The Copyright Act of 1909 (as amended and codified)

Title 17 --Copyrights

Title 17 --Copyrightsn1

CHAPTER 1 --REGISTRATION OF COPYRIGHTS

§ 1. Exclusive rights as to copyrighted works

Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right:n3

(a) To print, reprint, publish, copy, and vend the copyrighted work;

(b) To translate the copyrighted work into other languages or dialects, or make any other version thereof, if it be a literary work; to dramatize it if it be a nondramatic work; to convert it into a novel or other nondramatic work if it be a drama; to arrange or adapt it if it be a musical work; to complete, execute, and finish it if it be a model or design for a work of art;

(c) To deliver, authorize the delivery of, read, or present the copyrighted work in public for profit if it be a lecture, sermon, address or similar production, or other nondramatic literary work; to make or procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, delivered, presented, produced, or reproduced; and to play or perform it in public for profit, and to exhibit, represent, produce, or reproduce it in any manner or by any method whatsoever.n4 The damages for the infringement by broadcast of any work referred to in this subsection shall not exceed the sum of $ 100 where the infringing broadcaster shows that he was not aware that he was infringing and that such infringement could not have been reasonably foreseen; and

(d) To perform or represent the copyrighted work publicly if it be a drama or, if it be a dramatic work and not reproduced in copies for sale, to vend any manuscript or any record whatsoever thereof; to make or to procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, performed, represented, produced, or reproduced; and to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever; andn5

(e) To perform the copyrighted work publicly for profit if it be a musical composition; and for the purpose of public performance for profit, and for the purposes set forth in subsection (a) hereof, to make any arrangement or setting of it or of the melody of it in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced: *Provided,* That the provisions of this title, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after July 1, 1909, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights. And as a condition of extending the copyright control to such mechanical reproductions,n6 that whenever the owner of a musical copyright has used or permitted or knowingly acquiesced in the use of the copyrighted work upon the parts of instruments serving to reproduce mechanically the musical work, any other person may make similar use of the copyrighted work upon the payment to the copyright proprietor of a royalty of 2 cents on each such part manufactured, to be paid by the manufacturer thereof; and the copyright proprietor may require, and if so the manufacturer shall furnish, a report under oath on the 20th day of each month on the number of parts of instruments manufactured during the previous month serving to reproduce mechanically said musical work, and royalties shall be due on the parts manufactured during any month upon the 20th of the next succeeding month. The payment of the royalty provided for by this section shall free the articles or devices for which such royalty has been paid from further contribution to the copyright except in case of public performance for profit. It shall be the dutyn7 of the copyright owner, if he uses the musical composition himself for the manufacture of parts of instruments serving to reproduce mechanically the musical work, or licenses others to do so, to file notice thereof, accompanied by a recording fee, in the copyright office, and any failure to file such notice shall be a complete defense to any suit action, or proceeding for any infringement of such copyright.

In case of failure of such manufacturer to pay to the copyright proprietor within thirty days after demand in writing the full sum of royalties due at said rate at the date of such demand, the court may award taxable costs to the plaintiff

and a reasonable counsel fee, and the court may, in its discretion, enter judgment therein for any sum in addition over the amount found to be due as royalty in accordance with the terms of this title, not exceeding three times such amount.

The reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs.

(f) To reproduce and distribute to the public by sale or other transfer of ownership, or by rental, lease, or lending, reproductions of the copyrighted work if it be a sound recording: *Provided,* That the exclusive right of the owner of a copyright in a sound recording to reproduce it is limited to the right to duplicate the sound recording in a tangible form that directly or indirectly recaptures the actual sounds fixed in the recording: *Provided further,* That this right does not extend to the making or duplication of another sound recording that is an independent fixation of other sounds, even though such sounds imitate or simulate those in the copyrighted sound recording; or to reproductions made by transmitting organizations exclusively for their own use.n8

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 652; July 17, 1952, ch. 923, § 1, 66 Stat. 752; October 15, 1971, Pub. L. 92-140, § 1(a), 85 Stat. 391.)

§ 2. Rights of author or proprietor of unpublished work

Nothing in this title shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, and to obtain damages therefor.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 654.)

§ 3. Protection of component parts of work copyrighted; composite works or periodicals

The copyright provided by this title shall protect all the copyrightable component parts of the work copyrighted, and all matter therein in which copyright is already subsisting, but without extending the duration or scope of such copyright. The copyright upon composite works or periodicals shall give to the proprietor thereof all the rights in respect thereto which he would have if each part were individually copyrighted under this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 654; October 31, 1951, ch. 655, § 16(a), 65 Stat. 716.)

§ 4. All writings of author included

The works for which copyright may be secured under this title shall include all the writings of an author.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 654.)

§ 5. Classification of works for registration

The application for registration shall specify to which of the following classes the work in which copyright is claimed belongs:

(a) Books, including composite and cyclopedic works, directories, gazetteers, and other compilations.

(b) Periodicals, including newspapers.

(c) Lectures, sermons, addresses (prepared for oral delivery).

(d) Dramatic or dramatico-musical compositions.

(e) Musical compositions.

(f) Maps.

(g) Works of art; models or designs for works of art.

(h) Reproductions of a work of art.

(i) Drawings or plastic works of a scientific or technical character.

(j) Photographs.

(k) Prints and pictorial illustrations including prints or labels used for articles of merchandise.n9

(l) Motion-picture photoplays.

(m) Motion pictures other than photoplays.n10

(n) Sound recordings.n11

The aboven12 specifications shall not be held to limit the subject matter of copyright as defined in section 4 of this title, nor shall any error in classification invalidate or impair the copyright protection secured under this title.

Legislative History

(Amended August 24, 1912, ch. 356, 37 Stat. 488; July 31, 1939, ch. 396, § 2, 53 Stat. 1142; July 30, 1947, ch. 391, 61 Stat. 654; October 15, 1971, Pub. L. 92-140, § 1(b), 85 Stat. 391.)

§ 6. Registration of prints and labelsn13

Commencing July 1, 1940, the Register of Copyrights is charged with the registration of claims to copyright properly presented, in all prints and labels published in connection with the sale or advertisement of articles of merchandise, including all claims to copyright in prints and labels pending in the Patent Office and uncleared at the close of business June 30, 1940.n14 There shall be paid for registering a claim of copyright in any such print or label not a trade-mark $ 6, which sum shall cover the expense of furnishing a certificate of such registration, under the seal of the Copyright Office, to the claimant of copyright.

Legislative History

(Amended July 31, 1939, ch. 396, § 3, 53 Stat. 1142; July 30, 1947, ch. 391, 61 Stat. 654.)

§ 7. Copyright on compilations of works in public domain or of copyrighted works; subsisting copyrights not affectedn15

Compilations or abridgements, adaptations, arrangements, dramatizations, translations, or other versions of works in the public domain or of copyrighted works when produced with the consent of the proprietor of the copyright in such works, or works republished with new matter, shall be regarded as new works subject to copyright under the provisions of this title; but the publication of any such new works shall not effect the force or validity of any subsisting copyright upon the matter employed or any part thereof, or be construed to imply an exclusive right to such use of the original works, or to secure or extend copyright in such original works.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 655.)

§ 8. Copyright not to subsist in works in public domain, or published prior to July 1, 1909, and not already copyrighted, or Government publications; publication by Government of copyrighted materialn16

No copyright shall subsist in the original text of any work which is in the public domain, or in any work which was published in this country or any foreign country prior to July 1, 1909, and has not been already copyrighted in the United States, or in any publication of the United States Government, or any reprint, in whole or in part, thereof, except that the United States Postal Service may secure copyright on behalf of the United States in the whole or any part of the publications authorized by section 405 of title 39.n17

The publication or republication by the Government, either separately or in a public document, of any material in which copyright is subsisting shall not be taken to cause any abridgment or annulment of the copyright or to authorize any use or appropriation of such copyright material without the consent of the copyright proprietor.

