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HOUSE

Bill: H.R. 6716
Remarks: Passed

Date: July 2, 1956
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INFRINGEMENTS OF COPYRIGHTS BY THE UNITED STATES

The Clerk called the bill (H. R. 6716) to amend title 28 of the United States Code relating to actions for infringements of copyrights by the United States.

There being no objection, the Clerk read the bill, as follows:

Be it enacted, etc., That section 1498 of title 28 of the United States Code is hereby amended by inserting the letter "(a)" at the beginning of the section and adding at the end thereof a new subsection "(b)" reading as follows:

"(b) Whenever after December 31, 1956, any work protected under the copyright laws of the United States shall be infringed by the United States, by a corporation owned or controlled by the United States, or by a contractor, subcontractor or any person or corporation pursuant to a contract with or authorization by the Government, the owner's remedy shall be by action against the United States in the Court of Claims or in any district court for the recovery of such damages as the copyright owner may have suffered due to such infringement in accordance with the procedure and terms, including the minimum statutory damages, set forth in section 101 (b) of title 17, United States Code: *Provided*, That the copyright owner shall also have the right to pursue the administrative remedy available under the Federal Tort Claims Act (secs. 2671–

2680 of title 28, U. S. C.) in cases in which the damages claimed, including the minimum statutory damages set forth in section 101 (b) of title 17, United States Code, do not exceed $1,000, except that in claims for copyright infringement section 2680 (a) of title 28, United States Code, shall not be available as a defense to the Government: *And provided further,* That the statute of limitations in bringing actions or in making claims under this subsection shall be the 6 years specified in section 2401 (a) of title 28, United States Code."

With the following committee amendment:

Strike out all after the enacting clause and insert "That section 1498 of title 28 of the United States Code is hereby amended by inserting the letter '(a)' at the beginning of the section and adding at the end thereof a new subsection '(b)' reading as follows:

"'(b) Whenever after December 31, 1956, the copyright in any work protected under the copyright laws of the United States shall be infringed by the United States, by a corporation owned or controlled by the United States, or by a contractor, subcontractor, or any person, firm, or corporation acting for the Government and with the authorization or consent of the Government, the exclusive remedy of the owner of such copyright shall be by action against the United States in the Court of Claims for the recovery of his reasonable and entire compensation as damages for such infringement, including the minimum statutory damages as set forth in section 101 (b) of title 17, United States Code: *Provided,* That a Government employee shall have a right of action against the Government under this subsection except where he was in a position to order, influence, or induce use of the copyrighted work by the Government: *Provided, however,* That this subsection shall not confer a right of action on any copyright owner or any assignee of such owner with respect to any copyrighted work prepared by a person while in the employment or service of the United States, where the copyrighted work was prepared as a part of the official functions of the employee, or in the preparation of which Government time, material, or facilities were used; *And provided further,* That before such action against the United States has been instituted the appropriate corporation owned or controlled by the United States or the head of the appropriate department or agency of the Government, as the case may be, is authorized to enter into an agreement with the copyright owner in full settlement and compromise for the damages accruing to him by reason of such infringement and to settle the claim administratively out of available appropriations.

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

"SEC. 2. The act of August 1, 1953, chapter 305, section 609, 67 Statutes 350 (31 U. S. Code 649b) is amended to read as follows:

"'Appropriations for the military departments available for procurement or manufacture of supplies, equipment, and materials shall hereafter be available for the purchase or other acquisition of (a) copyrights, letters patent, applications for letters patent, (b) licenses under copyrights, under letters patent, and under applications for letters patent, and (c) designs, processes, and manufacturing data; and shall also be available for the purchase or other acquisition of releases, before suit is brought, for past infringement of letters patent or copyrights. Any such purchase or other acquisition shall pertain to supplies, equipment, materials, copyrighted matter, or processes produced or used by or for, or useful to, the department concerned.'

"SEC. 3. The catchline of section 1498 of title 28, United States Code, is amended to read 'Sec. 1498. Patent and copyright cases.'

"The item identified as '1498. Patent cases' in the chapter analysis of chapter 91, of title 28, United States Code, is amended to read '1498. Patent and copyright, cases.'"

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.