15 may prescribe by regulation, and which, upon written demand by
16 the copyright owner, shall be certified as correct by a certified
17 public accountant licensed to practice in the United States.

18 (4) If the copyright owner does not receive the quarterly pay-
19 ment and statement of account when due, he may give written
20 notice to the licensee that, unless the default is remedied within
21 thirty days from the date of the notice, the compulsory license will
22 be automatically terminated. Such termination renders the mak-
23 ing and distribution of all phonorecords, for which the royalty
24 had not been paid, actionable as acts of infringement under sec-
25 tion 501 and fully subject to the remedies provided by sections 502
26 through 506.

27 **§ 116. Scope of exclusive rights in nondramatic musical works:**

28 **Public performances by means of coin-operated phono-**
29 **record players**

30 (a) **LIMITATIONS ON EXCLUSIVE RIGHT.**—In the case of a non-
31 dramatic musical work embodied in a phonorecord, the exclusive right
32 under clause (4) of section 106 to perform the work publicly by
33 means of a coin-operated phonorecord player is limited as follows:

34 (1) The proprietor of the establishment in which the public
35 performance takes place is not liable for infringement with respect
36 to such public performance unless:

37 (A) he is the operator of the phonorecord player; or

38 (B) he refuses or fails, within one month after receipt

39 by registered or certified mail of a request by the copyright

1 owner, to make full disclosure, by registered or certified mail,
2 of the identity of the operator of the phonorecord player.

3 (2) The operator of the coin-operated phonorecord player may
4 obtain a compulsory license to perform the work publicly on that
5 phonorecord player by recording the statements and affixing the
6 certificate provided by subsection (b), and by paying the royalties
7 provided by subsection (c).

8 (b) RECORDATION OF COIN-OPERATED PHONORECORD PLAYER AND AF-
9 FIXATION OF CERTIFICATE.—

10 (1) Any operator who wishes to obtain a compulsory license
11 for the public performance of nondramatic musical works on a
12 coin-operated phonorecord player shall fulfill the following re-
13 quirements:

14 (A) Before or within one month after such performances
15 on a particular phonorecord player are made available in a
16 particular establishment, and during the month of January
17 in each succeeding year, he shall record in the Copyright
18 Office, in accordance with requirements that the Register of
19 Copyrights shall prescribe by regulation, a statement of the
20 name and address of the operator of the phonorecord player,
21 the manufacturer and serial number or other explicit identi-
22 fication of the phonorecord player, the capacity of the phono-
23 record player (i.e., the total number of musical works nor-
24 mally capable of being made available in it at any one time
25 for performance), and the name and address of the establish-
26 ment in which it is located. The statement recorded each
27 January shall be accompanied by a complete list identifying,
28 by their titles and any other indicia that the Register of Copy-
29 rights may prescribe by regulation, all the musical works
30 made available in the phonorecord player for performance
31 during each of the calendar quarters of the preceding year,
32 other than any works whose public performance by means
33 of that phonorecord player during the particular quarter was
34 expressly licensed by an instrument in writing and signed by
35 the copyright owner or his agent.

36 (B) He shall keep affixed to the particular phonorecord
37 player, in a position where it can be readily examined by the
38 public, a certificate, issued by the Copyright Office, of the
39 latest recordation made by him under subclause (A) of this
40 clause with respect to that phonorecord player.

1 (2) Failure to record the statements or to affix the certificate
2 required by clause (1) of this subsection renders the public per-
3 formance actionable as an act of infringement under section 501
4 and fully subject to the remedies provided by sections 502 through
5 506.

6 (c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

7 (1) To be entitled to receive royalties under a compulsory
8 license as provided by this section, the copyright owner or his
9 agent to whom royalties for public performance of the work are
10 to be paid:

11 (A) must have required that phonorecords of the work
12 distributed under his authority or under section 115 bear his
13 name on a label or container accompanying the phonorecords,
14 and must have recorded his address in the Copyright Office,
15 in accordance with regulations that the Register of Copy-
16 rights shall prescribe with respect to such name and address;
17 or

18 (B) must serve upon the operator, not later than December
19 31 of the following year, a written claim specifying all of the
20 works for which royalties are payable to him by the operator
21 for any three-month period. The claim shall comply in form,
22 content, and manner of service with requirements that the
23 Register of Copyrights shall prescribe by regulation.

24 (2) Unless the parties have agreed otherwise in a written in-
25 strument signed by them, the royalty under the compulsory license
26 for any one work shall be either of the following amounts, which-
27 ever is less, for each three-month period or fraction thereof that
28 the work has been available for performance on the particular
29 phonorecord player:

30 (A) 3 cents, or

31 (B) a prorated amount calculated by first multiplying
32 3 cents by the capacity of the phonorecord player as shown in
33 the statement required by clause (1)(A) of subsection (b),
34 and then dividing the product of that multiplication by the
35 total number of works actually made available in the phono-
36 record player for performance during any part of the three-
37 month period.

38 (3) Where the name and address of the copyright owner or
39 his agent are made known as provided by subclause (A) of clause
40 (1), royalty payments shall be made quarterly, in January, April,

1 July, and October, and shall include all royalties for the three-
2 month period next preceding. Each quarterly payment shall be
3 accompanied by a detailed statement of account which shall
4 include a complete list identifying, by their titles and any other
5 indicia that the Register of Copyrights may prescribe by regula-
6 tion, all the musical works made available in the phonorecord
7 player for performance during any part of the three-month period,
8 other than any works whose public performance by means of that
9 phonorecord player during the particular quarter was expressly
10 licensed by an instrument in writing and signed by the copyright
11 owner or his agent.

12 (4) Where a claim for royalties is served upon the operator as
13 provided by subclause (B) of clause (1), payment of the royalties
14 owing under the claim shall be made within four months after
15 service of the claim.

16 (5) Failure to make the royalty payment with the accompany-
17 ing statement of account as required by clause (3), or failure to
18 make the royalty payment as required by clause (4), renders all
19 public performances of the work by that phonorecord player dur-
20 ing the three-month period for which such payment is in default
21 actionable as acts of infringement under section 501 and fully
22 subject to the remedies provided by sections 502 through 506.

23 (6) For the purpose of this section, every musical work whose
24 title appears on the list referred to by subclause (D) of subsection
25 (e) (1) during any part of a three-month period is conclusively
26 presumed to have been publicly performed at least once during
27 that period by means of the phonorecord player which the list
28 accompanies.

29 (d) **CRIMINAL PENALTIES.**—Any person who knowingly makes a
30 false representation of a material fact in a statement or accompanying
31 list recorded under clause (1) (A) of subsection (b), or in a written
32 claim served under clause (1) (B) of subsection (c), or in a state-
33 ment of account required by clause (3) of subsection (c), or who
34 knowingly alters a certificate issued under clause (1) (B) of sub-
35 section (b) or knowingly affixes such a certificate to a phonorecord
36 player other than the one it covers, shall be fined not more than \$2,500.

37 (e) **DEFINITIONS.**—As used in this section, the following terms and
38 their variant forms mean the following:

39 (1) A "coin-operated phonorecord player" is a machine or
40 device that:

1 (A) is employed solely for the performance of non-
2 dramatic musical works by means of phonorecords upon
3 being activated by the insertion of a coin;

4 (B) is located in an establishment making no direct or
5 indirect charge for admission;

6 (C) is incapable of transmitting the performance beyond
7 the establishment in which it is located;

8 (D) is accompanied by a list of the titles of all the musical
9 works available for performance on it, which list is affixed to
10 the phonorecord player or posted in the establishment in a
11 prominent position where it can be readily examined by the
12 public; and

13 (E) affords a choice of works available for performance
14 and permits the choice to be made by the patrons of the es-
15 tablishment in which it is located.

16 (2) An "operator" is any person who, alone or jointly with
17 others:

18 (A) owns a coin-operated phonorecord player; or

19 (B) has the power to make a coin-operated phonorecord
20 player available for placement in an establishment for pur-
21 poses of public performance; or

22 (C) has the power to exercise primary control over the
23 selection of the musical works made available for public
24 performance in a coin-operated phonorecord player.

25 CHAPTER 2—COPYRIGHT OWNERSHIP AND TRANSFER

Sec.

201. Ownership of copyright.

202. Ownership of copyright as distinct from ownership of material object.

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

204. Execution of transfers of copyright ownership.

205. Recordation of transfers and other documents.

26 § 201. Ownership of copyright

27 (a) INITIAL OWNERSHIP.—Copyright in a work protected under this
28 title vests initially in the author or authors of the work. The authors
29 of a joint work are co-owners of copyright in the work.

30 (b) WORKS MADE FOR HIRE.—In the case of a work made for hire,
31 the employer or other person for whom the work was prepared is
32 considered the author for purposes of this title, and, unless the parties
33 have expressly agreed otherwise in a written instrument signed by
34 them, owns all of the rights comprised in the copyright.

35 (c) CONTRIBUTIONS TO COLLECTIVE WORKS.—Copyright in each sep-

1 arate contribution to a collective work is distinct from copyright in
 2 the collective work as a whole, and vests initially in the author of the
 3 contribution. In the absence of an express transfer of the copyright
 4 or of any rights under it, the owner of copyright in the collective
 5 work is presumed to have acquired only the privilege of reproducing
 6 and distributing the contribution as part of that particular collective
 7 work, any revision of that collective work, and any later collective
 8 work in the same series.

9 (d) **TRANSFER OF OWNERSHIP.**—

10 (1) The ownership of a copyright may be transferred in whole
 11 or in part by any means of conveyance or by operation of law, and
 12 may be bequeathed by will or pass as personal property by the
 13 applicable laws of intestate succession.

14 (2) Any of the exclusive rights comprised in a copyright, in-
 15 cluding any subdivision of any of the rights specified by section
 16 106, may be transferred as provided by clause (1) and owned
 17 separately. The owner of any particular exclusive right is en-
 18 titled, to the extent of that right, to all of the protection and
 19 remedies accorded to the copyright owner by this title.