Legislative History

(Amended June 27, 1938, ch. 10, 52 Stat. 6, *39 U.S.C. § 371* (1940); July 30, 1947, ch. 391, 61 Stat. 655; October 31, 1951, ch. 655, § 16(b), 65 Stat. 716; September 7, 1962, Pub. L. 87-646, § 21, 76 Stat. 446; August 12, 1970, Pub. L. 91-375, § 6(i), 84 Stat. 777.)

§ 9. Authors or proprietors, entitled: aliens

The authorn18 or proprietor of any work made the subject of copyright by this title, or his executors, administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this title: *Provided, however,* That the copyright secured by this title shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only under the conditions described in subsections (a), (b), or (c) below:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection, substantially equal to the protection secured to such foreign author under this title or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.

The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this title may require: *Provided,* That whenever the President shall find that the authors, copyright owners, or proprietors of works first produced or published abroad and subject to copyright or to renewal of copyright under the laws of the United States, including works subject to ad interim copyright, are or may have been temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, because of the disruption or suspension of facilities essential for such compliance, he may by proclamation grant such extension of time as he may deem appropriate for the fulfillment of such conditions or formalities by authors, copyright owners, or proprietors who are citizens of the United States: *Provided further,* That no liability shall attach under this title for lawful uses made or acts done prior to the effective date of such proclamation in connection with such works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

The President may at any time terminate any proclamation authorized herein or any part thereof or suspend or extend its operation for such period or periods of time as in his judgment the interests of the United States may require.

(c) When the Universal Copyright Convention, signed at Geneva on September 6, 1952, shall be in forcen19 between the United States of America and the foreign state or nation of which such author is a citizen or subject, or in which the work was first published. Any work to which copyright is extended pursuant to this subsection shall be exempt from the following provisions of this title: (1) The requirement in section 1 (e) that a foreign state or nation must grant to United States citizens mechanical reproduction rights similar to those specified therein; (2) the obligatory deposit requirements of the first sentence of section 13; (3) the provisions of sections 14, 16, 17, and 18; (4) the import prohibitions of section 107, to the extent that they are related to the manufacturing requirements of section 16; and (5) the requirements of sections 19 and 20: *Provided, however,* That such exemptions shall apply only if from the time of first publication all the copies of the work published with the authority of the author or other copyright proprietor shall bear the symbol (c) accompanied by the name of the copyright proprietor and the year of first publication placed in such manner and location as to give reasonable notice of claim of copyright.

Upon the coming into force of the Universal Copyright Conventionn20 in a foreign state or nation as hereinbefore provided, every book or periodical of a citizen or subject thereof in which ad interim copyright was subsisting on the

effective date of said coming into force shall have copyright for twenty-eight years from the date of first publication abroad without the necessity of complying with the further formalities specified in section 23 of this title.

The provisions of this subsection shall not be extended to works of an author who is a citizen of, or domiciled in the United States of America regardless of place of first publication, or to works first published in the United States.

Legislative History

(Amended December 18, 1919, ch. 11, 41 Stat. 369; September 25, 1941, ch. 421, 55 Stat. 732; July 30, 1947, ch. 391, 61 Stat. 655; August 31, 1954, ch. 1161, § 1, 68 Stat. 1030.)

§ 10. Publication of work with noticen21

Any person entitled thereto by this title may secure copyright for his work by publication thereof with the notice of copyright required by this title; and such notice shall be affixed to each copy thereof published or offered for sale in the United States by authority of the copyright proprietor, except in the case of books seeking ad interim protection under section 22 of this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 656.)

§ 11. Registration of claim and issuance of certificaten22

Such person may obtain registration of his claim to copyright by complying with the provisions of this title, including the deposit of copies, and upon such compliance the Register of Copyrights shall issue to him the certificates provided for in section 209 of this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 656.)

§ 12. Works not reproduced for salen23

Copyrightn24 may also be had of the works of an author, of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic, musical, or dramatico-musical composition; of a title and description, with one print taken from each scene or act, if the work be a motion-picture photoplay; of a photographic print if the work be a photograph; of a title and description with not less than two prints taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies under sections 13 and 14 of this title, where the work is later reproduced in copies for sale.

Legislative History

(Amended August 24, 1912, ch. 356, 37 Stat. 488; July 30, 1947, ch. 391, 61 Stat. 656.)

§ 13. Deposit of copies after publication; action or proceeding for infringementn25

After copyright has been secured by publication of the work with the notice of copyright as provided in section 10 of this title, there shall be promptly deposited in the Copyright Office or in the mail addressed to the Register of Copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, or if the work is by an author who is a citizen or subject of a foreign state or nation and has been published in a foreign country, one complete copy of the best edition then published in such foreign country, which copies or copy, if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in section 16 of this title; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work belongs to a class specified in subsections (g), (h), (i) or (k) of section 5 of this title, and if the Register of Copyrights determines that it is impracticable to deposit

copies because of their size, weight, fragility, or monetary value he may permit the deposit of photographs or other identifying reproductions in lieu of copies of the work as published under such rules and regulations as he may prescribe with the approval of the Librarian of Congress; or if the work is not reproduced in copies for sale there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section 12 of this title, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this title with respect to the deposit of copies and registration of such work shall have been complied with.

Legislative History

(Amended March 28, 1914, ch. 47, § 1, 38 Stat. 311; July 30, 1947, ch. 391, 61 Stat. 656; March 29, 1956, ch. 109, 70 Stat. 63.)

§ 14. Same; failure to deposit; demand; penaltyn26

Should the copies called for by section 13 of this title not be promptly deposited as provided in this title, the Register of Copyrights may at any time after the publication of the work, upon actual notice, require the proprietor of the copyright to deposit them, and after the said demand shall have been made, in default of the deposit of copies of the work within three months from any part of the United States, except an outlying territorial possession of the United States, or within six months from any outlying territorial possession of the United States, or from any foreign country, the proprietor of the copyright shall be liable to a fine of $ 100 and to pay to the Library of Congress twice the amount of the retail price of the best edition of the work, and the copyright shall become void.

§ 15. Same; postmaster's receipt; transmission by mail without costn27

The postmaster to whom are delivered the articles deposited as provided in sections 12 and 13 of this title shall, if requested, give a receipt therefor and shall mail them to their destination without cost to the copyright claimant.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 657.)

§ 16. Mechanical work to be done in United Statesn28

Of the printed bookn29 or periodical specified in section 5, subsections (a) and (b), of this title, except the original text of a book or periodicaln30 of foreign origin in a language or languages other than English, the text of all copies accorded protection under this title, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photoengraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photoengraving process, and also to separate lithographs or photoengravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art:

Provided, however, That said requirements shall not apply to works in raised characters for the use of the blind, or to books or periodicals of foreign origin in a language or languages other than English, or to works printed or produced in the United States by any other process than those above specified in this section, or to copies of books or periodicals, first published abroad in the English language, imported into the United States within five years after first publication in a foreign state or nation up to the number of fifteen hundred copies of each such book or periodical if said copies shall contain notice of copyright in accordance with sections 10, 19, and 20 of this title and if ad interim copyright in said work shall have been obtained pursuant to section 22 of this title prior to the importation into the United States of any copy except those permitted by the provisions of section 107 of this title: *Provided further,* That the provisions of this section shall not affect the right of importation under the provisions of section 107 of this title.

Legislative History

(Amended July 3, 1926, ch. 743, 44 Stat. 818; July 30, 1947, ch. 391, 61 Stat. 657; June 3, 1949, ch. 171 § 1, 63 Stat. 153; August 31, 1954, ch. 1161, § 2, 68 Stat. 1031.)

§ 17. Affidavit to accompany copiesn31

In the case of the book the copies so deposited shall be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within the limits of the United States from type set therein; or, if the text be produced by lithographic process, or photoengraving process, that such process was wholly performed within the limits of the United States and that the printing of the text and binding of the said book have also been performed within the limits of the United States. Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, or photengraving process or printing and binding were performed and the date of the completion of the printing of the book or the date of publication.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 657.)

