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Citation: 2 William H. Manz Federal Copyright Law The
Histories of the Major Enactments of the 105th
1 1999

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105TH CONGRESS
1ST SESSION

S. 505

To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 1997

Mr. HATCH (for himself, Mr. LEAHY, Mr. D'AMATO, Mr. THOMPSON, Mr. ABRAHAM, and Mrs. FEINSTEIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Copyright Term Ex-
5 tension Act of 1997".

6 **SEC. 2. DURATION OF COPYRIGHT PROVISIONS.**

7 (a) **PREEMPTION WITH RESPECT TO OTHER**
8 **LAWS.**—Section 301(c) of title 17, United States Code,

1 is amended by striking “February 15, 2047” each place
2 it appears and inserting “February 15, 2067”.

3 (b) DURATION OF COPYRIGHT: WORKS CREATED ON
4 OR AFTER JANUARY 1, 1978.—Section 302 of title 17,
5 United States Code, is amended—

6 (1) in subsection (a) by striking “fifty” and in-
7 serting “70”;

8 (2) in subsection (b) by striking “fifty” and in-
9 serting “70”;

10 (3) in subsection (c) in the first sentence—

11 (A) by striking “seventy-five” and insert-
12 ing “95”; and

13 (B) by striking “one hundred” and insert-
14 ing “120”; and

15 (4) in subsection (e) in the first sentence—

16 (A) by striking “seventy-five” and insert-
17 ing “95”;

18 (B) by striking “one hundred” and insert-
19 ing “120”; and

20 (C) by striking “fifty” each place it ap-
21 pears and inserting “70”.

22 (e) DURATION OF COPYRIGHT: WORKS CREATED
23 BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANU-
24 ARY 1, 1978.—Section 303 of title 17, United States

1 Code, is amended in the second sentence by striking “De-
2 cember 31, 2027” and inserting “December 31, 2047”.

3 (d) DURATION OF COPYRIGHT: SUBSISTING COPY-
4 RIGHTS.—

5 (1) IN GENERAL.—Section 304 of title 17,
6 United States Code, is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (1)—

9 (I) in subparagraph (B) by strik-
10 ing “47” and inserting “67”; and

11 (II) in subparagraph (C) by
12 striking “47” and inserting “67”;

13 (ii) in paragraph (2)—

14 (I) in subparagraph (A) by strik-
15 ing “47” and inserting “67”; and

16 (II) in subparagraph (B) by
17 striking “47” and inserting “67”; and

18 (iii) in paragraph (3)—

19 (I) in subparagraph (A)(i) by
20 striking “47” and inserting “67”; and

21 (II) in subparagraph (B) by
22 striking “47” and inserting “67”;

23 (B) by amending subsection (b) to read as
24 follows:

1 “(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE
2 TIME OF THE EFFECTIVE DATE OF THE COPYRIGHT
3 TERM EXTENSION ACT OF 1997.—Any copyright still in
4 its renewal term at the time that the Copyright Term Ex-
5 tension Act of 1997 becomes effective shall have a copy-
6 right term of 95 years from the date copyright was origi-
7 nally secured.”;

8 (C) in subsection (c)(4)(A) in the first sen-
9 tence by inserting “or, in the case of a termi-
10 nation under subsection (d), within the five-year
11 period specified by subsection (d)(2),” after
12 “specified by clause (3) of this subsection,”;
13 and

14 (D) by adding at the end the following new
15 subsection:

16 “(d) TERMINATION RIGHTS PROVIDED IN SUB-
17 SECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE
18 EFFECTIVE DATE OF THE COPYRIGHT TERM EXTENSION
19 ACT OF 1997.—In the case of any copyright other than
20 a work made for hire, subsisting in its renewal term on
21 the effective date of the Copyright Term Extension Act
22 of 1997 for which the termination right provided in sub-
23 section (c) has expired by such date, where the author or
24 owner of the termination right has not previously exercised
25 such termination right, the exclusive or nonexclusive grant

1 of a transfer or license of the renewal copyright or any
 2 right under it, executed before January 1, 1978, by any
 3 of the persons designated in subsection (a)(1)(C) of this
 4 section, other than by will, is subject to termination under
 5 the following conditions:

6 “(1) The conditions specified in subsection (c)
 7 (1), (2), (4), (5), and (6) of this section apply to ter-
 8 minations of the last 20 years of copyright term as
 9 provided by the amendments made by the Copyright
 10 Term Extension Act of 1997.