20 **§ 202. Ownership of copyright as distinct from ownership of ma-**
 21 **terial object**

22 Ownership of a copyright, or of any of the exclusive rights under
 23 a copyright, is distinct from ownership of any material object in
 24 which the work is embodied. Transfer of ownership of any material
 25 object, including the copy or phonorecord in which the work is first
 26 fixed, does not of itself convey any rights in the copyrighted work
 27 embodied in the object; nor, in the absence of an agreement, does
 28 transfer of ownership of a copyright or of any exclusive rights under
 29 a copyright convey property rights in any material object.

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

31 (a) **CONDITIONS FOR TERMINATION.**—In the case of any work other
 32 than a work made for hire, the exclusive or nonexclusive grant of a
 33 transfer or license of copyright or of any right under a copyright,
 34 executed by the author on or after January 1, 1971, otherwise than
 35 by will, is subject to termination under the following conditions:

36 (1) In the case of a grant executed by one author, termination
 37 of the grant may be effected by that author or, if he is dead, by
 38 the person or persons who, under clause (2) of this subsection,
 39 own and are entitled to exercise a total of more than one half of
 40 that author's termination interest. In the case of a grant executed

1 by two or more authors of a joint work, termination of the grant
2 may be effected by a majority of the authors who executed it;
3 if any of such authors is dead, his termination interest may be
4 exercised as a unit by the person or persons who, under clause (2)
5 of this subsection, own and are entitled to exercise a total of more
6 than one half of his interest.

7 (2) Where an author is dead, his termination interest is owned,
8 and may be exercised, by his widow (or her widower) and children
9 or grandchildren as follows:

10 (A) The widow owns his entire termination interest unless
11 there are any surviving children or grandchildren of the
12 author, in which case the widow owns one half of his interest;

13 (B) The author's surviving children, and the surviving
14 children of any dead child of the author, own his entire
15 termination interest unless there is a widow (or widower), in
16 which case the ownership of one half of his interest is divided
17 among them;

18 (C) The rights of the author's children and grandchildren
19 are in all cases divided among them and exercised on a per
20 stirpes basis according to the number of his children repre-
21 sented; the share of the children of a dead child in a termina-
22 tion interest can be exercised only by the action of a majority
23 of them.

24 (3) Termination of the grant may be effected at any time during
25 a period of five years beginning at the end of thirty-five years from
26 the date of execution of the grant; or, if the grant covers the right
27 of publication of the work, the period begins at the end of thirty-
28 five years from the date of publication of the work under the grant
29 or at the end of forty years from the date of execution of the
30 grant, whichever term ends earlier.

31 (4) The termination shall be effected by serving an advance
32 notice in writing, signed by the number and proportion of owners
33 of termination interests required under clauses (1) and (2) of this
34 subsection, or by their duly authorized agents, upon the grantee
35 or his successor in title.

36 (A) The notice shall state the effective date of the termina-
37 tion, which shall fall within the five-year period specified by
38 clause (3) of this subsection, and the notice shall be served
39 not less than two or more than ten years before that date. A
40 copy of the notice shall be recorded in the Copyright Office

1 before the effective date of termination, as a condition to its
2 taking effect.

3 (B) The notice shall comply, in form, content, and man-
4 ner of service, with requirements that the Register of Copy-
5 rights shall prescribe by regulation.

6 (5) Termination of the grant may be effected notwithstand-
7 ing any agreement to the contrary, including an agreement to
8 make a will or to make any future grant.

9 (b) EFFECT OF TERMINATION.—Upon the effective date of termina-
10 tion, all rights under this title that were covered by the terminated
11 grant revert to the author, authors, and other persons owning termi-
12 nation interests under clauses (1) and (2) of subsection (a), includ-
13 ing those owners who did not join in signing the notice of termination
14 under clause (4) of subsection (a), but with the following limitations:

15 (1) A derivative work prepared under authority of the grant
16 before its termination may continue to be utilized under the terms
17 of the grant after its termination, but this privilege does not ex-
18 tend to the preparation after the termination of other derivative
19 works based upon the copyrighted work covered by the terminated
20 grant.

21 (2) The future rights that will revert upon termination of the
22 grant become vested on the date the notice of termination has been
23 served as provided by clause (4) of subsection (a). The rights
24 vest in the author, authors, and other persons named in, and in
25 the proportionate shares provided by, clauses (1) and (2) of
26 subsection (a).

27 (3) Subject to the provisions of clause (4) of this subsection,
28 a further grant, or agreement to make a further grant, of any right
29 covered by a terminated grant is valid only if it is signed by the
30 same number and proportion of the owners, in whom the right has
31 vested under clause (2) of this subsection, as are required to termi-
32 nate the grant under clauses (1) and (2) of subsection (a). Such
33 further grant or agreement is effective with respect to all of the
34 persons in whom the right it covers has vested under clause (2)
35 of this subsection, including those who did not join in signing it.
36 If any person dies after rights under a terminated grant have
37 vested in him, his legal representatives, legatees, or heirs at law
38 represent him for purposes of this clause.

39 (4) A further grant, or agreement to make a further grant, of
40 any right covered by a terminated grant is valid only if it is made

1 after the effective date of the termination. As an exception, how-
 2 ever, an agreement for such a further grant may be made between
 3 the persons provided by clause (3) of this subsection and the origi-
 4 nal grantee or his successor in title, after the notice of termination
 5 has been served as provided by clause (4) of subsection (a).

6 (5) Termination of a grant under this section affects only those
 7 rights covered by the grant that arise under this title, and in no
 8 way affects rights arising under any other Federal, State, or
 9 foreign laws.

10 (6) Unless and until termination is effected under this section,
 11 the grant, if it does not provide otherwise, continues in effect for
 12 the term of copyright provided by this title.

13 **§ 204. Execution of transfers of copyright ownership**

14 (a) A transfer of copyright ownership, other than by operation of
 15 law, is not valid unless an instrument of conveyance, or a note or
 16 memorandum of the transfer, is in writing and signed by the owner
 17 of the rights conveyed or his duly authorized agent.

18 (b) A certificate of acknowledgment is not required for the validity
 19 of a transfer, but is prima facie evidence of the execution of the
 20 transfer if:

21 (1) in the case of a transfer executed in the United States, the
 22 certificate is issued by a person authorized to administer oaths
 23 within the United States; or

24 (2) in the case of a transfer executed in a foreign country, the
 25 certificate is issued by a diplomatic or consular officer of the United
 26 States, or by a person authorized to administer oaths whose
 27 authority is proved by a certificate of such an officer.

28 **§ 205. Recordation of transfers and other documents**

29 (a) **CONDITIONS FOR RECORDATION.**—Any transfer of copyright own-
 30 ership or other document pertaining to a copyright may be recorded
 31 in the Copyright Office if the document filed for recordation bears the
 32 actual signature of the person who executed it, or if it is accompanied
 33 by a sworn or official certification that it is a true copy of the original,
 34 signed document.

35 (b) **CERTIFICATE OF RECORDATION.**—The Register of Copyrights
 36 shall, upon receipt of a document as provided by subsection (a) and
 37 of the fee provided by section 708, record the document and return it
 38 with a certificate of recordation.

39 (c) **RECORDATION AS CONSTRUCTIVE NOTICE.**—Recordation of a docu-

1 ment in the Copyright Office gives all persons constructive notice of
2 the facts stated in the recorded document, but only if:

3 (1) the document, or material attached to it, specifically iden-
4 tifies the work to which it pertains so that, after the document is
5 indexed by the Register of Copyrights, it would be revealed by
6 a reasonable search under the title or registration number of the
7 work; and

8 (2) registration has been made for the work.

9 (d) **RECORDATION AS PREREQUISITE TO INFRINGEMENT SUIT.**—No
10 person claiming by virtue of a transfer to be the owner of copyright
11 or of any exclusive right under a copyright is entitled to institute an
12 infringement action under this title until the instrument of transfer
13 under which he claims has been recorded in the Copyright Office, but
14 suit may be instituted after such recordation on a cause of action that
15 arose before recordation.

16 (e) **PRIORITY BETWEEN CONFLICTING TRANSFERS.**—As between two
17 conflicting transfers, the one executed first prevails if it is recorded,
18 in the manner required to give constructive notice under subsection
19 (c) within one month after its execution in the United States or
20 within two months after its execution abroad, or at any time before
21 recordation in such manner of the later transfer. Otherwise the later
22 transfer prevails if recorded first in such manner, and if taken in
23 good faith, for valuable consideration or on the basis of a binding
24 promise to pay royalties, and without notice of the earlier transfer.

25 (f) **PRIORITY BETWEEN CONFLICTING TRANSFER OF OWNERSHIP AND**
26 **NONEXCLUSIVE LICENSE.**—A nonexclusive license, whether recorded or
27 not, prevails over a conflicting transfer of copyright ownership if the
28 license is evidenced by a written instrument signed by the owner of
29 the rights licensed or his duly authorized agent, and if:

30 (1) the license was taken before execution of the transfer; or

31 (2) the license was taken in good faith before recordation of
32 the transfer and without notice of it.

33 **Chapter 3.—DURATION OF COPYRIGHT**

Sec.

301. Pre-emption with respect to other laws.

302. Duration of copyright: Works created on or after January 1, 1971.

303. Duration of copyright: Works created but not published or copyrighted
before January 1, 1971.

304. Duration of copyright: Subsisting copyrights.

305. Duration of copyright: Terminal date.

34 **§ 301. Pre-emption with respect to other laws**

35 (a) On and after January 1, 1971, all rights in the nature of copy-
36 right in works that come within the subject matter of copyright as

1 specified by sections 102 and 103, whether created before or after that
 2 date and whether published or unpublished, are governed exclusively
 3 by this title. Thereafter, no person is entitled to copyright, literary
 4 property rights, or any equivalent legal or equitable right in any such
 5 work under the common law or statutes of any State.

6 (b) Nothing in this title annuls or limits any rights or remedies
 7 under the common law or statutes of any State with respect to:

8 (1) unpublished material that does not come within the sub-
 9 ject matter of copyright as specified by sections 102 and 103, in-
 10 cluding works of authorship not fixed in any tangible medium of
 11 expression;

12 (2) any cause of action arising from undertakings commenced
 13 before January 1, 1971;

14 (3) activities violating rights that are not equivalent to any
 15 of the exclusive rights within the general scope of copyright as
 16 specified by section 106, including breaches of contract, breaches
 17 of trust, invasion of privacy, defamation, and deceptive trade
 18 practices such as passing off and false representation.

19 **§ 302. Duration of copyright: Works created on or after Janu-**
 20 **ary 1, 1971**

21 (a) **IN GENERAL.**—Copyright in a work created on or after Janu-
 22 ary 1, 1971, subsists from its creation and, except as provided by the
 23 following subsections, endures for a term consisting of the life of
 24 the author and fifty years after his death.

25 (b) **JOINT WORKS.**—In the case of a joint work prepared by two
 26 or more authors who did not work for hire, the copyright endures for
 27 a term consisting of the life of the last surviving author and fifty
 28 years after his death.

29 (c) **ANONYMOUS WORKS, PSEUDONYMOUS WORKS, AND WORKS MADE**
 30 **FOR HIRE.**—In the case of an anonymous work, a pseudonymous work,
 31 or a work made for hire, the copyright endures for a term of seventy-
 32 five years from the year of its first publication, or a term of one
 33 hundred years from the year of its creation, whichever expires first.
 34 if, before the end of such term, the identity of one or more of the
 35 authors of an anonymous or pseudonymous work is revealed in the
 36 records of a registration made for that work under subsections (a)
 37 or (d) of section 407, or in the records provided by this subsection,
 38 the copyright in the work endures for the term specified by subsections
 39 (a) or (b), based on the life of the author or authors whose identity
 40 has been revealed. Any person having an interest in the copyright in

1 an anonymous or pseudonymous work may at any time record, in
2 records to be maintained by the Copyright Office for that purpose, a
3 statement identifying one or more authors of the work; the statement
4 shall also identify the person filing it, the nature of his interest, the
5 source of his information, and the particular works affected, and shall
6 comply in form and content with requirements that the Register of
7 Copyrights shall prescribe by regulation.

8 (d) RECORDS RELATING TO DEATH OF AUTHORS.—Any person having
9 an interest in a copyright may at any time record in the Copyright
10 Office a statement of the date of death of the author of the copy-
11 righted work, or a statement that the author is still living on a par-
12 ticular date. The statement shall identify the person filing it, the
13 nature of his interest, and the source of his information, and shall
14 comply in form and content with requirements that the Register
15 of Copyrights shall prescribe by regulation. The Register shall
16 maintain current records of information relating to the death of
17 authors of copyrighted works, based on such recorded statements
18 and, to the extent he considers practicable, on data contained in any
19 of the records of the Copyright Office or in other reference sources.

20 (e) PRESUMPTION AS TO AUTHOR'S DEATH.—After a period of
21 seventy-five years from the year of first publication of a work, or a
22 period of one hundred years from the year of its creation, whichever
23 expires first, any person who obtains from the Copyright Office a certi-
24 fied report that the records provided by subsection (d) disclose nothing
25 to indicate that the author of the work is living, or died less than fifty
26 years before, is entitled to the benefit of a presumption that the author
27 has been dead for at least fifty years. Reliance in good faith upon this
28 presumption shall be a complete defense to any action for infringement
29 under this title.

30 **§ 303. Duration of copyright: Works created but not published or**
31 **copyrighted before January 1, 1971**

32 Copyright in a work created before January 1, 1971, but not there-
33 tofore in the public domain or copyrighted, subsists from January 1,
34 1971, and endures for the term provided by section 302. In no case,
35 however, shall the term of copyright in such a work expire before De-
36 cember 31, 1995; and, if the work is published on or before December
37 31, 1993, the term of copyright shall not expire before December 31,
38 2020.

1 § 304. Duration of copyright: Subsisting copyrights

2 (a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1971.—Any
3 copyright, the first term of which is subsisting on January 1, 1971,
4 shall endure for twenty-eight years from the date it was originally
5 secured: *Provided*, That in the case of any posthumous work or of any
6 periodical, cyclopedic, or other composite work upon which the copy-
7 right was originally secured by the proprietor thereof, or of any work
8 copyrighted by a corporate body (otherwise than as assignee or licensee
9 of the individual author) or by an employer for whom such work is
10 made for hire, the proprietor of such copyright shall be entitled to a
11 renewal and extension of the copyright in such work for the further
12 term of forty-seven years when application for such renewal and ex-
13 tension shall have been made to the Copyright Office and duly regis-
14 tered therein within one year prior to the expiration of the original
15 term of copyright: *And provided further*, That in the case of any other
16 copyrighted work, including a contribution by an individual author
17 to a periodical or to a cyclopedic or other composite work, the author
18 of such work, if still living, or the widow, widower, or children of the
19 author, if the author be not living, or if such author, widow, widower,
20 or children be not living, then the author's executors or in the absence
21 of a will, his next of kin shall be entitled to a renewal and extension of
22 the copyright in such work for a further term of forty-seven years
23 when application for such renewal and extension shall have been made
24 to the Copyright Office and duly registered therein within one year
25 prior to the expiration of the original term of copyright: *And pro-*
26 *vided further*, That in default of the registration of such application
27 for renewal and extension, the copyright in any work shall terminate
28 at the expiration of twenty-eight years from the date copyright was
29 originally secured.

30 (b) COPYRIGHTS IN THEIR RENEWAL TERM OR REGISTERED FOR RE-
31 NEWAL BEFORE JANUARY 1, 1971.—The duration of any copyright, the
32 renewal term of which is subsisting at any time between December 31,
33 1969, and December 31, 1970, inclusive, or for which renewal registra-
34 tion is made between December 31, 1969, and December 31, 1970,
35 inclusive, is extended to endure for a term of 75 years from the date
36 copyright was originally secured.

37 (c) TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED
38 RENEWAL TERM.—In the case of any copyright subsisting in either

1 its first or renewal term on January 1, 1971, other than a copyright in
2 a work made for hire, the exclusive or nonexclusive grant of a transfer
3 or license of the renewal copyright or of any right under it, executed
4 before January 1, 1971, by any of the persons designated by the second
5 proviso of subsection (a) of this section, otherwise than by will, is
6 subject to termination under the following conditions:

7 (1) In the case of a grant executed by a person or persons other
8 than the author, termination of the grant may be effected by the
9 surviving person or persons who executed it. In the case of a
10 grant executed by one or more of the authors of the work, termina-
11 tion of the grant may be effected, to the extent of a particular
12 author's share in the ownership of the renewal copyright, by the
13 author who executed it or, if such author is dead, by the person or
14 persons who, under clause (2) of this subsection, own and are
15 entitled to exercise a total of more than one half of that author's
16 interest.

17 (2) Where an author is dead, his termination interest is owned
18 and may be exercised by his widow (or her widower) and children
19 or grandchildren as follows:

20 (A) The widow owns his entire termination interest unless
21 there are any surviving children or grandchildren of the
22 author, in which case the widow owns one half of his interest;

23 (B) The author's surviving children, and the surviving
24 children of any dead child of the author, own his entire ter-
25 mination interest unless there is a widow (or widower), in
26 which case the ownership of one half of his interest is divided
27 among them;

28 (C) The rights of the author's children and grandchildren
29 are in all cases divided among them and exercised on a per
30 stirpes basis according to the number of his children repre-
31 sented; the share of the children of a dead child in a termi-
32 nation interest can be exercised only by the action of a ma-
33 jority of them.

34 (3) Termination of the grant may be effected at any time during
35 a period of five years beginning at the end of fifty-six years from
36 the date copyright was originally secured, or beginning on Jan-
37 uary 1, 1971, whichever is later.

38 (4) The termination shall be effected by serving an advance
39 notice in writing upon the grantee or his successor in title. In the
40 case of a grant executed by a person or persons other than the

1 author, the notice shall be signed by all of those entitled to termi-
2 nate the grant under clause (1) of this subsection, or by their duly
3 authorized agents. In the case of a grant executed by one or more
4 of the authors of the work, the notice as to any one author's share
5 shall be signed by him or his duly authorized agent or, if he is
6 dead, by the number and proportion of the owners of his termi-
7 nation interest required under clauses (1) and (2) of this sub-
8 section, or by their duly authorized agents.

9 (A) The notice shall state the effective date of the termi-
10 nation, which shall fall within the five-year period specified
11 by clause (3) of this subsection, and the notice shall be served
12 not less than two or more than ten years before that date. A
13 copy of the notice shall be recorded in the Copyright Office
14 before the effective date of termination, as a condition to its
15 taking effect.

16 (B) The notice shall comply, in form, content, and manner
17 of service, with requirements that the Register of Copyrights
18 shall prescribe by regulation.

19 (5) Termination of the grant may be effected notwithstanding
20 any agreement to the contrary, including an agreement to make a
21 will or to make any future grant.

22 (6) In the case of a grant executed by a person or persons other
23 than the author, all rights under this title that were covered by
24 the terminated grant revert, upon the effective date of termination,
25 to all of those entitled to terminate the grant under clause (1) of
26 this subsection. In the case of a grant executed by one or more
27 of the authors of the work, all of a particular author's rights
28 under this title that were covered by the terminated grant revert,
29 upon the effective date of termination, to that author or, if he is
30 dead, to the persons owning his termination interest under clause
31 (2) of this subsection, including those owners who did not join
32 in signing the notice of termination under clause (4) of this sub-
33 section. In all cases the reversion of rights is subject to the
34 following limitations:

35 (A) A derivative work prepared under authority of the
36 grant before its termination may continue to be utilized under
37 the terms of the grant after its termination, but this privilege
38 does not extend to the preparation after the termination of
39 other derivative works based upon the copyrighted work cov-
40 ered by the terminated grant.

