

Announcement

from the Copyright Office, Library of Congress, Washington, D.C. 20559

COPYRIGHT REVISION BILL INTRODUCED IN 94th CONGRESS

On January 15, 1975, the bill for the general revision of the United States Copyright Law, S.22, was introduced by Senator John L. McClellan, chairman of the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Judiciary Committee.

Except for technical and perfecting amendments, and changes required by the enactment of Public Law 93-573, the interim copyright bill, the text of S.22 is identical with the measure passed by the Senate in the 93d Congress by a vote of 70 to 1 on September 9, 1974.

Set forth below is the statement made by Senator McClellan on introducing the present bill.

FROM Congressional Record, vol. 121, no. 2

(Jan. 15, 1975), p. S104.

By Mr. McCLELLAN:

S. 22. A bill for the general revision of the Copyright Law, title 17 of the United States Code, and for other purposes. Referred to the Committee on the Judiciary.

COPYRIGHT LAW REVISION

Mr. McCLELLAN, Mr. President, as chairman of the Subcommittee on Patents, Trademarks and Copyrights, I introduce, for appropriate reference, a bill for the general revision of the copyright law, title 17 of the United States Code, and for other purposes. Title I of this legislation provides for the general revision of the copyright law. Title II provides for the protection of ornamental designs of useful articles.

Other than for necessary technical and perfecting amendments, and changes required by the enactment of Public Law 93-573, the interim copyright bill, the text of this bill is identical to that passed by the Senate on September 9, 1974. No new issues have arisen since that action and, therefore, it is anticipated that the Subcommittee on Patents, Trademarks and Copyrights will report a copyright revision bill at an early date in this session. I am hopeful that the 94th Congress will finally produce a modern U.S. copyright statute.

On January 28, 1975, Representative Robert W. Kastenmeier introduced H. R. 2223, which is identical with its Senate counterpart S.22.

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Listed below are some of the most important highlights of the revision bill.

Single National System. Instead of the present dual system of protecting works under the common law before they are published and under the Federal statute after publication, the bill would establish a single system of statutory protection for virtually all copyrightable works whether published or unpublished.

Duration of Term. The present term of statutory copyright is 28 years from first publication or registration, renewable by certain persons for a second period of protection. This bill provides for a term of the author's life plus 50 years after his death, in order to bring it into line with the copyright term in most other developed countries. For corporate and anonymous works, the term would be 75 years from publication, with a maximum limit of 100 years from the creation of the work. The life-plus-50 or the 100-year term would apply to unpublished works which are now protected without time limit under the common law. For works already under statutory copyright protection on the effective date of the new law, the requirement of renewal in the last (the 28th) year of the original term is retained; and the renewed copyrights would be extended to provide a total renewal term of 47 years, so that the total duration of protection for such works would be 75 years.

Limitation on Author's Assignments. Under the present law, after the first term of 28 years the renewal copyright reverts in certain situations to the author or other specified beneficiaries. The bill drops this feature but permits the author or his heirs to terminate the original transfer of his rights after 35 years by serving written notice on the transferee. Under the bill, transferees who have made derivative works during the 35 years could continue to use them.

Government Publications. The bill continues the prohibition in the present law against copyright in "publications of the United States Government" but clarifies its scope by defining works covered by the prohibition as those prepared by an officer or employee of the U.S. Government as part of his official duties.

Fair Use. The bill adds a provision to the statute specifically recognizing the principle of "fair use" as a limitation on the exclusive rights of copyright owners, and indicates factors to be considered in determining whether a particular use falls within this category.

Reproduction by Libraries and Archives. In addition to the provision for fair use, the bill specifies that certain reproductions of works by libraries and archives are not to be copyright infringements.

Copyright Royalty Tribunal. The bill would create in the Library of Congress a Copyright Royalty Tribunal whose purpose will be to determine whether certain copyright royalty rates, in those categories where such rates are established in the bill, are reasonable and, if not, to adjust them; it will also in certain circumstances determine the distribution of those royalty fees deposited with the Register of Copyrights.

Sound Recordings. The bill would retain the provisions recently added to the present copyright law, which accord protection limited to the prohibition against unauthorized duplication of sound recordings.

Recordings Rights in Music. The bill would modify the present compulsory license for the recording of music, including an increase in the statutory royalty ceiling.

Exempt Performances. The bill removes the present exemption of public performance of nondramatic literary and musical works where the performance is not "for profit." Instead, the bill provides specific exemptions for certain types of nonprofit uses, including performances in classrooms and "in-school" educational broadcasting. The bill would also give broadcasting organizations a limited privilege of making "ephemeral recordings" of their broadcasts.

Jukebox Exemption. The bill would remove the present exemption for performances by jukeboxes. It would substitute a system of compulsory licenses based upon the payment by jukebox operators of an annual royalty fee to the Register of Copyrights, who is to distribute the amounts received to the copyright owners.

Cable Antenna Television. The bill would provide for the payment, under a system of compulsory licensing, of certain royalties for the secondary transmission of copyright works on cable antenna television. The amounts are to be paid to the Register of Copyrights, who will make distribution to the copyright owners.

Notice of Copyright. The statute now requires, as a condition of copyright protection, that the published copies of a work bear a copyright notice. The bill calls for a notice on published copies, but omission or errors would not result in forfeiture of the copyright. Innocent infringers misled by the omission or error would be shielded from liability.

Deposit and Registration. As under the present law, registration would not be a condition of copyright protection but would be a prerequisite to an infringement suit. Subject to certain exceptions, the extraordinary remedies of statutory damages and attorney's fees would not be available for infringements occurring before registration. Works published with the notice of copyright that are not registered are required to be deposited, not as a condition of copyright protection, but under provisions of the bill making the copyright owner subject to certain penalties for failure to deposit after a demand by the Register of Copyrights.

Manufacturing Clause. Certain works must now be manufactured in the United States to have copyright protection here. The bill makes several modifications that would narrow the coverage of this clause, would permit the importation of 2,000 copies manufactured abroad instead of the present limit of 1,500 copies, and would equate manufacture in Canada with manufacture in the United States.

Ornamental Designs of Useful Articles. The bill also contains, as a separate title, provisions for the protection of ornamental designs of useful articles. This measure, which as a separate bill had in previous Congresses been passed by the Senate and introduced in the House, would provide a new form of protection for five or, if renewed, ten years to designs that may not be appropriately or adequately protected under the copyright or design patent statutes.