§ 18. Making false affidavitn32

Any person who, for the purpose of obtaining registration of a claim to copyright, shall knowingly make a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $ 1,000, and all of his rights and privileges under said copyright shall thereafter be forfeited.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 657.)

§ 19. Notice; formn33

The notice of copyright required by section 10 of this title shall consist either of the word "Copyright", the abbreviation "Copr.", or the symbol (c), accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section 5 of this title, the notice may consist of the letter C enclosed within a circle, thus (c), accompanied by the initials, monogram, mark, or symbol of the copyright proprietor: *Provided,* That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright was subsisting on July 1, 1909, the notice of copyright may be either in one of the forms prescribed herein or may consist of the following words: "Entered according to Act of Congress, in the year _____, by A. B., in the office of the Librarian of Congress, at Washington, D. C.,"; or, at his option, the word "Copyright," together with the year the copyright was entered and the name of the party by whom it was taken out; thus, "Copyright, 19--, by A. B."

In the case of reproductions of works specified in subsection (n) of section 5 of this title, the notice shall consist of the symbol e (the letter P in a circle), the year of first publication of the sound recording, and the name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner: *Provided,* That if the producer of the sound recording is named on the labels or containers of the reproduction, and if no other name on the labels or containers of the reproduction, and if no other name appears in conjunction with the notice, his name shall be considered a part of the notice.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 658; August 31, 1954, ch. 1161, § 3, 68 Stat. 1032; October 15, 1971, Pub. L. 92-140, § 1(c), 85 Stat. 391.)

§ 20. Same; place of application of; one notice in each volume or number of newspaper or periodicaln34

The notice of copyright shall be applied, in the case of a book or other printed publication, upon its title page or the page immediately following, or if a periodical either upon the title page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title page or the first page of music, or if a sound recording on the surface of reproductions thereof or on the label or container in such manner and location as to give reasonable notice of the claim of copyright. One notice of copyright in each volume or in each number of a newspaper or periodical published shall suffice.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 658; October 15, 1971, Pub. L. 92-140, § 1(d), 85 Stat. 391.)

§ 21. Same; effect of accidental omission from copy or copiesn35

Where the copyright proprietor has sought to comply with the provisions of this title with respect to notice, the omission by accident or mistake of the prescribed notice from a particular copy or copies shall not invalidate the copyright or prevent recovery for infringement against any person who, after actual notice of the copyright, begins an undertaking to infringe it, but shall prevent the recovery of damages against an innocent infringer who has been misled by the omission of the notice; and in a suit for infringement no permanent injunction shall be had unless the copyright proprietor shall reimburse to the innocent infringer his reasonable outlay innocently incurred if the court, in its discretion, shall so direct.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 658.)

§ 22. Ad interim protection of book or periodical published abroadn36

In the case of a book first published abroad in the English language, the deposit in the Copyright Office, not later than six months after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book or periodical, shall secure to the author or proprietor an ad interim copyright therein, which shall have all the force and effect given to copyright by this title, and shall endure until the expiration of five years after the date of first publication abroad.

Legislative History

(Amended December 18, 1919, ch. 11, 41 Stat. 369; July 30, 1947, ch. 391, 61 Stat. 659; June 3, 1949, ch. 171, § 3, 63 Stat. 154.)

§ 23. Same; extension to full termn37

Whenever within the period of such ad interim protection an authorized edition of such books shall be published within the United States, in accordance with the manufacturing provisions specified in section 16 of this title, and whenever the provisions of this title as to deposit of copies, registration, filing of affidavits, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book or periodical for the term provided in this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 659; June 3, 1949, ch. 171, § 3, 63 Stat. 154.)

§ 24. Duration; renewal and extensionn38

The copyright secured by this title shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name: *Provided,* That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of twenty-

eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall determine at the expiration of twenty-eight years from first publication.

Legislative History

(Amended March 15, 1940, ch. 57, 54 Stat. 51; July 30, 1947, ch. 391, 61 Stat. 659.)

§ 25. Renewal of copyrights registered in Patent Office under repealed lawn39

Subsisting copyrights originally registered in the Patent Office prior to July 1, 1940, under section 3 of the act of June 18, 1874,n40 shall be subject to renewal in behalf of the proprietor upon application made to the Register of Copyrights within one year prior to the expiration of the original term of twenty-eight years.

Legislative History

(Amended July 31, 1939, ch. 396, 53 Stat. 1142; July 30, 1947, ch. 391, 61 Stat. 659.)

§ 26. Terms definedn41

In the interpretation and construction of this title "the date of publication" shall in the case of a work of which copies are reproduced for sale or distribution be held to be the earliest date when copies of the first authorized edition were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority, and the word "author" shall include an employer in the case of works made for hire.n42 For the purposes of this section and sections 10, 11, 13, 14, 21, 101, 106, 109, 209, 215, but not for any other purpose, a reproduction of a work described in subsection 5(n) shall be considered to be a copy thereof. "Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture. "Reproductions of sound recordings" are material objects in which sounds other than those accompanying a motion picture are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, and include the "parts of instruments serving to reproduce mechanically the musical work," "mechanical reproductions," and interchangeable parts, such as discs or tapes for use in mechanical music-producing machines" referred to in sections 1(e) and 101(e) of this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 659; October 15, 1971, Pub. L. 92-140, § 1(e), 85 Stat. 391.)

§ 27. Copyright distinct from property in object copyrighted; effect of sale of object, and of assignment of copyrightn43

The copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object; but nothing in this title shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyrighted work the possession of which has been lawfully obtained.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 660.)

§ 28. Assignments and bequestsn44

Copyright secured under this title or previous copyright laws of the United States may be assigned, granted, or mortgaged by an instrument in writing signed by the proprietor of the copyright, or may be bequeathed by will.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 660.)

§ 29. Same; executed in foreign country; acknowledgment and certificaten45

Every assignment of copyright executed in a foreign country shall be acknowledged by the assignor before a consular officer or secretary of legation of the United States authorized by law to administer oaths or perform notarial acts. The certificate of such acknowledgment under the hand and official seal of such consular officer or secretary of legation shall be prima facie evidence of the execution of the instrument.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 660.)

§ 30. Same; recordn46

Every assignment of copyright shall be recorded in the copyright office within three calendar months after its execution in the United States or within six calendar months after its execution without the limits of the United States, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, whose assignment has been duly recorded.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 660.)

§ 31. Same; certificate of recordn47

The Register of Copyrights shall, upon payment of the prescribed fee, record such assignment, and shall return it to the sender with a certificate of record attached under seal of the copyright office, and upon the payment of the fee prescribed by this title he shall furnish to any person requesting the same a certified copy thereof under the said seal.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 660.)

§ 32. Same; use of name of assignee in noticen48

When an assignment of the copyright in a specified book or other work has been recorded the assignee may substitute his name for that of the assignor in the statutory notice of copyright prescribed by this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 660.)

CHAPTER 2 --INFRINGEMENT PROCEEDINGS

AMENDMENTS

Legislative History

1957--Pub. L. 85-313, § 3, September 7, 1957, 71 Stat. 733, substituted in item 115 "Limitations" for "Limitation of criminal proceedings".

1951--Act October 31, 1951, ch. 655, § 17a, 65 Stat. 717, eliminated the following five items:

"101. (f) Rules of procedure.

"102. Jurisdiction of courts in enforcing remedies.

"103. Joinder of proceedings for different remedies.

"110. Jurisdiction of actions under laws.

"111. District in which actions may be brought."