1 (B) The future rights that will revert upon termination
2 of the grant become vested on the date the notice of termina-
3 tion has been served as provided by clause (4) of this sub-
4 section.

5 (C) Where an author's rights revert to two or more persons
6 under clause (2) of this subsection, they shall vest in those
7 persons in the proportionate shares provided by that clause.
8 In such a case, and subject to the provisions of subclause (D)
9 of this clause, a further grant, or agreement to make a fur-
10 ther grant, of a particular author's share with respect to any
11 right covered by a terminated grant is valid only if it is signed
12 by the same number and proportion of the owners, in whom
13 the right has vested under this clause, as are required to ter-
14 minate the grant under clause (2) of this subsection. Such
15 further grant or agreement is effective with respect to all
16 of the persons in whom the right it covers has vested under
17 this subclause, including those who did not join in signing it.
18 If any person dies after rights under a terminated grant have
19 vested in him, his legal representatives, legatees, or heirs at
20 law represent him for purposes of this subclause.

21 (D) A further grant, or agreement to make a further grant,
22 of any right covered by a terminated grant is valid only if it
23 is made after the effective date of the termination. As an
24 exception, however, an agreement for such a further grant
25 may be made between the author or any of the persons pro-
26 vided by the first sentence of clause (6) of this subsection, or
27 between the persons provided by subclause (C) of this clause,
28 and the original grantee or his successor in title, after the
29 notice of termination has been served as provided by clause
30 (4) of this subsection.

31 (E) Termination of a grant under this subsection affects
32 only those rights covered by the grant that arise under this
33 title, and in no way affects rights arising under any other
34 Federal, State, or foreign laws.

35 (F) Unless and until termination is effected under this
36 section, the grant, if it does not provide otherwise, continues
37 in effect for the remainder of the extended renewal term.

38 **§ 305. Duration of copyright: Terminal date**

39 All terms of copyright provided by sections 302 through 304 run to
40 the end of the calendar year in which they would otherwise expire.

1 **Chapter 4.—COPYRIGHT NOTICE, DEPOSIT, AND**
 2 **REGISTRATION**

3 Sec.

401. Notice of copyright: Visually perceptible copies.
 402. Notice of copyright: Phonorecords of sound recordings.
 403. Notice of copyright: Contributions to collective works.
 404. Notice of copyright: Omission of notice.
 405. Notice of copyright: Error in name or date.
 406. Deposit of copies or phonorecords for Library of Congress.
 407. Copyright registration in general.
 408. Application for registration.
 409. Registration of claim and issuance of certificate.
 410. Registration as prerequisite to infringement suit.
 411. Registration as prerequisite to certain remedies for infringement.

3 **§ 401. Notice of copyright: Visually perceptible copies**

4 (a) **GENERAL REQUIREMENT.**—Whenever a work protected under
 5 this title is published in the United States or elsewhere by authority of
 6 the copyright owner, a notice of copyright as provided by this section
 7 shall be placed on all publicly distributed copies from which the work
 8 can be visually perceived, either directly or with the aid of a machine
 9 or device.

10 (b) **FORM OF NOTICE.**—The notice appearing on the copies shall con-
 11 sist of the following three elements:

12 (1) the symbol © (the letter C in a circle), the word “Copy-
 13 right,” or the abbreviation “Copr.”;

14 (2) the year of first publication of the work; in the case of
 15 compilations or derivative works incorporating previously pub-
 16 lished material, the year date of first publication of the compila-
 17 tion or derivative work is sufficient;

18 (3) the name of the owner of copyright in the work, or an ab-
 19 breviation by which the name can be recognized, or a generally
 20 known alternative designation of the owner.

21 (c) **POSITION OF NOTICE.**—The notice shall be affixed to the copies
 22 in such manner and location as to give reasonable notice of the claim
 23 of copyright. The Register of Copyrights shall prescribe by regula-
 24 tion, as examples, specific methods of affixation and positions of the
 25 notice on various types of works that will satisfy this requirement, but
 26 these specifications shall not be considered exhaustive.

27 **§ 402. Notice of copyright: Phonorecords of sound recordings**

28 (a) **GENERAL REQUIREMENT.**—Whenever a sound recording protect-
 29 ed under this title is published in the United States or elsewhere by
 30 authority of the copyright owner, a notice of copyright as provided
 31 by this section shall be placed on all publicly distributed phonorecords
 32 of the sound recording.

1 (b) FORM OF NOTICE.—The notice appearing on the phonorecords
2 shall consist of the following three elements:

3 (1) the symbol © (the letter P in a circle);

4 (2) the year of first publication of the sound recording;

5 (3) the name of the owner of copyright in the sound recording,
6 or an abbreviation by which the name can be recognized, or a
7 generally known alternative designation of the owner; if the
8 producer of the sound recording is named on the phonorecord
9 labels or containers, and if no other name appears in conjunction
10 with the notice, his name shall be considered a part of the notice.

11 (c) POSITION OF NOTICE.—The notice shall be placed on the surface
12 of the phonorecord, or on the phonorecord label or container, in such
13 manner and location as to give reasonable notice of the claim of copy-
14 right.

15 (d) EFFECTIVE DATE OF REQUIREMENT.—The requirements of this
16 section apply to all phonorecords publicly distributed on or after
17 January 1, 1971.

18 **§ 403. Notice of copyright: Contributions to collective works**

19 (a) A separate contribution to a collective work may bear its own
20 notice of copyright, as provided by sections 401 and 402. However,
21 a single notice applicable to the collective work as a whole is sufficient
22 to satisfy the requirements of sections 401 and 402 with respect to
23 the separate contributions it contains (not including advertisements
24 inserted on behalf of persons other than the owner of copyright in
25 the collective work), regardless of the ownership of copyright in the
26 contributions and whether or not they have been previously published.

27 (b) Where the person named in a single notice applicable to a col-
28 lective work as a whole is not the owner of copyright in a separate
29 contribution that does not bear its own notice, the case is governed
30 by the provisions of section 405(a).

31 **§ 404. Notice of copyright: Omission of notice**

32 (a) EFFECT OF OMISSION ON COPYRIGHT.—The omission of the copy-
33 right notice prescribed by sections 401 and 402 from copies or phono-
34 records publicly distributed by authority of the copyright owner does
35 not invalidate the copyright in a work if:

36 (1) the notice has been omitted from no more than a relatively
37 small number of copies or phonorecords distributed to the public;
38 or

39 (2) registration for the work has been made before or is made
40 within five years after the publication without notice, and a

1 reasonable effort is made to add notice to all copies or phono-
2 records that are distributed to the public in the United States
3 after the omission has been discovered; or

4 (3) the notice has been omitted in violation of an express re-
5 quirement in writing that, as a condition of the copyright owner's
6 authorization of the public distribution of copies or phonorecords,
7 they bear the prescribed notice.

8 (b) EFFECT OF OMISSION ON INNOCENT INFRINGERS.—Any person
9 who innocently infringes a copyright, in reliance upon an authorized
10 copy or phonorecord from which the copyright notice has been
11 omitted, incurs no liability for actual or statutory damages under sec-
12 tion 504 for any infringing acts committed before receiving actual
13 notice that registration for the work had been made under section 407,
14 if he proves that he was misled by the omission of notice. In a suit
15 for infringement in such a case the court may allow or disallow re-
16 covery of any of the infringer's profits attributable to the infringe-
17 ment, and may enjoin the continuation of the infringing undertaking
18 or may require, as a condition for permitting the infringer to continue
19 his undertaking, that he pay the copyright owner a reasonable license
20 fee in an amount and on terms fixed by the court.

21 (c) REMOVAL OF NOTICE.—Protection under this title is not affected
22 by the removal, destruction, or obliteration of the notice, without the
23 authorization of the copyright owner, from any publicly distributed
24 copies or phonorecords.

25 **§ 405. Notice of copyright: Error in name or date**

26 (a) ERROR IN NAME.—Where the person named in the copyright
27 notice on copies or phonorecords publicly distributed by authority of
28 the copyright owner is not the owner of copyright, the validity and
29 ownership of the copyright are not affected. In such a case, however,
30 any person who innocently begins an undertaking that infringes the
31 copyright has a complete defense to any action for such infringement
32 if he proves that he was misled by the notice and began the undertak-
33 ing in good faith under a purported transfer or license from the person
34 named therein, unless before the undertaking was begun:

35 (1) registration for the work had been made in the name of
36 the owner of copyright; or

37 (2) a document executed by the person named in the notice
38 and showing the ownership of the copyright had been recorded.

39 The person named in the notice is liable to account to the copyright

1 owner for all receipts from purported transfers or licenses made by
2 him under the copyright.

3 (b) **ERROR IN DATE.**—When the year date in the notice on copies or
4 phonorecords distributed by authority of the copyright owner is
5 earlier than the year in which publication first occurred, any period
6 computed from the year of first publication under section 302 is to be
7 computed from the year in the notice. Where the year date is more
8 than one year later than the year in which publication first occurred,
9 the work is considered to have been published without any notice and
10 is governed by the provisions of section 404.

11 (c) **OMISSION OF NAME OR DATE.**—Where copies or phonorecords
12 publicly distributed by authority of the copyright owner contain no
13 name or no date that could reasonably be considered a part of the
14 notice, the work is considered to have been published without any
15 notice and is governed by the provisions of section 404.

16 **§ 406. Deposit of copies of phonorecords for Library of Congress**

17 (a) Except as provided by subsection (c), the owner of copyright
18 or of the exclusive right of publication in a work published with notice
19 of copyright in the United States shall deposit, within three months
20 after the date of such publication :

21 (1) two complete copies of the best edition ; or

22 (2) if the work is a sound recording, two complete phono-
23 records of the best edition, together with any printed or other
24 visually-perceptible material published with such phonorecords.

