To amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 22, 1992

Mr. Brooks (for himself, Mr. Dingell, Mr. Fish, Mr. Lent, Mr. Hughes, Mrs. Collins of Illinois, Mr. Moorhead, and Mr. McMillan of North Carolina) introduced the following bill; which was referred jointly to the Committees on the Judiciary, Energy and Commerce, and Ways and Means

A BILL

To amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

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

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Audio Home Recording

4 Act of 1992”.

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SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION

OF DIGITAL AUDIO RECORDING DEVICES

AND MEDIA.

Title 17, United States Code, is amended by adding
at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING

DEVICES AND MEDIA

"SUBCHAPTER A—DEFINITIONS

"Sec.
"1001. Definitions.

"SUBCHAPTER B—COPYING CONTROLS

"1002. Incorporation of copying controls.

"SUBCHAPTER C—ROYALTY PAYMENTS

"1003. Obligation to make royalty payments.
"1004. Royalty payments.
"1005. Deposit of royalty payments and deduction of expenses.
"1006. Entitlement to royalty payments.
"1007. Procedures for distributing royalty payments.

"SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT

ACTIONS, REMEDIES, AND ARBITRATION

"1008. Prohibition on certain infringement actions.
"1009. Civil remedies.
"1010. Arbitration of certain disputes.

"SUBCHAPTER A—DEFINITIONS

§ 1001. Definitions

"As used in this chapter, the following terms have the following meanings:

"(1) A ‘digital audio copied recording’ is a reproduction in a digital recording format of a digital musical recording, whether that reproduction is
made directly from another digital musical recording
or indirectly from a transmission.

"(2) A 'digital audio interface device' is any
machine or device that is designed specifically to
communicate digital audio information and related
interface data to a digital audio recording device
through a nonprofessional interface.

"(3) A 'digital audio recording device' is any
machine or device of a type commonly distributed to
individuals for use by individuals, whether or not in-
cluded with or as part of some other machine or de-
vice, the digital recording function of which is de-
ned or marketed for the primary purpose of, and
that is capable of, making a digital audio copied re-
cording for private use, except for—

"(A) professional model products, and
"(B) dictation machines, answering ma-
chines, and other audio recording equipment
that is designed and marketed primarily for the
creation of sound recordings resulting from the
fixation of nonmusical sounds.

"(4)(A) A 'digital audio recording medium' is
any material object in a form commonly distributed
for use by individuals, that is primarily marketed or
most commonly used by consumers for the purpose
4

of making digital audio copied recordings by use of
a digital audio recording device.

“(B) Such term does not include any material
object—

“(i) that embodies a sound recording at
the time it is first distributed by the importer
or manufacturer; or

“(ii) that is primarily marketed and most
commonly used by consumers either for the
purpose of making copies of motion pictures or
other audiovisual works or for the purpose of
making copies of nonmusical literary works, in-
cluding computer programs or data bases.

“(5)(A) A ‘digital musical recording’ is a mate-
rial object—

“(i) in which are fixed, in a digital record-
ing format, only sounds, and material, state-
ments, or instructions incidental to those fixed
sounds, if any, and

“(ii) from which the sounds and material
can be perceived, reproduced, or otherwise com-
municated, either directly or with the aid of a
machine or device.

“(B) A ‘digital musical recording’ does not in-
clude a material object—
“(i) in which the fixed sounds consist entirely of spoken word recordings, or

“(ii) in which one or more computer programs are fixed, except that a digital musical recording may contain statements or instructions constituting the fixed sounds and incidental material, and statements or instructions to be used directly or indirectly in order to bring about the perception, reproduction, or communication of the fixed sounds and incidental material.

“(C) For purposes of this paragraph—

“(i) a ‘spoken word recording’ is a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by incidental musical or other sounds, and

“(ii) the term ‘incidental’ means related to and relatively minor by comparison.