§ 101. Infringementn49

If any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable:

(a) Injunction

To an injunction restraining such infringement:

(b) Damages and profits; amount; other remedies

To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only, and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits, such damages as to the court shall appear to be just, and assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in case of a newspaper reproduction of a copyrighted photograph, such damages shall not exceed the sum of $ 200 nor be less than the sum of $ 50, and in the case of the infringement of an undramatized or nondramatic work by means of motion pictures, where the infringer shall show that he was not aware that he was infringing, and that such infringement could not have been reasonably foreseen, such damages shall not exceed the sum of $ 100; and in the case of an infringement of a copyrighted dramatic or dramatico-musical work by a maker of motion pictures and his agencies for distribution thereof to exhibitors, where such infringer shows that he was not aware that he was infringing a copyrighted work, and that such infringements could not reasonably have been foreseen, the entire sum of such damages recoverable by the copyright proprietor from such infringing maker and his agencies for the distribution to exhibitors of such infringing motion picture shall not exceed the sum of $ 5,000 nor be less than $ 250, and such damages shall in no other case exceed the sum of $ 5,000 nor be less than the sum of $ 250, and shall not be regarded as a penalty. But the foregoing exceptions shall not deprive the copyright proprietor of any other remedy given him under this law, nor shall the limitation as to the amount of recovery apply to infringements occurring after the actual notice to a defendant, either by service of process in a suit or other written notice served upon him.

First. In the case of a painting, statue, or sculpture, $ 10 for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

Second. In the case of any work enumerated in section 5 of this title, except a painting, statue, or sculpture, $ 1 for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

Third. In the case of a lecture, sermon, or address, $ 50 for every infringing delivery;

Fourth. In the case of a dramatic or dramatico-musical or a choral or orchestral composition, $ 100 for the first and $ 50 for every subsequent infringing performance; in the case of other musical compositions, $ 10 for every infringing performance;

(c) Impounding during action

To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright;

(d) Destruction of infringing copies and plates

To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, molds, matrices or other means for making such infringing copies as the court may order.

(e) Interchangeable parts for use in mechanical music-producing machinesn50

Interchangeable parts, such as discs or tapes for use in mechanical music-producing machines adapted to reproduce copyrighted musical works, shall be considered copies of the copyrighted musical works which they serve to reproduce mechanically for the purpose of this section 101 and sections 106 and 109 of this title, and the unauthorized manufacture, use, or sale of such interchangeable parts shall constitute an infringement of the copyrighted work rendering the infringer liable in accordance with all provisions of this title dealing with infringements of copyright and, in a case of willful infringement for profit, to criminal prosecution pursuant to section 104 of this title. Whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this title, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice.

Legislative History

(Amended August 24, 1912, ch. 356, 37 Stat. 489; July 30, 1947, ch. 391, 61 Stat. 661; June 25, 1948, ch. 646, § 39, 62 Stat. 992; October 15, 1971, Pub. L. 92-140, § 2, 85 Stat. 392.)

Legislative History

[§ § 102, 103. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. September 1, 1948]

Section 102, act July 30, 1947, ch. 391, 61 Stat. 662, relating to jurisdiction of court in enforcing remedies, is now covered by section 1338 of Title 28, Judiciary and Judicial Procedure.

Section 103, act July 30, 1947, ch. 391, 61 Stat. 662, relating to joinder of proceedings for different remedies, is now covered by the Federal Rules of Civil Procedure, Title 28, Appendix.

§ 104. Willful infringement for profitn51

(a) Except as provided in subsection (b),n52 any person who willfully and for profit shall infringe any copyright secured by this title, or who shall knowingly and willfully aid or abet such infringement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than $ 100 nor more than $ 1,000, or both, in the discretion of the court: *Provided, however,* That nothing in this title shall be so construed as to prevent the performance of religious or secular works such as oratories, cantatas, masses, or octavo choruses by public schools, church choirs, or vocal societies, rented, borrowed, or obtained from some public library, public school, church choir, school choir, or vocal society, provided the performance is given for charitable or educational purposes and not for profit.

(b) Any person who willfully and for profit shall infringe any copyright provided by section 1(f) of this title, or who would knowingly and willfully aid or abet such infringement, shall be fined not more than $ 25,000 or imprisoned not more than one year, or both, for the first offense and shall be fined not more than $ 50,000 or imprisoned not more than two years, or both, for any subsequent offense.

Legislative History

(Amended July 30, 1947, 61 Stat. 662; December 31, 1947, Pub. L. 93-573, title I, § 102, 88 Stat. 1873.)

§ 105. Fraudulent notice of copyright, or removal or alteration of noticen53

Any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this title, or words of the same purport, in or upon any uncopyrighted article, or with fraudulent intent shall remove or alter the copyright notice upon any article duly copyrighted shall be guilty of a misdemeanor, punishable by a fine of not less than $ 100 and not more than $ 1,000. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of $ 100.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 662.)

§ 106. Importation of article bearing false notice or piratical copies of copyrighted workn54

The importation into the United States of any article bearing a false notice of copyright when there is no existing copyright thereon in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited.

Legislative History

Amended July 30, 1947, ch. 391, 61 Stat. 663.)

§ 107. Importation, during existence of copyright, of piratical copies, or of copies not produced in accordance with section 16 of this titlen55

During the existence of the American copyright in any book the importation into the United States of any piratical copies thereof or of any copies thereof (although authorized by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in section 16 of this title, or any plates of the same not made from type set within the limits of the United States, or any copies thereof produced by lithographic or photoengraving process not performed within the limits of the United States, in accordance with the provisions of section 16 of this title, is prohibited: *Provided, however,* That, except as regards piratical copies, such prohibition shall not apply:

(a) To works in raised characters for the use of the blind.

(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization.

(c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country.

(d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following, that is to say:

First. When imported, not more than one copy at one time, for individual use not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States.

Second. When imported by the authority or for the use of the United States.

Third. When imported, for use and not for sale, not more than one copy of any such book in any one invoice, in good faith by or for any society or institution incorporated for educational, literary, philosophical, scientific, or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school, or seminary of learning, or for any State, school, college, university, or free public library in the United States.

Fourth. When such books form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale: *Provided,* That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annual or limit the copyright protection secured by this title, and such unlawful use shall be deemed an infringement of copyright.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 663.)

§ 108. Forfeiture and destruction of articles prohibited importationn56

Any and all articles prohibited importation by this title which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall

direct: *Provided, however,* That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this title may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve willful negligence or fraud.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 664.)

§ 109. Importation of prohibited articles; regulations; proof of deposit of copies by complainantsn57

The Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce individually or jointly such rules and regulations as shall prevent the importation into the United States of articles prohibited importation by this title, and may require, as conditions precedent to exclusion of any work in which copyright is claimed, the copyright proprietor or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such work to file with the Post Office Department or the Treasury Department a certificate of the Register of Copyrights that the provisions of section 13 of this title have been fully complied with, and to give notice of such compliance with, and to give notice of such compliance to postmasters or to customs officers at the ports of entry in the United States in such form and accompanied by such exhibits as may be deemed necessary for the practical and efficient administration and enforcement of the provisions of sections 106 and 107 of this title.

Legislative History

(Amended April 11, 1940, ch. 81, 54 Stat. 106; July 30, 1947, ch. 391, 61 Stat. 664.)

Legislative History

[§§ 110, 111. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. September 1, 1948]

Section 110, Act July 30, 1947, ch. 391, 61 Stat. 664, relating to jurisdiction of actions under copyright laws, is now covered by section 1338 of Title 28, Judiciary and Judicial Procedure.

Section 111, Act July 30, 1947, ch. 391, 61 Stat. 664, relating to venue, is now covered by section 1400 of Title 28, Judiciary and Judicial Procedure.

§ 112. Injunctions; service and enforcementn58

Any court mentioned in section 1338 of Title 28 or judge thereof shall have power, upon complaintn59 filed by any party aggrieved, to grant injunctions to prevent and restrain the violation of any right secured by this title, according to the course and principles of courts of equity, on such terms as said court or judge may deem reasonable. Any injunction that may be granted restraining and enjoining the doing of anything forbidden by this title may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative throughout the United States and be enforceable by proceedings in contempt or otherwise by any other court or judge possessing jurisdiction of the defendants.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 664; October 31, 1951, ch. 655, § 16(c), 65 Stat. 716.)