25 This deposit is not a condition of copyright protection.

26 (b) The required copies or phonorecords shall be deposited in the
27 Copyright Office for the use or disposition of the Library of Congress.
28 The Register of Copyrights shall, when requested by the depositor
29 and upon payment of the fee prescribed by section 708, issue a receipt
30 for the deposit.

31 (c) The Register of Copyrights may by regulation exempt any
32 categories of material from the deposit requirements of this section,
33 or require deposit of only one copy or phonorecord with respect to
34 any categories.

35 (d) At any time after publication of a work as provided by sub-
36 section (a), the Register of Copyrights may make written demand
37 for the required deposit on any of the persons obligated to make the
38 deposit under subsection (a). Unless deposit is made within three
39 months after the demand is received, the person or persons on whom
40 the demand was made are liable :

1 (1) to a fine of not more than \$250 for each work; and

2 (2) to pay to the Library of Congress the total retail price of
3 the copies or phonorecords demanded, or, if no retail price has
4 been fixed, the reasonable cost to the Library of Congress of
5 acquiring them.

6 **§ 407. Copyright registration in general**

7 (a) **REGISTRATION PERMISSIVE.**—At any time during the subsistence
8 of copyright in any published or unpublished work, the owner of copy-
9 right or of any exclusive right in the work may obtain registration of
10 the copyright claim by delivering to the Copyright Office the deposit
11 specified by this section, together with the application and fee specified
12 by sections 408 and 708. Subject to the provisions of section 404(a),
13 such registration is not a condition of copyright protection.

14 (b) **DEPOSIT FOR COPYRIGHT REGISTRATION.**—Except as provided by
15 subsection (c), the material deposited for registration shall include:

16 (1) in the case of an unpublished work, one complete copy or
17 phonorecord;

18 (2) in the case of a published work, two complete copies or
19 phonorecords of the best edition;

20 (3) in the case of a work first published abroad, one complete
21 copy or phonorecord as so published;

22 (4) in the case of a contribution to a collective work, one com-
23 plete copy or phonorecord of the best edition of the collective work.

24 Copies or phonorecords deposited for the Library of Congress under
25 section 406 may be used to satisfy the deposit provisions of this section,
26 if they are accompanied by the prescribed application and fee, and by
27 any additional identifying material that the Register may, by regula-
28 tion, require.

29 (c) **ADMINISTRATIVE CLASSIFICATION AND OPTIONAL DEPOSIT.**—The
30 Register of Copyrights is authorized to specify by regulation the ad-
31 ministrative classes into which works are to be placed for purposes of
32 deposit and registration, and the nature of the copies or phonorecords
33 to be deposited in the various classes specified. The regulations may
34 require or permit, for particular classes, the deposit of identifying ma-
35 terial instead of copies or phonorecords, or a deposit of only one copy
36 or phonorecord where two would normally be required, or a single
37 registration for a group of related works. This administrative classi-
38 fication of works has no significance with respect to the subject matter
39 of copyright or the exclusive rights provided by this title.

1 (d) CORRECTIONS AND AMPLIFICATIONS.—The Register may also
 2 establish, by regulation, formal procedures for the filing of an applica-
 3 tion for supplementary registration, to correct an error in a copyright
 4 registration or to amplify the information given in a registration.
 5 Such application shall be accompanied by the fee provided by section
 6 708, and shall clearly identify the registration to be corrected or ampli-
 7 fied. The information contained in a supplementary registration aug-
 8 ments but does not supersede that contained in the earlier registration.

9 (e) PUBLISHED EDITION OF PREVIOUSLY REGISTERED WORK.—Regis-
 10 tration for the first published edition of a work previously registered
 11 in unpublished form may be made even though the work as published
 12 is substantially the same as the unpublished version.

13 § 408. Application for registration

14 The application for copyright registration shall be made on a form
 15 prescribed by the Register of Copyrights and shall include:

16 (1) the name and address of the copyright claimant;

17 (2) in the case of a work other than an anonymous or pseudony-
 18 mous work, the name and nationality or domicile of the author or
 19 authors and, if one or more of the authors is dead, the dates of
 20 their deaths;

21 (3) if the work is anonymous or pseudonymous, the nationality
 22 or domicile of the author or authors;

23 (4) in the case of a work made for hire, a statement to this
 24 effect;

25 (5) if the copyright claimant is not the author, a brief state-
 26 ment of how the claimant obtained ownership of the copyright;

27 (6) the title of the work, together with any previous or alterna-
 28 tive titles under which the work can be identified;

29 (7) the year in which creation of the work was completed;

30 (8) if the work has been published, the date and nation of its
 31 first publication;

32 (9) in the case of a compilation or derivative work, an identi-
 33 fication of any pre-existing work or works that it is based on or
 34 incorporates, and a brief, general statement of the additional
 35 material covered by the copyright claim being registered;

36 (10) in the case of a published work containing material of
 37 which copies are required by section 601 to be manufactured in
 38 the United States, the names of the persons or organizations
 39 who performed the processes specified by subsection (c) of sec-

1 tion 601 with respect to that material, and the places where those
2 processes were performed; and

3 (11) any other information regarded by the Register of Copy-
4 rights as bearing upon the preparation or identification of the
5 work or the existence, ownership, or duration of the copyright.

6 **§ 409. Registration of claim and issuance of certificate**

7 (a) When, after examination, the Register of Copyrights deter-
8 mines that, in accordance with the provisions of this title, the material
9 deposited constitutes copyrightable subject matter and that the other
10 legal and formal requirements of this title have been met, he shall reg-
11 ister the claim and issue to the applicant a certificate of registration
12 under the seal of the Copyright Office. The certificate shall contain
13 the information given in the application, together with the number and
14 effective date of the registration.

15 (b) In any case in which the Register of Copyrights determines
16 that, in accordance with the provisions of this title, the material de-
17 posited does not constitute copyrightable subject matter or that the
18 claim is invalid for any other reason, he shall refuse registration and
19 shall notify the applicant in writing of the reasons for his action.

20 (c) In any judicial proceedings the certificate of a registration made
21 before or within five years after first publication of the work shall
22 constitute prima facie evidence of the validity of the copyright and
23 of the facts stated in the certificate. The evidentiary weight to be
24 accorded the certificate of a registration made thereafter shall be
25 within the discretion of the court.

26 (d) The effective date of a copyright registration is the day on
27 which an application, deposit, and fee, which are later determined by
28 the Register of Copyrights or by a court of competent jurisdiction to
29 be acceptable for registration, have all been received in the Copyright
30 Office.

31 **§ 410. Registration as prerequisite to infringement suit**

32 No action for infringement of the copyright in any work shall be
33 instituted until registration of the copyright claim has been made in
34 accordance with this title. In any case, however, where the deposit,
35 application, and fee required for registration have been delivered to
36 the Copyright Office in proper form and registration has been refused,
37 the applicant is entitled to institute an action for infringement if
38 notice thereof, with a copy of the complaint, is served on the Register
39 of Copyrights. The Register may, at his option, become a party to

1 the action with respect to the issue of registrability of the copyright
 2 claim by entering his appearance within sixty days after such service,
 3 but his failure to do so shall not deprive the court of jurisdiction to
 4 determine that issue.

5 **§ 411. Registration as prerequisite to certain remedies for in-**
 6 **fringement**

7 In any action under this title, no award of statutory damages or
 8 of attorney's fees, as provided by sections 504 and 505, shall be made
 9 for:

10 (1) any infringement of copyright in an unpublished work
 11 commenced before the effective date of its registration; or

12 (2) any infringement of copyright commenced after first pub-
 13 lication of the work and before the effective date of its registra-
 14 tion, unless such registration is made within three months after
 15 its first publication.

16 **Chapter 5— COPYRIGHT INFRINGEMENT AND**
 17 **REMEDIES**

Sec.

501. Infringement of copyright.

502. Remedies for infringement: Injunctions.

503. Remedies for infringement: Impounding and disposition of infringing art-
 icles.

504. Remedies for infringement: Damages and profits.

505. Remedies for infringement: Costs and attorney's fees.

506. Criminal offenses.

507. Limitations on actions.

508. Notification of filing and determination of actions.

18 **§ 501. Infringement of copyright**

19 (a) Anyone who violates any of the exclusive rights of the copyright
 20 owner as provided by sections 106 through 116, or who imports copies
 21 or phonorecords into the United States in violation of section 602, is an
 22 infringer of the copyright.

23 (b) The legal or beneficial owner of an exclusive right under a copy-
 24 right is entitled, subject to the requirements of sections 205(d) and
 25 410, to institute an action for any infringement of that particular
 26 right committed while he is the owner of it. The court may re-
 27 quire him to serve written notice of the action with a copy of the com-
 28 plaint upon any person shown, by the records of the Copyright Office or
 29 otherwise, to have or claim an interest in the copyright, and shall re-
 30 quire that such notice be served upon any person whose interest is
 31 likely to be affected by a decision in the case. The court may require
 32 the joinder, and shall permit the intervention, of any person having
 33 or claiming an interest in the copyright.

1 **§ 502. Remedies for infringement: Injunctions**

2 (a) Any court having jurisdiction of a civil action arising under
3 this title may, subject to the provisions of section 1498 of title 28,
4 grant temporary and final injunctions on such terms as it may deem
5 reasonable to prevent or restrain infringement of a copyright.

6 (b) Any such injunction may be served anywhere in the United
7 States on the person enjoined; it shall be operative throughout the
8 United States and shall be enforceable, by proceedings in contempt or
9 otherwise, by any United States court having jurisdiction of that per-
10 son. The clerk of the court granting the injunction shall, when re-
11 quested by any other court in which enforcement of the injunction is
12 sought, transmit promptly to the other court a certified copy of all the
13 papers in the case on file in his office.

