

Cong. Rec. S6594, 8/2/10

**COPYRIGHT CLEANUP, CLARIFICATION, AND CORRECTIONS ACT OF 2010 -- (Senate - August 02, 2010)**

Mr. DODD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 3689, introduced earlier today by Senators *Leahy* and *Sessions*.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3689) to clarify, improve, and correct the laws relating to copyrights.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, today, the Senate considers bipartisan legislation to make a number of improvements in the way the Copyright Office functions. This bill will also clarify certain areas of copyright law to provide certainty, and make technical corrections to the Code. The Copyright Office has done a terrific job, as it always does, assisting Congress in finding inefficiencies in the law and recommending appropriate changes. I appreciate the Senate acting swiftly to pass this bill.

This bill is another bipartisan effort to improve the copyright laws. Similar to the Trademark Technical and Conforming Amendments Act, today's legislation makes commonsense improvements to the copyright system that will make it more efficient. Congress should work in a bipartisan fashion to find inefficiencies and correct them. We are doing that today.

The provisions of the bill fall into three categories: those designed to make the Office's operations more efficient; those designed to clarify issues of copyright law made unclear either by recent court decisions or by ambiguities in the statute; and those that are technical.

In the first category, the Copyright Office has requested two statutory changes that will facilitate their transition to digital files and record keeping. These changes will also make it easier for filers to submit documents electronically.

In the second category, the bill clarifies, for instance, that the exclusive licensee of a work may further license the work in the absence of an agreement to the contrary. There are inefficiencies that arise from a lack of clarity in the statute, particularly as circuit splits arise. The bill makes other clarifications, such as that the distribution of a phonorecord prior to 1978 shall not constitute a publication of a dramatic and literary work included in

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it. Congress made this clarification with respect to musical works in 1997, and we do so with respect to other works today.

In the third category, the bill includes numerous technical corrections. Finally, this legislation fulfills a commitment I made to the chairman and ranking member of the House of Representatives Committee on the Judiciary just before the House passed the Trademark Technical and Conforming Amendments Act. The chairman and ranking member suggested that we strike the words "by corporations" from section 4 of that law. I agreed, and offered to include such an amendment in subsequent legislation. That change is included in this bill.

I am pleased to be joined by the Judiciary Committee ranking member, Senator *Sessions*, in sponsoring this legislation. This is a bipartisan effort. Just as we acted quickly to pass the Trademark Technical and Confirming Amendments Act earlier this year, I hope Congress will come together to promptly send this legislation to the President to be signed into law.

Mr. DODD. Mr. President, I ask unanimous consent that the bill be read three times and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements be printed in the *Record*.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3689) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

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

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the "Copyright Cleanup, Clarification, and Corrections Act of 2010".

#### **SEC. 2. COPYRIGHT OFFICE PROCEDURES.**

Title 17, United States Code, is amended--

(1) in section 512(c)(2), in the matter following subparagraph (B), by striking "in both electronic and hard copy formats"; and

(2) in section 205(a), by adding at the end the following: "A sworn or official certification may be submitted to the Copyright Office electronically, pursuant to regulations established by the Register of Copyrights."

#### **SEC. 3. REPEAL OF EXPIRED PROVISIONS.**

(a) *Technical Amendments Related to Chapter 6.*--

(1) The heading for chapter 6 of title 17, United States Code, is amended to read as follows:

"Chapter 6--Importation and Exportation."

(2) The item relating to chapter 6 in the table of chapters for title 17, United States Code, is amended to read as follows:

"6. Importation and Exportation

601."

(b) *Repeal.*--Section 601 of title 17, United States Code, is hereby repealed and reserved.

(c) *Conforming Amendments.*--

(1) Section 409 of title 17, United States Code, is amended--

(A) in paragraph (9), by insert "and" after the semicolon;

(B) by striking paragraph (10); and

(C) by redesignating paragraph (11) as paragraph (10).

(2) The first sentence of section 602(b) of title 17, United States Code, is amended by striking "unless the provisions of section 601 are applicable"

#### **SEC. 4. CLARIFICATIONS.**

(a) *Transfer of Ownership.*--The second sentence of section 201(d)(2), of title 17, United States Code, is amended by adding before the period the following: "including the right to transfer or license the exclusive right to another person in the absence of a written agreement to the contrary".

(b) *Certain Distributions of Phonorecords.*--Section 303(b) of title 17, United States Code, is amended by striking "the musical work" and inserting "any musical work, dramatic work, or literary work".

(c) *Proceedings of Copyright Royalty Judges.*--Section 803(b)(6)(A) of title 17, United States Code, is amended by striking the second sentence and inserting: "All regulations issued by the Copyright Royalty Judges are subject to the approval of the Librarian of Congress and are subject to judicial review pursuant to Chapter 7 of title 5, United States Code, except as set forth in subsection (d)."

(d) *Licenses for Certain Nonexempt Transmissions*.--Section 114(f)(2)(C) of title 17, United States Code, is amended by striking "preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services" and inserting "eligible nonsubscription services and new subscription services".

#### **SEC. 5. TECHNICAL CORRECTIONS.**

(a) Title 17, United States Code, is amended--

(1) in section 101--

(A) by moving the definition of "Copyright Royalty Judges" to follow the definition of "Copyright owner";

(B) by moving the definition of "motion picture exhibition facility" to follow the definition of "Literary works"; and

(C) by moving the definition of "food service or drinking establishment" to follow the definition of "fixed";

(2) in section 114(f)(2)(B), in the fourth sentence in the matter preceding clause (i), by striking "Judges shall base its decision" and inserting "Judges shall base their decision";

(3) in section 119(g)(4)(B)(vi), by striking "the examinations" and inserting "an examination";

(4) in section 503(a)(1)(B), by striking "copies of phonorecords" and inserting "copies or phonorecords"; and

(5) in section 704(e), in the second sentence, by striking "section 708(a)(10)" and inserting "section 708(a)".

(b) Section 209(a)(3)(A) of Public Law 110-403, is amended by striking "by striking `and 509' " and inserting "by striking `and section 509' ".

(c) Section 4(a)(1) of Public Law 111-146 is amended by striking "by corporations attempting" and inserting "the purpose of which is".

(d) Section 2318(e)(6) of title 18, United States Code, is amended by striking "under section" and inserting "under this section".

#### **SEC. 6. BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go-Act of 2010, shall be determined by reference to the latest statement titled "Budgetary Effects of PAYGO Legislation" for this Act, submitted for printing in the Congressional Record by the Chairman of the Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage .