

102D CONGRESS
1ST SESSION

S. 756

To amend title 17, United States Code, the copyright renewal provisions,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, FEBRUARY 6), 1991

Mr. DECONCINI (for himself and Mr. HATCH) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, the copyright renewal
provisions, 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. COPYRIGHT RENEWAL PROVISIONS.**

4 (a) DURATION OF COPYRIGHT: SUBSISTING COPY-
5 RIGHTS.—Section 304(a) of title 17, United States Code,
6 is amended to read as follows:

7 “(a) COPYRIGHTS IN THEIR FIRST TERM ON JANU-
8 ARY 1, 1978.—(1)(A) Consistent with the provisions of
9 subparagraphs (B) and (C), any copyright, the first term

1 of which is subsisting on January 1, 1978, shall endure
2 for 28 years from the date it was originally secured.

3 “(B) In the case of any posthumous work or of any
4 periodical, cyclopedic, or other composite work upon which
5 the copyright was originally secured by the proprietor
6 thereof, or of any work copyrighted by a corporate body
7 (otherwise than as assignee or licensee of the individual
8 author) or by an employer for whom such work is made
9 for hire, the proprietor of such copyright shall be entitled
10 to a renewal and extension of the copyright in such work
11 for the further term of 47 years.

12 “(C) In the case of any other copyrighted work, in-
13 cluding a contribution by an individual author to a periodi-
14 cal or to a cyclopedic or other composite work, the author
15 of such work, if still living, or the widow, widower, or chil-
16 dren of the author, if the author be not living, or if such
17 author, widow, widower, or children be not living, then the
18 author’s executors, or in the absence of a will, his or her
19 next of kin shall be entitled to a renewal and extension
20 of the copyright in such work for a further term of 47
21 years.

22 “(2)(A) At the expiration of the original term of
23 copyright in a work specified in paragraph (1)(A) of this
24 subsection, the copyright shall endure for a renewed and

1 extended further term of 47 years which shall vest upon
2 the beginning of such further term—

3 “(i) in the proprietor of the copyright if—

4 “(I) an application to register a claim to
5 such further term shall have been made to the
6 Copyright Office and registered within 1 year
7 prior to the expiration of the original term of
8 copyright; or

9 “(II) no such application is made and reg-
10 istered; and

11 “(ii) in the person or entity that was the propri-
12 etor of the copyright on the last day of the original
13 term of copyright.

14 “(B) At the expiration of the original term of copy-
15 right in a work specified in paragraph (1)(C) of this sub-
16 section, the copyright shall endure for a renewed and ex-
17 tended further term of 47 years which shall vest, upon,
18 the beginning of such further term—

19 “(i) in any person entitled under paragraph
20 (1)(C) to the renewal and extension of the copyright,
21 if—

22 “(I) an application to register a claim to
23 such further term shall have been made to the
24 Copyright Office and registered within 1 year

1 prior to the expiration of the original term of
2 copyright; or

3 “(II) no such application is made and reg-
4 istered; and

5 “(ii) in any person entitled under paragraph
6 (1)(C), as of the last day of the original term of
7 copyright, to such further term of 47 years.

8 “(3)(A) An application to register a claim to the re-
9 newed and extended term of copyright in a work may be
10 made to the Copyright Office—

11 “(i) within 1 year prior to the expiration of the
12 original term of copyright by any person entitled
13 under paragraph (1) (B) or (C) to such further term
14 of 47 years; and

15 “(ii) at any time during the renewed and ex-
16 tended term by any person in whom such further
17 term vested, under paragraph (2) (A) or (B), or
18 their successors or assigns, so long as the applica-
19 tion is made in the name of the vested statutory
20 claimants.

21 “(B) Such an application is not a condition of the
22 renewal and extension of the copyright in a work for a
23 further term of 47 years.

24 “(4)(A) If an application to register a claim to the
25 renewed and extended term of copyright in a work is not

1 made and registered within 1 year before the expiration
2 of the original term of copyright in a work, then a deriva-
3 tive work prepared under authority of a grant made prior
4 to the expiration of the original term of copyright, may
5 continue to be utilized under the terms of the grant during
6 the renewed and extended term of copyright, but this
7 privilege does not extend to the preparation during such
8 renewed and extended term of other derivative works
9 based upon the copyrighted work covered by such grant.

10 “(B) If an application to register a claim to the re-
11 newed and extended term of copyright in a work is made
12 and registered within 1 year before its expiration, the cer-
13 tificate of such registration shall constitute prima facie
14 evidence as to the validity of the copyright during its re-
15 newed and extended term and of the facts stated in the
16 certificate. The evidentiary weight to be accorded the cer-
17 tificate of a registration of a renewed and extended term
18 of copyright made thereafter shall be within the discretion
19 of the court.”.

20 (b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS
21 UNCHANGED.—The renewal and extension of a copyright
22 for a further term of 47 years as provided under sections
23 304(a) (1) and (2) of title 17, United States Code (as
24 amended by subsection (a) of this section) shall have the
25 same effect with respect to prior grants of a transfer or

1 license of the further term as did the renewal of a copy-
2 right prior to the effective date of this Act under the law
3 then in effect.

4 (c) REGISTRATION PERMISSIVE.—Section 408(a) of
5 title 17, United States Code, is amended to read as fol-
6 lows:

7 “(a) REGISTRATION PERMISSIVE.—At any time dur-
8 ing the subsistence of the first term of copyright in any
9 published or unpublished work in which the copyright was
10 secured before January 1, 1978, and during the subsist-
11 ence of any copyright secured on or after that date, the
12 owner of copyright or of any exclusive right in the work
13 may obtain registration of the copyright claim by deliver-
14 ing to the Copyright Office the deposit specified by this
15 section, together with the application and fee specified by
16 sections 409 and 708. Such registration is not a condition
17 of copyright protection.”

18 (d) FALSE REPRESENTATION.—Section 506(e) of
19 title 17, United States Code, is amended to read as fol-
20 lows:

21 “(e) FALSE REPRESENTATION.—Any person who
22 knowingly makes a false representation of a material fact
23 in the application for copyright registration provided for
24 by section 409, or in the application for a renewal reg-
25 istration, or in any written statement filed in connection

1 with either application, shall be fined not more than
2 \$2,500.”.

3 (e) **COPYRIGHT OFFICE FEES.**—Section 708(a)(2) of
4 title 17, United States Code, is amended to read as fol-
5 lows:

6 “(2) on filing each application of registration of
7 a claim to a renewal of a subsisting copyright under
8 section 304(a), including the issuance of a certificate
9 of registration if registration is made, \$20.”.

10 (f) **EFFECTIVE DATE; COPYRIGHTS AFFECTED BY**
11 **AMENDMENT.**—(1) This section shall take effect upon the
12 date of enactment.

13 (2) The provisions of this section shall apply only to
14 those copyrights secured between January 1, 1963 and
15 December 31, 1977. Copyrights secured prior to January
16 1, 1963 shall be governed by the provisions of section
17 304(a) in effect on the day prior to the effective date of
18 this Act.

19 **SEC. 2. REPEAL OF COPYRIGHT REPORT TO CONGRESS.**

20 Section 108(i) of title 17, United States Code, is re-
21 pealed.

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