14 **§ 503. Remedies for infringement: Impounding and disposition**
15 **of infringing articles**

16 (a) At any time while an action under this title is pending, the court
17 may order the impounding, on such terms as it may deem reasonable,
18 of all copies or phonorecords claimed to have been made or used in
19 violation of the copyright owner's exclusive rights, and of all plates,
20 molds, matrices, masters, tapes, film negatives, or other articles by
21 means of which such copies or phonorecords may be reproduced.

22 (b) As part of a final judgment or decree, the court may order the
23 destruction or other reasonable disposition of all copies or phono-
24 records found to have been made or used in violation of the copyright
25 owner's exclusive rights, and of all plates, molds, matrices, masters,
26 tapes, film negatives, or other articles by means of which such copies
27 or phonorecords may be reproduced.

28 **§ 504. Remedies for infringement: Damages and profits**

29 (a) **IN GENERAL.**—Except as otherwise provided by this title, an
30 infringer of copyright is liable for either:

- 31 (1) the copyright owner's actual damages and any additional
32 profits of the infringer, as provided by subsection (b); or
33 (2) statutory damages, as provided by subsection (c).

34 (b) **ACTUAL DAMAGES AND PROFITS.**—The copyright owner is en-
35 titled to recover the actual damages suffered by him as a result of the
36 infringement, and any profits of the infringer that are attributable
37 to the infringement and are not taken into account in computing the
38 actual damages. In establishing the infringer's profits, the copyright
39 owner is required to present proof only of the infringer's gross revenue,

1 and the infringer is required to prove his deductible expenses and the
2 elements of profit attributable to factors other than the copyrighted
3 work.

4 (c) STATUTORY DAMAGES.—

5 (1) Except as provided by clause (2) of this subsection, the
6 copyright owner may elect, at any time before final judgment is
7 rendered, to recover, instead of actual damages and profits, an
8 award of statutory damages for all infringements involved in
9 the action, with respect to any one work, for which any one
10 infringer is liable individually, or for which any two or more
11 infringers are liable jointly and severally, in a sum of not less
12 than \$250 or more than \$10,000 as the court considers just. For
13 the purposes of this subsection, all the parts of a compilation
14 or derivative work constitute one work.

15 (2) In a case where the copyright owner sustains the burden
16 of proving, and the court finds, that infringement was committed
17 willfully, the court in its discretion may increase the award of
18 statutory damages to a sum of not more than \$20,000. In a
19 case where the infringer sustains the burden of proving, and the
20 court finds, that he was not aware and had no reason to believe
21 that his acts constituted an infringement of copyright, the court
22 in its discretion may reduce the award of statutory damages to
23 a sum of not less than \$100. In a case where an instructor in a
24 nonprofit educational institution, who infringed by reproducing
25 a copyrighted work in copies or phonorecords for use in the course
26 of face-to-face teaching activities in a classroom or similar place
27 normally devoted to instruction, sustains the burden of proving
28 that he believed and had reasonable grounds for believing that
29 the reproduction was a fair use under section 107, the court in
30 its discretion may remit statutory damages in whole or in part.

31 **§ 505. Remedies for infringement: Costs and attorney's fees**

32 In any civil action under this title, the court in its discretion may
33 allow the recovery of full costs by or against any party other than
34 the United States or an officer thereof. Except as otherwise provided
35 by this title, the court may also award a reasonable attorney's fee
36 to the prevailing party as part of the costs.

37 **§ 506. Criminal offenses**

38 (a) CRIMINAL INFRINGEMENT.—Any person who infringes a copy-
39 right willfully and for purposes of commercial advantage or private
40 financial gain shall be fined not more than \$2,500 or imprisoned not

1 more than one year, or both, for the first such offense, and shall be fined
2 not more than \$10,000 or imprisoned not more than three years, or both,
3 for any subsequent offense.

4 (b) **FRAUDULENT COPYRIGHT NOTICE.**—Any person who, with fraud-
5 ulent intent, places on any article a notice of copyright or words of
6 the same purport that he knows to be false, or who, with fraudulent
7 intent, publicly distributes or imports for public distribution any
8 article bearing such notice or words that he knows to be false, shall be
9 fined not more than \$2,500.

10 (c) **FRAUDULENT REMOVAL OF COPYRIGHT NOTICE.**—Any person who,
11 with fraudulent intent, removes or alters any notice of copyright
12 appearing on a copy of a copyrighted work shall be fined not more than
13 \$2,500.

14 (d) **FALSE REPRESENTATION.**—Any person who knowingly makes a
15 false representation of a material fact in the application for copyright
16 registration provided for by section 408, or in any written statement
17 filed in connection with the application, shall be fined not more than
18 \$2,500.

19 **§ 507. Limitations on actions**

20 (a) **CRIMINAL PROCEEDINGS.**—No criminal proceeding shall be main-
21 tained under the provisions of this title unless it is commenced within
22 three years after the cause of action arose.

23 (b) **CIVIL ACTIONS.**—No civil action shall be maintained under the
24 provisions of this title unless it is commenced within three years after
25 the claim accrued.

26 **§ 508. Notification of filing and determination of actions**

27 (a) Within one month after the filing of any action under this title,
28 the clerks of the courts of the United States shall send written notifica-
29 tion to the Register of Copyrights setting forth, as far as is shown by
30 the papers filed in the court, the names and addresses of the parties
31 and the title, author, and registration number of each work involved
32 in the action. If any other copyrighted work is later included in the
33 action by amendment, answer, or other pleading, the clerk shall also
34 send a notification concerning it to the Register within one month after
35 the pleading is filed.

36 (b) Within one month after any final order or judgment is issued
37 in the case, the clerk of the court shall notify the Register of it, sending
38 him a copy of the order or judgment together with the written opinion,
39 if any, of the court.

40 (c) Upon receiving the notifications specified in this section, the

1 Register shall make them a part of the public records of the Copyright
2 Office.

3 **Chapter 6.—MANUFACTURING REQUIREMENT AND**
4 **IMPORTATION**

5 Sec.

601. Manufacture, importation, and public distribution of certain copies.

602. Infringing importation of copies or phonorecords.

603. Importation prohibitions: Enforcement and disposition of excluded articles.

5 **§ 601. Manufacture, importation, and public distribution of cer-**
6 **tain copies**

7 (a) Except as provided by subsection (b), the importation into or
8 public distribution in the United States of copies of a work consist-
9 ing preponderantly of nondramatic literary material that is in the
10 English language and is protected under this title is prohibited unless
11 the portions consisting of such material have been manufactured in the
12 United States.

13 (b) The provisions of subsection (a) do not apply:

14 (1) where, on the date when importation is sought or public
15 distribution in the United States is made, the author of any sub-
16 stantial part of such material is neither a national nor a domicil-
17 iary of the United States or, if he is a national of the United
18 States, has been domiciled outside of the United States for a
19 continuous period of at least one year immediately preceding that
20 date;

21 (2) where the Bureau of Customs is presented with an import
22 statement issued under the seal of the Copyright Office, in which
23 case a total of no more than two thousand copies of any one such
24 work shall be allowed entry; the import statement shall be issued
25 upon request to the copyright owner or to a person designated by
26 him at the time of registration for the work under section 407
27 or at any time thereafter;

28 (3) where importation is sought under the authority or for the
29 use, other than in schools, of the government of the United States
30 or of any State or political subdivision of a State;

31 (4) where importation, for use and not for sale, is sought:

32 (A) by any person with respect to no more than one copy
33 of any one work at any one time;

34 (B) by any person arriving from abroad, with respect to
35 copies forming part of his personal baggage; or

36 (C) by an organization operated for scholarly, educa-
37 tional, or religious purposes and not for private gain, with
38 respect to copies intended to form a part of its library;

1 (5) where the copies are reproduced in raised characters for
2 the use of the blind ;

3 (6) where, in addition to copies imported under clauses (3)
4 and (4) of this subsection, no more than two thousand copies of
5 any one such work, which have not been manufactured in the
6 United States, are publicly distributed in the United States.

7 (c) The requirement of this section that copies be manufactured in
8 the United States is satisfied if :

9 (1) in the case where the copies are printed directly from type
10 that has been set, or directly from plates made from such type,
11 the setting of the type and the making of the plates have been
12 performed in the United States ; or

13 (2) in the case where the copies are printed directly from plates
14 made by a lithographic or photoengraving process, the making of
15 the plates has been performed in the United States ; and

16 (3) in any case, the printing or other final process of producing
17 multiple copies and any binding of the copies have been performed
18 in the United States.

19 (d) Importation or public distribution of copies in violation of
20 this section does not invalidate protection for a work under this title.
21 However, in any civil action or criminal proceeding for infringement
22 of the exclusive rights to reproduce and distribute copies of the work,
23 the infringer has a complete defense with respect to all of the non-
24 dramatic literary material comprised in the work and any other parts
25 of the work in which the exclusive rights to reproduce and distribute
26 copies are owned by the same person who owns such exclusive rights
27 in the nondramatic literary material, if he proves :

28 (1) that copies of the work have been imported into or publicly
29 distributed in the United States in violation of this section by or
30 with the authority of the owner of such exclusive rights ; and

31 (2) that the infringing copies were manufactured in the United
32 States in accordance with the provisions of subsection (c) ; and

33 (3) that the infringement was commenced before the effective
34 date of registration for an authorized edition of the work, the
35 copies of which have been manufactured in the United States in
36 accordance with the provisions of subsection (c).

37 (e) In any action for infringement of the exclusive rights to repro-
38 duce and distribute copies of a work containing material required by
39 this section to be manufactured in the United States, the copyright
40 owner shall set forth in the complaint the names of the persons or /

1 organizations who performed the processes specified by subsection (c)
2 with respect to that material, and the places where those processes
3 were performed.