“(6) ‘Distribute’ means to sell, lease, or assign a product to consumers in the United States, or to sell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

“(7) An ‘interested copyright party’ is—
“(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

“(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in a digital musical recording or analog musical recording a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

“(C) a featured recording artist who performs on a sound recording that has been distributed; or

“(D) any association or other organization—

“(i) representing persons specified in subparagraph (A), (B), or (C), or

“(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.
“(8) To ‘manufacture’ means to produce or assemble a product in the United States. A ‘manufacturer’ is a person who manufactures.

“(9) A ‘music publisher’ is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

“(10) A ‘professional model product’ is an audio recording device that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business, in accordance with such requirements as the Secretary of Commerce shall establish by regulation.

“(11) The term ‘serial copying’ means the duplication in a digital format of a copyrighted musical work or sound recording from a digital reproduction of a digital musical recording. The term ‘digital reproduction of a digital musical recording’ does not include a digital musical recording as distributed, by authority of the copyright owner, for ultimate sale to consumers.

“(12) The ‘transfer price’ of a digital audio recording device or a digital audio recording medium—

“(A) is, subject to subparagraph (B)—
"(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer’s transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale); and

"(B) shall, in a case in which the transferor and transferee are related entities or within a single entity, not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section.

"(13) A ‘writer’ is the composer or lyricist of a particular musical work.

"SUBCHAPTER B—COPYING CONTROLS

§ 1002. Incorporation of copying controls

“(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—No person shall import, manufacture, or distribute any digital audio recording device or digital audio interface device that does not conform to—
“(1) the Serial Copy Management System;

“(2) a system that has the same functional characteristics as the Serial Copy Management System and requires that copyright and generation status information be accurately sent, received, and acted upon between devices using the system’s method of serial copying regulation and devices using the Serial Copy Management System; or

“(3) any other system certified by the Secretary of Commerce as prohibiting unauthorized serial copying.

“(b) DEVELOPMENT OF VERIFICATION PROCEDURE.—The Secretary of Commerce shall establish a procedure to verify, upon the petition of an interested party, that a system meets the standards set forth in subsection (a)(2).

“(c) PROHIBITION ON CIRCUMVENTION OF THE SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, a system described in subsection (a).

“(d) ENCODING OF INFORMATION ON DIGITAL MUSICAL RECORDINGS.—
“(1) **PROHIBITION ON ENCODING INACCURATE INFORMATION.**—No person shall encode a digital musical recording of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material for the recording.

“(2) **ENCODING OF COPYRIGHT STATUS NOT REQUIRED.**—Nothing in this chapter requires any person engaged in the importation or manufacture of digital musical recordings to encode any such digital musical recording with respect to its copyright status.

“(e) **INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.**—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this chapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. Any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

“**SUBCHAPTER C—ROYALTY PAYMENTS**

“§ 1003. Obligation to make royalty payments

“(a) **PROHIBITION ON IMPORTATION AND MANUFACTURE.**—No person shall import into and distribute, or
manufacture and distribute, any digital audio recording
device or digital audio recording medium unless such per-
son records the notice specified by this section and subse-
quently deposits the statements of account and applicable
royalty payments for such device or medium specified in
section 1004.

"(b) FILING OF NOTICE.—The importer or manufac-
turer of any digital audio recording device or digital audio
recording medium, within a product category or utilizing
a technology with respect to which such manufacturer or
importer has not previously filed a notice under this sub-
section, shall file with the Register of Copyrights a notice
with respect to such device or medium, in such form and
content as the Register shall prescribe by regulation.

"(c) FILING OF QUARTERLY AND ANNUAL STATE-
MENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufac-
turer that distributes any digital audio recording de-
vice or digital audio recording medium that it manu-
factured or imported shall file with the Register of
Copyrights, in such form and content as the Reg-
ister shall prescribe by regulation, such quarterly
and annual statements of account with respect to
such distribution as the Register shall prescribe by
regulation.
“(2) Certification, verification, and confidentiality.—Each such statement shall be certified as accurate by an authorized officer or principal of the importer or manufacturer. The Register shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclosure, in confidence, of such statements to interested copyright parties.

“(3) Royalty payments.—Each such statement shall be accompanied by the royalty payments specified in section 1004.

§ 1004. Royalty payments

“(a) Digital Audio Recording Devices.—

“(1) Amount of payment.—The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.
"(2) Calculation for devices distributed with other devices.—With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the pre-
ceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) LIMITS ON ROYALTIES.—Notwithstanding paragraph (1) or (2), the amount of the royalty payment for each digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that in the case of a physically integrated unit containing more than 1 digital audio recording device, the royalty maximum for such unit shall be $12. During the 6th year after the effective date of this chapter, and not more than once each year thereafter, any interested copyright party may petition the Copyright Royalty Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum.

"(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1003 for each digital audio recording medium imported into and distributed in
the United States, or manufactured and distributed in the
United States, shall be 3 percent of the transfer price.
Only the first person to manufacture and distribute or im-
port and distribute such medium shall be required to pay
the royalty with respect to such medium.

§ 1005. Deposit of royalty payments and deduction of
expenses
“The Register of Copyrights shall receive all royalty
payments deposited under this chapter and, after deduct-
ing the reasonable costs incurred by the Copyright Office
under this chapter, shall deposit the balance in the Treas-
ury of the United States as offsetting receipts, in such
manner as the Secretary of the Treasury directs. All funds
held by the Secretary of the Treasury shall be invested
in interest-bearing United States securities for later dis-
tribution with interest under section 1007. The Register
may, in the Register’s discretion, 4 years after the close
of any calendar year, close out the royalty payments ac-
count for that calendar year, and may treat any funds re-
maining in such account and any subsequent deposits that
would otherwise be attributable to that calendar year as
attributable to the succeeding calendar year. The Register
shall submit to the Copyright Royalty Tribunal, on a
monthly basis, a financial statement reporting the amount
of royalties under this chapter that are available for distribution.

§ 1006. Entitlement to royalty payments

(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1005 shall, in accordance with the procedures specified in section 1007, be distributed to any interested copyright party—

(1) whose musical work or sound recording has been—

(A) embodied in a digital musical recording or an analog musical recording lawfully made under this title that has been distributed, and

(B) distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions, during the period to which such payments pertain; and

(2) who has filed a claim under section 1007.

(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into 2 funds as follows:

(1) THE SOUND RECORDINGS FUND.—66% percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2 5/8 percent of the roy-
alty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States. 1½% percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be
1 distributed to the interested copyright parties de-
2 scribed in section 1001(7)(A).

3 "(2) THE MUSICAL WORKS FUND.—
4 "(A) 33 1/3 percent of the royalty payments
5 shall be allocated to the Musical Works Fund
6 for distribution to interested copyright parties
7 described in section 1001(7)(B).

8 "(B)(i) Music publishers shall be entitled
9 to 50 percent of the royalty payments allocated
10 to the Musical Works Fund.

11 "(ii) Writers shall be entitled to the other
12 50 percent of the royalty payments allocated to
13 the Musical Works Fund.

14 "(c) ALLOCATION OF ROYALTY PAYMENTS WITHIN
15 GROUPS.—If all interested copyright parties within a
16 group specified in subsection (b) do not agree on a vol-
17 untary proposal for the distribution of the royalty pay-
18 ments within each group, the Copyright Royalty Tribunal
19 shall, pursuant to the procedures specified under section
20 1007(c), allocate royalty payments under this section
21 based on the extent to which, during the relevant period—
22 "(1) for the Sound Recordings Fund, each
23 sound recording was distributed in the form of digi-
24 tal musical recordings or analog musical recordings;
25

and
“(2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions.

§ 1007. Procedures for distributing royalty payments

“(a) FILING OF CLAIMS AND NEGOTIATIONS.—

“(1) FILING OF CLAIMS.—During the first 2 months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

“(2) NEGOTIATIONS.—Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement
under this subsection may modify the allocation of royalties specified in section 1006(b).

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within 30 days after the period established for the filing of claims under subsection (a), in each year after the year in which this section takes effect, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Tribunal determines that no such controversy exists, the Tribunal shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a), after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Tribunal shall, before au-
thorizing the distribution of such royalty payments, deduct
its reasonable administrative costs under this section.

