

Calendar No. 1966

86TH CONGRESS  
2D SESSION

# H. R. 4059

[Report No. 1877]

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IN THE SENATE OF THE UNITED STATES

JULY 21, 1959

Read twice and referred to the Committee on the Judiciary

AUGUST 22, 1960

Reported by Mr. HART, with amendments

[Omit the part struck through and insert the part printed in italic]

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## AN ACT

To amend title 28 of the United States Code relating to actions for infringements of copyrights by the United States.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That section 1498 of title 28 of the United States Code is  
4       hereby amended by inserting the letter “(a)” at the begin-  
5       ning of the section and adding at the end thereof new sub-  
6       sections “(b)” and “(c)” reading as follows:

7       “(b) Hereafter, whenever the copyright in any work  
8       protected under the copyright laws of the United States  
9       shall be infringed by the United States, by a corporation  
10      owned or controlled by the United States, or by a contractor,  
11      subcontractor, or any person, firm, or corporation acting for

1 the Government and with the authorization or consent of  
2 the Government, the exclusive remedy of the owner of such  
3 copyright shall be by action against the United States in  
4 the Court of Claims for the recovery of his reasonable and  
5 entire compensation as damages for such infringement,  
6 including the minimum statutory damages as set forth in  
7 section 101 (b) of title 17, United States Code: *Provided,*  
8 That a Government employee shall have a right of action  
9 against the Government under this subsection except where  
10 he was in a position to order, influence, or induce use of  
11 the copyrighted work by the Government: *Provided,*  
12 *however,* That this subsection shall not confer a right of  
13 action on any copyright owner or any assignee of such  
14 owner with respect to any copyrighted work prepared by a  
15 person while in the employment or service of the United  
16 States, where the copyrighted work was prepared as a part  
17 of the official functions of the employee, or in the preparation  
18 of which Government time, material, or facilities were used:  
19 *And provided further,* That before such action against the  
20 United States has been instituted the appropriate corporation  
21 owned or controlled by the United States or the head of  
22 the appropriate department or agency of the Government,  
23 as the case may be, is authorized to enter into an agreement  
24 with the copyright owner in full settlement and compromise  
25 for the damages accruing to him by reason of such infringe-

1 ment and to settle the claim administratively out of available  
2 appropriations.

3 “Except as otherwise provided by law, no recovery  
4 shall be had for any infringement of a copyright covered  
5 by this subsection committed more than three years prior  
6 to the filing of the complaint or counterclaim for infringe-  
7 ment in the action, except that the period between the date  
8 of receipt of a written claim for compensation by the depart-  
9 ment or agency of the Government or corporation owned  
10 or controlled by the United States, as the case may be,  
11 having authority to settle such claim and the date of mailing  
12 by the Government of a notice to the claimant that his claim  
13 has been denied shall not be counted as a part of the three  
14 years, unless suit is brought before the last-mentioned date.

15 “(c) The provisions of this section shall not apply to  
16 any claim arising in a foreign country.”

17 *SEC. 2. Nothing in this Act shall be construed to in any*  
18 *way waive any immunity provided for Members of Congress*  
19 *under article I of section 6 of the Constitution of the United*  
20 *States.*

21 *SEC. 2 3. Title 10, United States Code, section 2386 (4),*  
22 *is amended by adding after “patents” the words “or copy-*  
23 *rights”.*

24 *SEC. 3 4. The catchline of section 1498 of title 28,*  
25 *United States Code, is amended to read—*

1 “§ 1498. Patent and copyright cases”.

2 The item identified as

“1498. Patent cases.”

3 in the chapter analysis of chapter 91 of title 28, United

4 States Code, is amended to read—

“1498. Patent and copyright cases.”

Passed the House of Representatives July 20, 1959.

Attest:

RALPH R. ROBERTS,

*Clerk.*

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