4 **§ 602. Infringing importation of copies or phonorecords**

5 (a) Importation into the United States, without the authority of
6 the owner of copyright under this title, of copies or phonorecords of
7 a work that have been acquired abroad is an infringement of the
8 exclusive right to distribute copies or phonorecords under section 106,
9 actionable under section 501. This subsection does not apply to:

10 (1) importation of copies or phonorecords under the authority
11 or for the use, other than in schools, of the government of the
12 United States or of any State or political subdivision of a State,
13 but not including copies of any audiovisual work imported for
14 purposes other than archival use;

15 (2) importation, for use and not for sale, by any person with
16 respect to no more than one copy or phonorecord of any one work
17 at any one time, or by any person arriving from abroad with
18 respect to copies or phonorecords forming part of his personal
19 baggage; or

20 (3) importation by or for an organization operated for schol-
21 arly, educational, or religious purposes and not for private gain,
22 with respect to no more than one copy of an audiovisual work
23 solely for its archival purposes, and no more than five copies or
24 phonorecords of any other work for its library lending or archival
25 purposes.

26 (b) In a case where the making of the copies or phonorecords would
27 have constituted an infringement of copyright if this title had been
28 applicable, their importation is prohibited. In a case where the copies
29 or phonorecords were lawfully made, the Bureau of Customs has no
30 authority to prevent their importation unless the provisions of section
31 601 are applicable. In either case, the Secretary of the Treasury is
32 authorized to prescribe, by regulation, a procedure under which any
33 person claiming an interest in the copyright in a particular work may,
34 upon payment of a specified fee, be entitled to notification by the
35 Bureau of the importation of articles that appear to be copies or phono-
36 records of the work.

37 **§ 603. Importation prohibitions: Enforcement and disposition of**
38 **excluded articles**

39 (a) The Secretary of the Treasury and the Postmaster General shall
40 separately or jointly make regulations for the enforcement of the pro-
41 visions of this title prohibiting importation.

1 (b) These regulations may require, as a condition for the exclusion
2 of articles under section 602:

3 (1) that the person seeking exclusion obtain a court order en-
4 joining importation of the articles; or

5 (2) that he furnish proof, of a specified nature and in accord-
6 ance with prescribed procedures, that the copyright in which he
7 claims an interest is valid and that the importation would violate
8 the prohibition in section 602; he may also be required to post a
9 surety bond for any injury that may result if the detention or
10 exclusion of the articles proves to be unjustified.

11 (c) Articles imported in violation of the importation prohibitions
12 of this title are subject to seizure and forfeiture in the same manner as
13 property imported in violation of the customs revenue laws. For-
14 feited articles shall be destroyed as directed by the Secretary of the
15 Treasury or the court, as the case may be; however, the articles may be
16 returned to the country of export whenever it is shown to the satisfac-
17 tion of the Secretary of the Treasury that the importer had no reason-
18 able grounds for believing that his acts constituted a violation of law.

19 Chapter 7.—COPYRIGHT OFFICE

Sec.

701. The Copyright Office: General responsibilities and organization.

702. Copyright Office regulations.

703. Effective date of actions in Copyright Office.

704. Retention and disposition of articles deposited in Copyright Office.

705. Copyright Office records: Preparation, maintenance, public inspection, and searching.

706. Copies of Copyright Office records.

707. Copyright Office forms and publications.

708. Copyright Office fees.

20 § 701. The Copyright Office: General responsibilities and orga- 21 nization

22 (a) All administrative functions and duties under this title, except
23 as otherwise specified, are the responsibility of the Register of Copy-
24 rights as director of the Copyright Office in the Library of Congress.
25 The Register of Copyrights, together with the subordinate officers and
26 employees of the Copyright Office, shall be appointed by the Librarian
27 of Congress, and shall act under his general direction and supervision.

28 (b) The Register of Copyrights shall adopt a seal to be used on and
29 after January 1, 1971, to authenticate all certified documents issued
30 by the Copyright Office.

31 (c) The Register of Copyrights shall make an annual report to the
32 Librarian of Congress of the work and accomplishments of the Copy-
33 right Office during the previous fiscal year. The annual report of the
34 Register of Copyrights shall be published separately and as a part of
35 the annual report of the Librarian of Congress.

1 **§ 702. Copyright Office regulations**

2 The Register of Copyrights is authorized to establish regulations
3 not inconsistent with law for the administration of the functions and
4 duties made his responsibility under this title. All regulations estab-
5 lished by the Register under this title are subject to the approval of
6 the Librarian of Congress.

7 **§ 703. Effective date of actions in Copyright Office**

8 In any case in which time limits are prescribed under this title for
9 the performance of an action in the Copyright Office, and in which
10 the last day of the prescribed period falls on a Saturday, Sunday, holi-
11 day or other non-business day within the District of Columbia or the
12 Federal Government, the action may be taken on the next succeeding
13 business day, and is effective as of the date when the period expired.

14 **§ 704. Retention and disposition of articles deposited in Copy-
15 right Office**

16 (a) Upon their deposit in the Copyright Office under sections 406
17 and 407, all copies, phonorecords, and identifying material, including
18 those deposited in connection with claims that have been refused regis-
19 tration, are the property of the United States Government.

20 (b) In the case of published works, all copies, phonorecords, and
21 identifying material deposited are available to the Library of Congress
22 for its collections, or for exchange or transfer to any other library. In
23 the case of unpublished works, the Library is entitled to select any de-
24 posits for its collections.

25 (c) Deposits not selected by the Library under subsection (b), or
26 identifying portions or reproductions of them, shall be retained under
27 the control of the Copyright Office, including retention in Government
28 storage facilities, for the longest period considered practicable and de-
29 sirable by the Register of Copyrights and the Librarian of Congress.
30 After that period it is within the joint discretion of the Register and
31 the Librarian to order their destruction or other disposition; but, in
32 the case of unpublished works, no deposit shall be destroyed or other-
33 wise disposed of during its term of copyright.

34 (d) The depositor of copies, phonorecords, or identifying material
35 under section 407, or the copyright owner of record, may request reten-
36 tion, under the control of the Copyright Office, of one or more of such
37 articles for the full term of copyright in the work. The Register of
38 Copyrights shall prescribe, by regulation, the conditions under which
39 such requests are to be made and granted, and shall fix the fee to be
40 charged under section 708(11) if the request is granted.

1 **§ 705. Copyright Office records: Preparation, maintenance, public**
2 **inspection, and searching**

3 (a) The Register of Copyrights shall provide and keep in the Copy-
4 right Office records of all deposits, registrations, recordations, and
5 other actions taken under this title, and shall prepare indexes of all
6 such records.

7 (b) Such records and indexes, as well as the articles deposited in
8 connection with completed copyright registrations and retained un-
9 der the control of the Copyright Office, shall be open to public in-
10 spection.

11 (c) Upon request and payment of the fee specified by section 708,
12 the Copyright Office shall make a search of its public records, indexes,
13 and deposits, and shall furnish a report of the information they dis-
14 close with respect to any particular deposits, registrations, or recorded
15 documents.

16 **§ 706. Copies of Copyright Office records**

17 (a) Copies may be made of any public records or indexes of the
18 Copyright Office; additional certificates of copyright registration and
19 copies of any public records or indexes may be furnished upon request
20 and payment of the fees specified by section 708.

21 (b) Copies or reproductions of deposited articles retained under
22 the control of the Copyright Office shall be authorized or furnished
23 only under the conditions specified by the Copyright Office regula-
24 tions.

25 **§ 707. Copyright Office forms and publications**

26 (a) CATALOG OF COPYRIGHT ENTRIES.—The Register of Copyrights
27 shall compile and publish at periodic intervals catalogs of all copy-
28 right registrations. These catalogs shall be divided into parts in
29 accordance with the various classes of works, and the Register has
30 discretion to determine on the basis of practicability and usefulness,
31 the form and frequency of publication of each particular part.

32 (b) OTHER PUBLICATIONS.—The Register shall furnish, free of
33 charge upon request, application forms for copyright registration and
34 general informational material in connection with the functions of the
35 Copyright Office. He also has authority to publish compilations of
36 information, bibliographies, and other material he considers to be
37 of value to the public.

38 (c) DISTRIBUTION OF PUBLICATIONS.—All publications of the Copy-
39 right Office shall be furnished to depository libraries as specified under

1 section 1905 of title 44, United States Code, and, aside from those fur-
2 nished free of charge shall be offered for sale to the public at prices
3 based on the cost of production and distribution.

4 **§ 708. Copyright Office fees**

5 (a) The following fees shall be paid to the Register of Copyrights:

6 (1) for the registration of a copyright claim or a supplementary
7 registration under section 407, including the issuance of a certifi-
8 cate of registration, \$6;

9 (2) for the registration of a claim to renewal of a subsisting
10 copyright in its first term under section 304(a), including the
11 issuance of a certificate of registration, \$4;

12 (3) for the issuance of a receipt for a deposit under section
13 406, \$2;

14 (4) for the recordation, as provided by section 205, of a transfer
15 of copyright ownership or other document of six pages or less,
16 covering no more than one title, \$5; for each page over six and
17 for each title over one, 50 cents additional;

18 (5) for the filing, under section 115(b), of a notice of intention
19 to make phonorecords, \$3;

20 (6) for the recordation, under section 302(c), of a statement
21 revealing the identity of an author of an anonymous or pseu-
22 donymous work, or for the recordation, under section 302(d), of a
23 statement relating to the death of an author, \$5 for a document of
24 six pages or less, covering no more than one title; for each page
25 over six and for each title over one, 50 cents additional;

26 (7) for the issuance, under section 601, of an import state-
27 ment, \$3;

28 (8) for the issuance, under section 706, of an additional certifi-
29 cate of registration, \$2;

30 (9) for the issuance of any other certification, \$3; the Register
31 of Copyrights has discretion, on the basis of their cost, to fix the
32 fees for preparing copies of Copyright Office records, whether
33 they are to be certified or not;

34 (10) for the making and reporting of a search as provided by
35 section 705, and for any related services, \$5 for each hour or frac-
36 tion of an hour consumed;

37 (11) for any other special services requiring a substantial
38 amount of time or expense, such fees as the Register of Copyrights
39 may fix on the basis of the cost of providing the service.

40 (b) The fees prescribed by or under this section are applicable to

1 the United States Government and any of its agencies, employees, or
 2 officers, but the Register of Copyrights has discretion to waive the
 3 requirement of this subsection in occasional or isolated cases involving
 4 relatively small amounts.

5 TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

6 Sec. 102. This title becomes effective on January 1, 1971, except
 7 as otherwise provided by section 304(b) of title 17 is amended by
 8 this title.

9 Sec. 103. This title does not provide copyright protection for any
 10 work that goes into the public domain before January 1, 1971. The
 11 exclusive rights, as provided by section 106 of title 17 as amended
 12 by this title, to reproduce a work in phonorecords and to distribute
 13 phonorecords of the work, do not extend to any nondramatic musical
 14 work copyrighted before July 1, 1909.

15 Sec. 104. All proclamations issued by the President under sections
 16 1(e) or 9(b) of title 17 as it existed on December 31, 1970, or under
 17 previous copyright statutes of the United States shall continue in
 18 force until terminated, suspended, or revised by the President.

19 Sec. 105. (a) (1) Section 505 of title 44, United States Code, is
 20 amended to read as follows:

21 **“§ 505. Sale of duplicate plates**

22 “The Public Printer shall sell, under regulations of the Joint
 23 Committee on Printing to persons who may apply, additional or
 24 duplicate stereotype or electrotpe plates from which a Government
 25 publication is printed, at a price not to exceed the cost of composition,
 26 the metal, and making to the Government, plus 10 per centum, and
 27 the full amount of the price shall be paid when the order is filed.”

28 (2) The item relating to section 505 in the sectional analysis at the
 29 beginning of chapter 5, United States Code, is amended to read as
 30 follows:

“505. Sale of duplicate plates.”

31 (b) Section 2113 of title 44, United States Code, is amended to read
 32 as follows:

33 **“§ 2113. Limitation on liability**

34 “When letters and other intellectual productions (exclusive of
 35 patented material, published works under copyright protection, and
 36 unpublished works for which copyright registration has been made)
 37 come into the custody or possession of the Administrator of General
 38 Services, the United States or its agents are not liable for infringe-

1 ment of copyright or analogous rights arising out of use of the mate-
2 rials for display, inspection, research, reproduction, or other purposes."

3 (c) In section 1498(b) of title 28 of the United States Code, the
4 phrase "section 101(b) of title 17" is amended to read "section 504(c)
5 of title 17".

6 (d) Section 543(a)(4) of the Internal Revenue Code of 1954, as
7 amended, is amended by striking out "(other than by reason of section
8 2 or 6 thereof)".

9 (e) Section 4152(a) of title 39 of the United States Code is
10 amended by striking out clause (5).

11 SEC. 106. In any case where, before January 1, 1971, a person has
12 lawfully made parts of instruments serving to reproduce mechanically
13 a copyrighted work under the compulsory license provisions of section
14 1(e) of title 17 as it existed on December 31, 1970, he may continue to
15 make and distribute such parts embodying the same mechanical repro-
16 duction without obtaining a new compulsory license under the terms of
17 section 115 of title 17 as amended by this act. However, such parts made
18 on or after January 1, 1971, constitute phonorecords and are otherwise
19 subject to the provisions of said section 115.

20 SEC. 107. In the case of any work in which an ad interim copyright
21 is subsisting or is capable of being secured on December 31, 1970, under
22 section 22 of title 17 as it existed on that date, copyright protection is
23 hereby extended to endure for the term or terms provided by section
24 304 of title 17 as amended by this title.

25 SEC. 108. The notice provisions of sections 401 and 402 of title 17 as
26 amended by this title apply to all copies or phonorecords publicly
27 distributed on or after January 1, 1971. However, in the case of a work
28 published before January 1, 1971, compliance with the notice provisions
29 of title 17 either as it existed on December 31, 1970, or as amended by
30 this title, is adequate with respect to copies publicly distributed after
31 December 31, 1970.

32 SEC. 109. The registration of claims to copyright for which the re-
33 quired deposit, application, and fee were received in the Copyright
34 Office before January 1, 1971, and the recordation of assignments of
35 copyright or other instruments received in the Copyright Office before
36 January 1, 1971, shall be made in accordance with title 17 as it existed
37 on December 31, 1970.

38 SEC. 110. The demand and penalty provisions of section 14 of title
39 17 as it existed on December 31, 1970, apply to any work in which copy-
40 right has been secured by publication with notice of copyright on or
41 before that date, but any deposit and registration made after that date

1 in response to a demand under that section shall be made in accordance
2 with the provisions of title 17 as amended by this title.

3 SEC. 111. All causes of action that arose under title 17 before Janu-
4 ary 1, 1971, shall be governed by title 17 as it existed when the cause of
5 action arose.

6 SEC. 112. If any provision of title 17, as amended by this title, is
7 declared unconstitutional, the validity of the remainder of the title
8 is not affected.

9 TITLE II—NATIONAL COMMISSION ON NEW TECHNO- 10 LOGICAL USES OF COPYRIGHTED WORKS

11 ESTABLISHMENT AND PURPOSE OF COMMISSION

12 SEC. 201. (a) There is hereby created in the Library of Congress a
13 National Commission on New Technological Uses of Copyrighted
14 Works (hereafter called the Commission).

15 (b) The purpose of the Commission is to study and compile data on
16 the reproduction and use of copyrighted works of authorship (1) in
17 automatic systems capable of storing, processing, retrieving, and
18 transferring information, and (2) by various forms of machine
19 reproduction. The Commission shall make recommendations as to
20 such changes in copyright law or procedures that may be necessary to
21 assure for such purposes access to copyrighted works, and to provide
22 recognition of the rights of copyright owners.

23 MEMBERSHIP OF THE COMMISSION

24 SEC. 202. (a) The Commission shall be composed of twenty-three
25 members, appointed as follows:

26 (1) A Chairman, who shall be the Librarian of Congress;

27 (2) Two members of the Senate, to be appointed by the Presi-
28 dent of the Senate;

29 (3) Two members of the House of Representatives, to be ap-
30 pointed by the Speaker of the House of Representatives;

31 (4) Seven members, to be appointed by the President, with the
32 advice and consent of the Senate, selected from authors and other
33 copyright owners;

34 (5) Seven members, to be appointed by the President, with the
35 advice and consent of the Senate, selected from users of copy-
36 righted works;

37 (6) Four nongovernmental members to be appointed by the
38 President, with the advice and consent of the Senate, selected
39 from the public generally.

40 (b) The members of the Commission shall appoint by the vote of a

1 plurality of the total membership, a Vice Chairman who shall act as
2 Chairman in the absence or disability of the Chairman, or in the event
3 of a vacancy in that office. The Register of Copyrights shall serve as
4 an ex officio member of the Commission.

5 (c) Twelve members of the Commission shall constitute a quorum.

6 (d) Any vacancy in the Commission shall not affect its powers and
7 shall be filled in the same manner as the original appointment was
8 made.

9 COMPENSATION OF MEMBERS OF COMMISSION

10 SEC. 203. (a) Members of the Commission, other than officers or
11 employees of the Federal Government, shall receive compensation at
12 the rate of \$100 per day while engaged in the actual performance of
13 Commission duties, plus reimbursement for travel, subsistence, and
14 other necessary expenses in connection with such duties.

15 (b) Any members of the Commission who are officers or employees
16 of the Federal Government shall serve on the Commission without
17 compensation, but such members shall be reimbursed for travel, sub-
18 sistence, and other necessary expenses in connection with the perform-
19 ance of their duties.

20 STAFF

21 SEC. 204. (a) To assist in its studies, the Commission may appoint
22 a staff which shall be an administrative part of the Library of Con-
23 gress. The staff shall be headed by an Executive Director, who shall
24 be responsible to the Commission for the Administration of the duties
25 entrusted to the staff.

26 (b) The Commission may procure temporary and intermittent
27 services to the same extent as it is authorized by section 3109 of title
28 5, United States Code, but at rates not to exceed \$100 per day.

29 EXPENSES OF THE COMMISSION

30 SEC. 205. There are hereby authorized to be appropriated such sums
31 as may be necessary to carry out the provisions of this title.

32 REPORTS

33 SEC. 206. (a) Within one year after the first meeting of the Com-
34 mission it shall submit to the President and the Congress a preliminary
35 report on its activities.

36 (b) Within three years after the effective date of this Act the Com-
37 mission shall submit to the President and the Congress a final report
38 on its study and investigation which shall include its recommenda-
39 tions and such proposals for legislation and administrative action as
40 may be necessary to carry out its recommendations.

1 (c) In addition to the preliminary report and final report required
2 by this section, the Commission may publish such interim reports as
3 it may determine, including but not limited to consultant's reports,
4 transcripts of testimony, seminar reports, and other Commission
5 findings.

6 POWERS OF THE COMMISSION

7 SEC. 207. (a) The Commission or, with the authorization of the
8 Commission, any three or more of its members, may, for the purpose of
9 carrying out the provisions of this title, hold hearings, administer
10 oaths, and require, by subpoena or otherwise, the attendance and testi-
11 mony of witnesses and the production of documentary material.

12 (b) With the consent of the Commission, any of its members may
13 hold any meetings, seminars, or conferences considered appropriate
14 to provide a forum for discussion of the problems with which it is
15 dealing.

16 TERMINATION

17 SEC. 208. On the sixtieth day after the date of the submission of its
18 final report, the Commission shall terminate and all officers and
19 employment under it shall expire.

91ST CONGRESS
1ST SESSION

S. 543

A BILL

For the general revision of the copyright law,
title 17 of the United States Code, and for
other purposes.

By Mr. McCLELLAN

JANUARY 22 (legislative day, JANUARY 10), 1969

Read twice and referred to the Committee on the
Judiciary