"SUBCHAPTER D—PROHIBITION ON CERTAIN
INFRINGEMENT ACTIONS, REMEDIES, AND
ARBITRATION

"§ 1008. Prohibition on certain infringement actions

"No action may be brought under this title alleging
infringement of copyright based on the manufacture, im-
portation, or distribution of a digital audio recording de-
vice, a digital audio recording medium, an analog record-
ing device, or an analog recording medium, or based on
the noncommercial use by a consumer of such a device
or medium for making digital musical recordings or analog
musical recordings.

"§ 1009. Civil remedies

"(a) CIVIL ACTIONS.—Any interested copyright party
injured by a violation of section 1002 or 1003 may bring
a civil action in an appropriate United States district court
against any person for such violation.

"(b) OTHER CIVIL ACTIONS.—Any person injured by
a violation of this chapter may bring a civil action in an
appropriate United States district court for actual dam-
ages incurred as a result of such violation.

"(c) POWERS OF THE COURT.—In an action brought
under subsection (a), the court—
“(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

“(2) in the case of a violation of section 1002, or in the case of an injury resulting from a failure to make royalty payments required by section 1003, shall award damages under subsection (d);

“(3) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof; and

“(4) in its discretion may award a reasonable attorney's fee to the prevailing party.

“(d) AWARD OF DAMAGES.—

“(1) DAMAGES FOR SECTION 1002 OR 1003 VIOLATIONS.—

“(A) ACTUAL DAMAGES.—(i) In an action brought under subsection (a), if the court finds that a violation of section 1002 or 1003 has occurred, the court shall award to the complaining party its actual damages if the complaining party elects such damages at any time before final judgment is entered.

“(ii) In the case of section 1003, actual damages shall constitute the royalty payments that should have been paid under section 1004
and deposited under section 1005. In such a
case, the court, in its discretion, may award an
additional amount of not to exceed 50 percent
of the actual damages.

"(B) Statutory damages for section 1002 violations.—

"(i) Device.—A complaining party
may recover an award of statutory dam-
ages for each violation of section 1002 (a)
or (c) in the sum of not more than $2,500
per device involved in such violation or per
device on which a service prohibited by sec-
tion 1002(c) has been performed, as the
court considers just.

"(ii) Digital musical recording.—
A complaining party may recover an award
of statutory damages for each violation of
section 1002(d) in the sum of not more
than $25 per digital musical recording in-
volved in such violation, as the court con-
siders just.

"(iii) Transmission.—A complaining
party may recover an award of damages
for each transmission or communication
that violates section 1002(e) in the sum of
not more than $10,000, as the court con-
siders just.

"(2) REPEATED VIOLATIONS.—In any case in
which the court finds that a person has violated sec-
tion 1002 or 1003 within 3 years after a final judg-
ment against that person for another such violation
was entered, the court may increase the award of
damages to not more than double the amounts that
would otherwise be awarded under paragraph (1), as
the court considers just.

"(3) INNOCENT VIOLATIONS OF SECTION
1002.—The court in its discretion may reduce the
total award of damages against a person violating
section 1002 to a sum of not less than $250 in any
case in which the court finds that the violator was
not aware and had no reason to believe that its acts
constituted a violation of section 1002.

"(e) PAYMENT OF DAMAGES.—Any award of dam-
ages under subsection (d) shall be deposited with the Reg-
ister pursuant to section 1005 for distribution to inter-
ested copyright parties as though such funds were royalty
payments made pursuant to section 1003.

"(f) IMPOUNDING OF ARTICLES.—At any time while
an action under subsection (a) is pending, the court may
order the impounding, on such terms as it deems reason-
able, of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1002.

"(g) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—In an action brought under subsection (a), the court may, as part of a final judgment or decree finding a violation of section 1002, order the remedial modification or the destruction of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that—

"(1) does not comply with, or was involved in a violation of, section 1002, and

"(2) is in the custody or control of the violator or has been impounded under subsection (f).

