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Bill H.R.3045	Date Oct 26, 1990 (149-IV)	Page(s) H12977

Action:

Copyright Remedy Clarification: House agreed to the conference report on H.R. 3045, to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exlcusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities—clearing the measure for the President.

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CONFERENCE REPORT ON H.R. 3045, COPYRIGHT REMEDY CLARIFICATION ACT

Mr. KASTENMEIER. Madam Speaker, I call up the conference report on the bill (H.R. 3045) to amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House on October 16, 1990.)

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. KASTENMEIER] will be recognized for 30 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I urge my colleagues to approve the conference report on H.R. 3045, the Copyright Remedy Clarification Act. This act is a very simple piece of legislation. As its name implies, it clarifies that the intent of Congress, when it passed the 1976 Copyright Act, was that all remedies for copyright infringement would apply to States, as well as to private individuals. Because certain recent Supreme Court cases raised doubts about whether the 1976 language was sufficient to achieve this result, legislation is needed.

There were sound policy reasons for Congress' decision in 1976, as my subcommittee heard in our hearings this Congress from the Register of Copyrights and other experts in the copyright and sovereign immunity fields. The decision in 1976 was arrived at after extensive negotiations among all interested parties. It was a fair balance then, and it continues to be today.

As a result of today's uncertainty about whether all copyright infringement remedies are applicable when States infringe a copyright, real problems have arisen. In too many cases, States are unlawfully using copyrighted materials without paying for them. There is no valid reason why States that infringe copyrights should be held to a lesser standard than is applied to a private individual. To hold States to a lesser standard would violate the essential purposes of our copyright laws and the constitutional mandate supporting those laws. It would discourage creativity and dissemination of copyrighted works to the public, and it would be unfair and npnsensical. For example, unless we clarify the law, a private institution such as the University of Southern California would have to pay damages if it violates UCLA's copyright, but UCLA would be immune if it violated USC's copyright.

For these many reasons, Congress must clarify that States are fully liable for copyright infringement. This bill does just that and I urge my colleagues to approve the conference report.

Mr. MOORHEAD. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the conference report on H.R. 3045, the Copyright Remedy Clarification Act. I would like to commend the chairman of the Subcommittee on Courts, Intellectual Property and the Administration of Justice, Mr. KASTENMEIER, as well as the other members of the subcommittee, especially the gentleman from New York [Mr. FISH] the gentleman for Illinois [Mr. HYDE] and the gentleman from North Carolina [Mr. COBLE] for their excellent work on the legislation. Likewise Senators DECONCINI, HATCH, and SIMON are to be commended for their initiative on the legislation in the other body.

This important legislation serves the overriding purpose of restoring Congress' original intent when it enacted the 1976 Copyright Act that: The same remedies shall be available for such infringements by State governments as are available for infringements by private parties.

Madam Speaker, each of the various remedies contained in the Copyright Act, including injunctions, actual and statutory damages and attorneys fees and costs, is an integral part of the comprehensive remedy that Congress devised in 1976 and is essential to the act's overall effectiveness. The legislation now before us recognizes this important point and deserves the immediate and full support of the House.

Mr. KASTENMEIER. Madam Speaker, I yield back the balance of my time.

Mr. MOORHEAD. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The conference report was agreed to.

A motion to reconsider was laid on the table.