11 “(2) Termination of the grant may be effected
 12 at any time during a period of 5 years beginning at
 13 the end of 75 years from the date copyright was
 14 originally secured.”.

15 (2) COPYRIGHT RENEWAL ACT OF 1992.—Sec-
 16 tion 102 of the Copyright Renewal Act of 1992
 17 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304
 18 note) is amended—

19 (A) in subsection (c)—

20 (i) by striking “47” and inserting
 21 “67”;

22 (ii) by striking “(as amended by sub-
 23 section (a) of this section)”; and

24 (iii) by striking “effective date of this
 25 section” each place it appears and insert-

1 ing “effective date of the Copyright Term
2 Extension Act of 1997”; and

3 (B) in subsection (g)(2) in the second sen-
4 tence by inserting before the period the follow-
5 ing: “, except each reference to forty-seven
6 years in such provisions shall be deemed to be
7 67 years”.

8 **SEC. 3. REPRODUCTION BY LIBRARIES AND ARCHIVES.**

9 Section 108 of title 17, United States Code, is
10 amended—

11 (1) by redesignating subsection (h) as sub-
12 section (i); and

13 (2) by inserting after subsection (g) the follow-
14 ing:

15 “(h)(1) For purposes of this section, during the last
16 20 years of any term of copyright of a published work,
17 a library or archives, including a nonprofit educational in-
18 stitution that functions as such, may reproduce, distrib-
19 ute, display, or perform in facsimile or digital form a copy
20 or phonorecord of such work, or portions thereof, for pur-
21 poses of preservation, scholarship, or research, if such li-
22 brary or archives has first determined, on the basis of a
23 reasonable investigation, that none of the conditions set
24 forth in subparagraphs (A), (B), and (C) of paragraph
25 (2) apply.

1 “(2) No reproduction, distribution, display, or per-
2 formance is authorized under this subsection if—

3 “(A) the work is subject to normal commercial
4 exploitation;

5 “(B) a copy or phonorecord of the work can be
6 obtained at a reasonable price; or

7 “(C) the copyright owner or its agent provides
8 notice pursuant to regulations promulgated by the
9 Register of Copyrights that either of the conditions
10 set forth in subparagraphs (A) and (B) applies.

11 “(3) The exemption provided in this subsection does
12 not apply to any subsequent uses by users other than such
13 library or archives.”.

14 **SEC. 4. DISTRIBUTION OF PHONORECORDS.**

15 Section 303 of title 17, United States Code, is
16 amended—

17 (1) in the first sentence by striking “Copy-
18 right” and inserting “(a) Copyright”; and

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

20 “(b) The distribution before January 1, 1978, of
21 phonorecords shall not constitute publication of the musi-
22 cal work embodied therein for purposes of the Copyright
23 Act of 1909.”.

1 **SEC. 5. EFFECTIVE DATES.**

2 (a) **IN GENERAL.**—Except as provided in subsection
3 (b), this Act and the amendments made by this Act shall
4 take effect on the date of the enactment of this Act.

5 (b) **DISTRIBUTION OF PHONORECORDS.**—The
6 amendment made by section 4 shall not be a basis to re-
7 open an action nor to commence a subsequent action for
8 copyright infringement if an action in which such claim
9 was raised was dismissed by final judgment before the
10 date of enactment of this Act. The amendment made by
11 section 4 shall not apply to any action pending on the date
12 of enactment in any court in which a party, prior to the
13 date of enactment, sought dismissal of, judgment on, or
14 declaratory relief regarding a claim of infringement by ar-
15 guing that the adverse party had no valid copyright in a
16 musical work by virtue of the distribution of phonorecords
17 embodying it.

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