§ 1010. Arbitration of certain disputes

"(a) SCOPE OF ARBITRATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to binding arbitration for the purpose of determining whether such device is subject to section 1002, or the
basis on which royalty payments for such device are to be made under section 1003.

"(b) INITIATION OF ARBITRATION PROCEEDINGS.—Parties agreeing to such arbitration shall file a petition with the Copyright Royalty Tribunal requesting the commencement of an arbitration proceeding. The petition may include the names and qualifications of potential arbitrators. Within 2 weeks after receiving such a petition, the Tribunal shall cause notice to be published in the Federal Register of the initiation of an arbitration proceeding. Such notice shall include the names and qualifications of 3 arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select, and from potential arbitrators listed in the parties' petition. The arbitrators selected under this subsection shall constitute an Arbitration Panel.

"(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to arbitration under this section shall, on application of one of the parties to the arbitration, be stayed until completion of the arbitration proceeding.

"(d) ARBITRATION PROCEEDING.—The Arbitration Panel shall conduct an arbitration proceeding with respect to the matter concerned, in accordance with such proce-
dures as it may adopt. The Panel shall act on the basis of a fully documented written record. Any party to the arbitration may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

"(e) Report to Copyright Royalty Tribunal.—Not later than 60 days after publication of the notice under subsection (b) of the initiation of an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning whether the device concerned is subject to section 1002, or the basis on which royalty payments for the device are to be made under section 1003. Such report shall be accompanied by the written record, and shall set forth the facts that the Panel found relevant to its determination.

"(f) Action by the Copyright Royalty Tribunal.—Within 60 days after receiving the report of the Arbitration Panel under subsection (e), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly erroneous. If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the
record created in the arbitration proceeding, issue an
order setting forth its decision and the reasons therefor.
The Tribunal shall cause to be published in the Federal
Register the determination of the Panel and the decision
of the Tribunal under this subsection with respect to the
determination (including any order issued under the pre-
ceding sentence).

"(g) JUDICIAL REVIEW.—Any decision of the Copy-
right Royalty Tribunal under subsection (f) with respect
to a determination of the Arbitration Panel may be ap-
pealed, by a party to the arbitration, to the United States
Court of Appeals for the District of Columbia Circuit,
within 30 days after the publication of the decision in the
Federal Register. The pendency of an appeal under this
subsection shall not stay the Tribunal's decision. The
court shall have jurisdiction to modify or vacate a decision
of the Tribunal only if it finds, on the basis of the record
before the Tribunal, that the Arbitration Panel or the Tri-
bunal acted in an arbitrary manner. If the court modifies
the decision of the Tribunal, the court shall have jurisdic-
tion to enter its own decision in accordance with its final
judgment. The court may further vacate the decision of
the Tribunal and remand the case for arbitration proceed-
ings as provided in this section."
SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking “and” at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting “; and”; and

(C) by adding the following new paragraph at the end:

“(4) to distribute royalty payments deposited with the Register of Copyrights under section 1003, to determine the distribution of such payments, and to carry out its other responsibilities under chapter 10”; and

(2) in section 804(d)—

(A) by inserting “or (4)” after “801(b)(3)”; and

(B) by striking “or 119” and inserting “119, or 1007”.

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking “As used” and inserting “Except as otherwise provided in this title, as used”.

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—
(1) in subsection (a) by inserting "or 10" after "8"; and
(2) in subsection (b) by inserting "or 10" after "8".

(d) CONFORMING AMENDMENT TO SECTION 337 OF THE TARIFF ACT OF 1930.—The second sentence of section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(3)) is amended to read as follows: "If the Commission has reason to believe that the matter before it (A) is based solely on alleged acts and effects which are within the purview of section 303, 671, or 673, or (B) relates to an alleged copyright infringement with respect to which action is prohibited by section 1008 of title 17, United States Code, the Commission shall terminate, or not institute, any investigation into the matter."

SEC. 4. EFFECTIVE DATE.
This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.