§ 113. Transmission of certified copies of papers for enforcement of injunction by other courtn60

The clerk of the court, or judge granting the injunction, shall, when required so to do by the court hearing the application to enforce said injunction, transmit without delay to said court a certified copy of all the papers in said cause that are on file in his office.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 664.)

§ 114. Review of orders, judgments, or decreesn61

The orders, judgments, or decrees of any court mentioned in section 1338 of Title 28 arising under the copyright laws of the United States may be reviewed on appeal in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665; October 31, 1951, ch. 655, § 17, 65 Stat. 717.)

§ 115. Limitationsn62

(a) Criminal proceedings

No criminal proceedings shall be maintained under the provisions of this title unless the same is commenced within three years after the cause of action arose.

(b) Civil actions

No civil action shall be maintained under the provisions of this title unless the same is commenced within three years after the claim accrued.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665; September 7, 1957, Pub. L. 85-313, § 1, 71 Stat. 633.)

§ 116. Costs; attorney's feesn63

In all actions, suits, or proceedings under this title, except when brought by or against the United States or any officer thereof, full costs shall be allowed, and the court may award to the prevailing party a reasonable attorney's fee as part of the costs.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665.)

Vol 8: CHAPTER 3 --COPYRIGHT OFFICE

AMENDMENTS

Legislative History

1972--Pub. L. 92-310, title II, § 205(b), June 6, 1972, 86 Stat. 203, struck out § 204.

1954--Act April 13, 1954, ch. 137, § , 68 Stat. 52, added § 216.

§ 201. Copyright office; preservation of recordsn64

All records and other things relating to copyrights required by law to be preserved shall be kept and preserved in the copyright office, Library of Congress, District of Columbia, and shall be under the control of the register of copyrights, who shall, under the direction and supervision of the Librarian of Congress, perform all the duties relating to the registration of copyrights.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665.)

§ 202. Register, assistant register, and subordinatesn65

There shall be appointed by the Librarian of Congress a Register of Copyrights, and one Assistant Register of Copyrights, who shall have authority during the absence of the Register of Copyrights to attach the copyright office seal

to all papers issued from the said office and to sign such certificates and other papers as may be necessary. There shall also be appointed by the Librarian such subordinate assistants to the register as may from time to time be authorized by law.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665.)

§ 203. Same; deposit of moneys received; reportsn66

The Register of Copyrights shall make daily deposits in some bank in the District of Columbia, designated for this purpose by the Secretary of the Treasury as a national depository, of all moneys received to be applied as copyright fees, and shall make weekly deposits with the Secretary of the Treasury, in such manner as the latter shall direct, of all copyright fees actually applied under the provisions of this title, and annual deposits of sums received which it has not been possible to apply as copyright fees or to return to the remitters, and shall also make monthly reports to the Secretary of the Treasury and to the Librarian of Congress of the applied copyright fees for each calendar month, together with a statement of all remittances received, trust funds on hand, moneys refunded, and unapplied balances.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665.)

§ 204. Same; bond [Repealed]n67

[Repealed]

The Register of Copyrights shall give bond to the United States in the sum of $ 20,000, in form to be approved by the General Counsel for the Department of the Treasury and with sureties satisfactory to the Secretary of the Treasury, for the faithful discharge of his duties.]

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 665; Repealed Pub. L. 92-310, title II, § 205(a), June 6, 1972, 86 Stat. 203.)

§ 205. Same; annual reportn68

The Register of Copyrights shall make an annual report to the Librarian of Congress, to be printed in the annual report of the Library of Congress, of all copyright business for the previous fiscal year, including the number and kind of works which have been deposited in the copyright office during the fiscal year, under the provisions of this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 666.)

§ 206. Seal of copyright officen69

The seal used in the copyright office on July 1, 1909, shall be the seal of the copyright office, and by it all papers issued from the copyright office requiring authentication shall be authenticated.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 666.)

§ 207. Rules for registration of claimsn70

Subject to the approval of the Librarian of Congress, the Register of Copyrights shall be authorized to make rules and regulations for the registration of claims to copyright as provided by this title.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 666.)

§ 208. Record books in copyright officen71

The Register of Copyrights shall provide and keep such record books in the copyright office as are required to carry out the provisions of this title, and whenever deposit has been made in the copyright office of a copy of any work under the provisions of this title he shall make entry thereof.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 666.)

§ 209. Certificates of registration; effect as evidence; receipt for copies depositedn72

In the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain the name and address of said claimant, the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been reproduced in copies for sale, or publicly distributed, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book, the certificate shall also state the receipt of the affidavit, as provided by section 17 of this title, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The Register of Copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for in the case of all registrations made after July 1, 1909, and in the case of all previous registrations so far as the copyright office record books shall show such facts, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same. Said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

Legislative History

(Amended March 2, 1913, ch. 97, 37 Stat. 724; July 30, 1947, ch. 391, 61 Stat. 666.)

§ 210. Catalogs of copyright entries; effect as evidencen73

The Register of Copyrights shall fully index all copyright registrations and assignments and shall print at periodic intervals a catalog of the titles of articles depostited and registered for copyright, together with suitable indexes, and at stated intervals shall print complete and indexed catalog for each class of copyright entries, and may thereupon, if expedient, destroy the original manuscript catalog cards containing the titles included in such printed volumes and representing the entries made during such intervals. The current catalog of copyright entries and the index volumes herein provided for shall be admitted in any court as prima facie evidence of the facts stated therein as regards any copyright registrations.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 666.)

§ 211. Same; distribution and sale; disposal of proceedsn74

The said printed current catalogs as they are issued shall be promptly distributed by the Superintendent of Documents to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised list of such collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmast General, and they shall also be furnished in whole or in part to all parties desiring them at a price to be determined by the Register of Copyrights for each part of the catalog not exceeding $ 75 for the complete yearly catalog of copyright entries. The consolidated catalogs and indexes shall also be supplied to all persons ordering them at such prices as may be fixed by the Register of Copyrights, and all subscriptions for the catalogs shall be received by the Superintendent of Documents, who shall forward the said publications; and the moneys thus received

shall be paid into the Treasury of the United States and accounted for under such laws and Treasury regulations as shall be in force at the time.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 667; April 27, 1948, ch. 236, § 1, 62 Stat. 202; October 27, 1965, Pub. L. 89-297, § 1, 79 Stat. 1072.)

§ 212. Records and works deposited in Copyright Office open to public inspection; taking copies of entriesn75

The record books of the copyright office, together with the indexes to such record books, and all works deposited and retained in the copyright office, shall be open to public inspection; and copies may be taken of the copyright entries actually made in such record books, subject to such safeguards and regulations as shall be prescribed by the Register of Copyrights and approved by the Librarian of Congress.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 667.)

§ 213. Disposition of articles deposited in officen76

Of the articles deposited in the copyright office under the provisions of the copyright laws of the United States,n77 the Librarian of Congress shall determine what books and other articles shall be transferred to the permanent collections of the Library of Congress, including the law library, and what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange, or be transferred to other governmental libraries in the District of Columbia for use therein.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 667.)

§ 214. Destruction of articles deposited in office remaining undisposed of; removal of by author or proprietor; manuscripts of unpublished worksn78

Of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the Register of Copyrights jointly shall, at suitable intervals, determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the copyright office, and, after due notice as hereinafter provided, may within their discretion cause the remaining articles and other things to be destroyed: *Provided,* That there shall be printed in the Catalog of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of December of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in this title. No manuscript of an unpublished work shall be destroyed during its term of copyright without specific notice to the copyright proprietor of record, permitting him to claim and remove it.

Legislative History

(Amended July 30, 1947, ch. 391, 61 Stat. 667.)

§ 215. Feesn79

The Register of Copyrights shall receive, and the persons to whom the services designated are rendered shall pay, the following fees:

For the registration of a claim to copyright in any work, including a print or label used for articles of merchandise, $ 6; for the registration of a claim to renewal of copyright, $ 4; which fees shall include a certificate of registration under seal for each work registered: *Provided,* That only one registration fee shall be required in the case of several volumes of the same book published and deposited at the same time: *And provided further,* That with respect to works of foreign origin, in lieu of payment of the copyright fee of $ 6 together with one copy of the work and application, the

foreign author or proprietor may at any time within six months from the date of first publication abroad deposit in the Copyright Office an application for registration and two copies of the work which shall be accompanied by a catalog card in form and content satisfactory to the Register of Copyrights.

For every additional certificate of registration, $ 2.

For certifying a copy of an application for registration of copyright, and for all other certifications, $ 3.

For recording every assignment, agreement, power of attorney, or other paper not exceeding six pages, $ 5; for each additional page or less, 50 cents; for each title over one in the paper recorded, 50 cents additional.

For recording a notice of use, or notice of intention to use, $ 3, for each notice of not more than five titles; and 50 cents for each additional title.

For any requested search of Copyright Office records, or weeks deposited, or services rendered in connection therewith, $ 5 for each hour of time consumed.

Legislative History

(Amended May 23, 1928, ch. 704, § 1, 45 Stat. 714; July 30, 1947, ch. 391, 61 Stat. 668; April 27, 1948, ch. 236, § 2, 62 Stat. 202; June 3, 1949, ch. 171, § 4, 63 Stat. 154; October 27, 1965, Pub. L. 89-297, § 2, 79 Stat. 1072.)

§ 216. When the day for taking action falls on Saturday, Sunday, or a holidayn80

When the last day for making any deposit or application, or for paying any fee, or for delivering any other material to the Copyright Office falls on Saturday, Sunday, or a holiday within the District of Columbia, such action may be taken on the next succeeding business day.

Legislative History

(Added April 13, 1954, ch. 137, § 1, 68 Stat. 52).

FOOTNOTES:

[n1] Footnote 1. Act of July 30, 1947, ch. 391, 61 Stat. 652, codifying the Act of March 4, 1909, ch. 320, 35 Stat. 1075, whose effective date was July 1, 1909. The enacting clause provides that Title 17 of the United States Code entitled "Copyrights" is codified and enacted into positive law and may be cited as "Title 17, U.S.C., Sec. --". The Act of April 27, 1948, 62 Stat. 202, amended sections 211 and 215. The Act of June 25, 1948, 62 Stat. 869, repealed sections 101 (f), 102, 103, 110 and 111; however, see sections 1338, 1440 and 2072 (Title 28, United States Code) appearing *infra* and the Federal Rules of Civil Procedure. The Act of June 3, 1949, 63 Stat. 153, amended sections 16, 22, 23 and 215. The Act of October 31, 1951, 65 Stat. 710, amended sections 3, 8, 112 and 114, and struck out the items of the analysis of chapter 2 relating to the repealed sections. The Act of July 17, 1952, 66 Stat. 752, amended section 1 (c). The Act of April 13, 1954, 68 Stat. 52, added section 216. The Act of August 31, 1954, 68 Stat. 1030, amended sections 9, 16 and 19. The Act of March 29, 1956, 70 Stat. 63, amended section 13. The Act of September 7, 1957, 71 Stat. 633, amended section 115. The Act of September 7, 1962, 79 Stat. 606, amended section 21. The Act of October 15, 1971 (85 Stat. 391) amended sections 1, 5, 19, 20, 26, and 101. The Act of December 3, 1974, 88 Stat. 1873, amended section 104. The text was effective until January 1, 1978. Section and subsection headings were first added in 1947.

[n2] Footnote 3. The original 1909 Act begins as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person entitled thereto, upon complying with the provisions of this Act, shall have the exclusive right:

The 1909 version refers to "this Act" while the 1947 codification refers to "this Title." Similarly, the 1909 Act often refers to its effective date, which was July 1, 1909. Such minor variations will not always be noted.

[n3] Footnote 4. Section 1 (c) as amended by the Act of July 17, 1952, 66 Stat. 752, effective January 1, 1953. In the 1909 Act, subsection (c) read as follows: "(c) To deliver or authorize the delivery of the copyrighted work in public for profit if it be a lecture, sermon, address, or similar production." The amendment of subsection (c) provided that all recordation rights in nondramatic literary works will be protected and this protection includes any subsequent recordation or copying of original works.

[n4] Footnote 5. The word "and" is not in the 1909 Act.

[n5] Footnote 6. The 1909 text reads: "*And provided further, and as a condition of extending the copyright control to such mechanical reproductions,* That whenever ..."

[n6] Footnote 7. The 1909 text reads: "*And provided further,* That it shall be ..."

[n7] Footnote 8. Subsection (f) was added by the Act of October 15, 1971, 85 Stat. 391, effective February 15, 1972. This section did not apply retroactively. See Sec. 5(n), n.11, *infra.*

[n8] Footnote 9. The phrase beginning "including prints ..." was added as of July 31, 1939, ch. 396, § 2 53 Stat. 1142.

[n9] Footnote 10. Subsections (l) and (m) were amendments added to the 1909 Act by the Act of August 24, 1912, ch. 356, 37 Stat. 488, the so-called Townsend Amendment.

[n10] Footnote 11. Subsection (n) was added by the Act of October 15, 1971, Pub. L. 92-140, 85 Stat. 391. Sec. 3 of that Act reads as follows:

This Act shall take effect four months after its enactment [date of enactment: October 15, 1971] except that section 2 of this Act [amending Sec. 101(e)] shall take effect immediately upon its enactment. The provisions of title 17, United States Code, as amended by section 1 of this Act, shall apply only to sound recordings fixed, published, and copyrighted on and after the effective date of this Act and before January 1, 1975, and nothing in title 17, United States Code, as amended by section 1 of this Act, shall be applied retroactively or be construed as affecting in any way any rights with respect to sound recordings fixed before the effective date of this Act.

Sec. 101 of the Act of December 31, 1974, 88 Stat. 1873, amended Sec. 3 of the Act of October 15, 1971 by striking out the words "and before January 1, 1975." The effect of this amendment was to make Sec. 5(n) of the Copyright Act applicable to all sound recordings fixed, published and copyrighted on and after February 15, 1972.

[n11] Footnote 12. The 1909 Act reads: "*Provided, nevertheless,* That the above ..."

[n12] Footnote 13. This section was added to the 1909 Act on July 31, 1939, ch. 396, § 3, 53 Stat. 1142.

[n13] Footnote 14. The 1939 Amendment contained the following temporary provision prior to the final sentence:

All such pending applications and all fees which have been submitted or paid to or into the Patent Office for such pending applications, and all funds deposited and at the close of business June 30, 1940, held in the Patent Office to be applied to copyright business in that Office, shall be returned by the Commissioner of Patents to the applicants.

This sentence was omitted in the 1947 codification.

[n14] Footnote 15. This was § 6 of the 1909 Act.

[N15] Footnote 16. This was § 7 in the 1909 Act.

[n16] Footnote 17. The 1909 Act did not include the previous sentence and read: "*Provided, however,* That the publication ..." Effective June 27, 1938, ch. 10, 52 Stat. 6, *39 U.S.C. § 371* (1940) amended here as follows:

And provided further, That notwithstanding the provisions of section 7 of the Copyright Act of March 4, 1909 (U.S.C., 1934 edition, Title 17, sec. 7), or any other provision of law, copyright may be secured by the Postmaster General on behalf of the United States in the whole or any part of the publication authorized by this section.

In the 1947 codification, the latter sentence was amended as follows: "*Provided,* That copyright may be secured by the Postmaster General on behalf of the United States in the whole or any part of the publications authorized by section 1 of the Act of June 27, 1938, *39 U.S.C. 371*."

In 1951, the word "January" was substituted for the word "June" effective October 31, 1951, ch. 655 § 16(b), 65 Stat. 716.

In 1962 Pub. L. 87-646 again amended this portion starting with "thereof; Provided ..." by substituting "thereof, except that the Postmaster General may secure copyright on behalf of the United States in the whole or any part of the publications authorized by section 2506 of title 39 ..." (September 7 1962, Pub. L. 87-646, § 21, 76 Stat. 446, effective November 1, 1962).

Finally in 1970, this part was again amended with the substitution found in the text of "United States Postal Service" and "Section 405 of title 39." Pub. L. 91-375, § 6(i), 84 Stat. 777.

[n17] Footnote 18. The original 1909 Act had the following:

"The author or proprietor of any work made the subject of copyright by this Act, or his executors, administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this Act: *Provided, however,* That the copyright secured by this Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation, only:

"(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

"(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.

"The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this Act may require."

The Act of December 18, 1919 amended section 8 of the 1909 Act by adding provisos at the end thereof as follows: "*Provided, however,* That all works made the subject of copyright by the laws of the United States first produced or published abroad after August 1, 1914, and before the date of the President's proclamation of peace, of which the authors or proprietors are citizens or subjects of any foreign State or nation granting similar protection for works by citizens of the United States, the existence of which shall be determined by a copyright proclamation issued by the President of the United States, shall be entitled to the protection conferred by the copyright laws of the United States from and after the accomplishment, before the expiration of fifteen months after the date of the President's proclamation of peace, of the conditions and formalities prescribed with respect to such works by the copyright laws of the United States: *Provided further,* That nothing herein contained shall be construed to deprive any person of any right which he may have acquired by the republication of such foreign work in the United States prior to the approval of this Act."

The Act of September 25, 1941 again amended section 8 of the 1909 Act as previously amended in 1919, by adding at the end thereof provisions as follows: "*Provided,* That whenever the President shall find that the authors, copyright owners, or proprietors of works first produced or published abroad and subject to copyright or to renewal of copyright under the laws of the United States, including works subject to ad interim copyright, are or may have been temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, because of the disruption or suspension of facilities essential for such compliance, he may by proclamation grant such extension of time as he may deem appropriate for the fulfillment of such conditions or formalities by authors, copyright owners, or proprietors who are citizens of the United States or who are nationals of countries which accord substantially equal treatment in this respect to authors, copyright owners, or proprietors who are citizens of the United States: *Provided further,* That no liability shall attach under the Copyright Act for lawful uses made or acts done prior to the effective date of such proclamation in connection with such works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

"The President may at any time terminate any proclamation authorized herein or any part thereof or suspend or extend its operation for such period or periods of time as in his judgment the interests of the United States may require."

[n18] Footnote 19. The Universal Copyright Convention came into force on September 16, 1955.

[n19] Footnote 20. See N. 19 *supra.*

[n20] Footnote 21. This was § 9 of the 1909 Act.

[n21] Footnote 22. This was § 10 of the 1909 Act.

[n22] Footnote 23. This was § 11 of the 1909 Act.

[n23] Footnote 24. The original 1909 Act read as follows:

That copyright may also be had of the works of an author of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic or musical composition; of a photographic print if the work be a photograph or of a photograph or other identifying reproduction thereof if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies under sections twelve and thirteen of this Act where the work is later reproduced in copies for sale.

This was amended by the Townsend Act in 1912 to read as follows (new matter in italics):

That copyright may also be had of the works of an author of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic, musical, or *dramatico-musical* composition; *of a title and description, with one print taken from each scene or act, if the work be a motion-picture photoplay*; of a photographic print if the work be a photograph; *of a title and description, with not less than two prints taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay*; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies, under sections twelve and thirteen of this Act, where the work is later reproduced in copies for sale.

The present wording is that of the 1947 codification.

[n24] Footnote 25. This was § 12 of the 1909 Act. That act read as follows:

That after copyright has been secured by publication of the work with the notice of copyright as provided in section nine of this Act, there shall be promptly deposited in the copyright office or in the mail addressed to the register of copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, which copies, if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in section fifteen of this Act; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not reproduced in copies for sale, there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section eleven of this Act, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with.

The 1909 Act was amended in 1914 to read as follows (new matter in italics):

That after copyright has been secured by publication of the work with the notice of copyright as provided in section nine of this Act, there shall be promptly deposited in the copyright office or in the mail addressed to the register of copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, *or if the work is by an author who is a citizen or subject of a foreign state or nation and has been published in a foreign country, one complete copy of the best edition then published in such foreign country*, which copies *or copy*, if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in section fifteen of this Act; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not reproduced in copies for sale there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section eleven of this Act, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this Act with respect to the deposit of copies and registration of such work shall have been complied with.

Section 2 of the above act repealed all conflicting acts and parts of acts.

The text of the 1947 codification read as follows:

After copyright has been secured by publication of the work with the notice of copyright as provided in section 10 of this title, there shall be promptly deposited in the copyright office or in the mail addressed to the Register of Copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, or if the work is by an author who is a citizen or subject of a foreign state or nation and has been published in a foreign country, one complete copy of the best edition then published in such foreign country, which copies or copy, if the work be a

book or periodical, shall have been produced in accordance with the manufacturing provisions specified in section 16 of this title; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not reproduced in copies for sale there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section 12 of this title, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this title with respect to the deposit of copies and registration of such work shall have been complied with.

The current text reflects the 1956 Amendment permitting the deposit of photographs or other identifying reproductions in lieu of copies of works in categories 5(g), (h), (i) or (k) of this title.

[n25] Footnote 26. This was § 13 of the 1909 Act.

[n26] Footnote 27. This was § 14 of the 1909 Act.

[n27] Footnote 28. This was § 15 of the 1909 Act.

[n28] Footnote 29. The 1909 Act read as follows:

That of the printed book or periodical specified in section five, subsections (a) and (b) of this Act, except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this Act, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photo-engraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photoengraving process, and also to separate lithographs or photo-engravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art; but they shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this Act.

In 1926 the act was amended by adding the following clause to the final sentence: "or to works printed or produced in the United States by any other process than those above specified in this section." The 1947 codification did not amend the prior text.

The 1949 amendment read as follows:

Of the printed book or periodical specified in section five, subsections (a) and (b), of this title, except the original text of a book or periodical of foreign origin in a language or languages other than English, the text of all copies accorded protection under this title, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photoengraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photoengraving process, and also to separate lithographs or photoengravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art: *Provided, however,* That said requirements shall not apply to works in raised characters for the use of the blind, or to books or periodicals of foreign origin in a language or languages other than English, or to works printed or produced in the United States by any other process than those above specified in this section, or to copies of books or periodicals, of foreign origin, in the English language, imported into the United States within five years after first publication in a foreign state or nation up to the number of fifteen hundred copies of each such book or periodical if said copies shall contain notice of copyright in accordance with sections 10, 19, and 20 of this title and if ad interim copyright in said work shall have been obtained pursuant to section 22 of this title prior to the importation into the United States of any copy except those permitted by the provisions of section 107 of this title: *Provided further,* That the provisions of this section shall not affect the right of importation under the provisions of section 107 of this title, nor the extension of time within which to comply with conditions and formalities granted by Presidential proclamation, No. 2608, of March 14, 1944.

The current version reflects the amendments of Act August 31, 1954 and was effective September 16, 1955.

[n29] Footnote 30. The phrase "or periodical" was added by the Act June 3, 1949.

[n30] Footnote 31. This was § 16 of the 1909 Act.

[n31] Footnote 32. This was § 17 of the 1909 Act.

[n32] Footnote 33. This was § 18 of the 1909 Act. The 1947 codification derives from both the 1909 Act and the Act of June 18, 1874, ch. 301, § 1, 13 Stat. 78. The 1874 version read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no persons shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title page or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary, or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof, or of the substance on which the name shall be mounted, the following words, viz: "Entered according to act of Congress, in the year _____, by A. B., in the office of the Librarian of Congress, at Washington"; or, at his option the word "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out; thus--"Copyright 18--, by A. B."

The 1909 Act read as follows:

That the notice of copyright required by section nine of this Act shall consist either of the word "Copyright" or the abbreviation "Copr.", accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section five of this Act, the notice may consist of the letter C inclosed within a circle, thus: (c), accompanied by the intitials, monogram, mark, or symbol of the copyright proprietor: *Provided,* That on some accessible portion of such copies or of the margin, back, permanent base, or pedastal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright is subsisting when this Act shall go into effect, the notice of copyright may be either in one of the forms prescribed herein or in one of those prescribed by the Act of June eigtheenth, eighteen hundred and seventy-four.

The 1947 codification had the following version:

NOTICE; FORM.--The notice of copyright required by section 10 of this title shall consist either of the word "Copyright" or the abbreviation "Copr.", accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section 5 of this title, the notice may consist of the letter C enclosed within a circle, thus (c), accompanied by the initials, monogram, mark, or symbol of the copyright proprietor: *Provided,* That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright was subsisting on July 1, 1909, the notice of copyright may be either in one of the forms prescribed herein or may consist of the following words: "Entered according to Act of Congress, in the year _____, by A. B., in the office of the Librarian of Congress, at Washington"; or, at his option, the word "Copyright", together with the year the copyright was entered and the name of the party by whom it was taken out; thus, "Copyright, 19--, by A. B."

In 1954, this section was amended to bring it into conformity with the Universal Copyright Convention, allowing authors or publishers to use the symbol (c) as an alternative statutory copyright notice in the works of all classes:

The notice of copyright required by section 10 of this title shall consist either of the word "Copyright", the abbreviation "Copr.", or the symbol (c), accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section 5 of this title, the notice may consist of the letter C enclosed within a circle, thus (c), accompanied by the initials, monogram, mark, or symbol of the copyright proprietor: *Provided,* That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright was subsisting on July 1, 1909, the notice of copyright may be either in one

of the forms prescribed herein or may consist of the following words: "Entered according to Act of Congress, in the year _____, by A. B., in the office of the Librarian of Congress, at Washington, D. C.,"; or, at his option, the word "Copyright", together with the year the copyright was entered and the name of the party by whom it was taken out; thus, "Copyright, 19--, by A. B."

This section became effective September 16, 1955.

The current text reflects the 1971 Amendment in the form of notice to be used in sound recordings, and became effective February 15, 1972. See § 5(n) *supra.*

[n33] Footnote 34. Section 20 as amended by the Act of October 15, 1971, 85 Stat. 391, effective February 15, 1972. See Sec. 5(n), n.11, *supra*. This was § 19 of the 1909 Act, which read as follows:

That the notice of copyright shall be applied, in the case of a book or other printed publication, upon its title-page or the page immediately following, or if a periodical either upon the title-page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title-page or the first page of music: *Provided,* That one notice of copyright in each volume or in each number of a newspaper or periodical published shall suffice.

The 1971 amendment provided for the location of the notice on a sound recording.

[n34] Footnote 35. This was § 20 of the 1909 Act.

[n35] Footnote 36. This was § 21 of the 1909 Act, which read as follows:

That in the case of a book published abroad in the English language before publication in this country, the deposit in the copyright office, not later than thirty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad interim copyright, which shall have all the force and effect given to copyright by this Act, and shall endure until the expiration of thirty days after such deposit in the copyright office.

The Act December 18, 1919 amended the 1909 Act as follows (new material in italics):

That in the case of a book *first* published abroad in the English language *on or after the date of the President's proclamation of peace,* the deposit in the copyright office, not later than *sixty* days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad interim copyright, which shall have all the force and effect given to copyright by this Act, and shall endure until the expiration of *four months* after such deposit in the copyright office.

The 1947 codification read as follows:

AD INTERIM PROTECTION OF BOOK PUBLISHED ABROAD.--In the case of a book first published abroad in the English language, the deposit in the copyright office, not later than sixty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad interim copyright, which shall have all the force and effect given to copyright by this title, and shall endure until the expiration of four months after such deposit in the copyright office.

The 1949 Amendment added "periodical" to the section heading and text, and allowed more liberal registration rules.

[n36] Footnote 37. This was § 22 of the 1909 Act. The 1947 codification read as follows:

SAME; EXTENSION TO FULL TERM.--Whenever within the period of such ad interim protection an authorized edition of such books shall be published within the United States, in accordance with the manufacturing provisions specified in section 16 of this title, and whenever the provisions of this title as to deposit of copies, registration, filing of affidavits, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book for the term provided in this title.

The text reflects the 1949 Amendment.

[n37] Footnote 38. This section combined § § 23 and 24 of the 1909 Act which read as follows:

SEC. 23. That the copyright secured by this Act shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name: *Provided,* That in the case of any posthumous work or of any periodical, cyclopaedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopaedic or other composite work when such contribution has been separately registered, the author of such work, if still living, or the widow, or widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further,* That in default of the registration of such application for renewal and extension, the copyright in any work shall determine at the expiration of twenty-eight years from first publication.

SEC. 24. That the copyright subsisting in any work at the time when this Act goes into effect may, at the expiration of the term provided for under existing law, be renewed and extended by the author of such work if still living, or the widow, widower, or children of the author, if the author be not living, of if such author, widow, widower, or children be not living, then by the author's executors, or in the absence of a will, his next of kin, for a further period such that the entire term shall be equal to that secured by this Act, including the renewal period: *Provided, however,* That if the work be a composite work upon which copyright was originally secured by the proprietor thereof, then such proprietor shall be entitled to the privilege of renewal and extension granted under this section: *Provided,* That application for such renewal and extension shall be made to the copyright office and duly registered therein within one year prior to the expiration of the existing term.

Prior to the 1909 Act, R.S. 4953 (July 8, 1870, ch. 230, § 87, 16 Stat. 212) provided for a 28 year term for copyright "from the time of the recording of the title thereof," while R.S. 4954 provided for an exclusive right for a 14 year renewal term for the "author, inventor, or designer ... or his widow or children ..."

The first Copyright Act May 31, 1790, ch. 18, 1 Stat. 124 provided for a 14 year copyright term and a 14 year renewal term. The Act of February 3, 1831, ch. 16, 4 Stat. 436, increased the original term to 28 years but maintained the renewal term at 14 years.

The Act of March 15, 1940 (ch. 57, 54 Stat. 51) revised the text of § 23 by deleting the following words from the second proviso clause: "when such contribution has been separately registered." The present text is that of the 1947 codification.

With the prospect of a new revision of the copyright law at hand, Congress passed a number of laws which had the effect of extending the renewal terms of copyrights subsisting after September 19, 1962 or prior to December 31, 1971 until December 31, 1976: Pub. L. 87-668, September 19, 1962, 76 Stat. 556; Pub. L. 89-142, August 28, 1965, 79 Stat. 581; Pub. L. 90-141, November 16, 1967, 81 Stat. 464; Pub. L. 90-416, July 23, 1968, 82 Stat. 397, Pub. L. 91-147, December 16, 1969, 83 Stat. 360; Pub. L. 91-555, December 17, 1970, 84 Stat. 1441; Pub. L. 92-170, November 24, 1971, 85 Stat. 490; Pub. L. 92-566, § 1, October 25, 1972, 86 Stat. 1181; Pub. L. 93-573, title I, § 104, December 31, 1974, 88 Stat. 1873. See *Appendix 8 infra*.

[n38] Footnote 39. This section was not in the 1909 Act.

[n39] Footnote 40. This is § 3 of Act June 18, 1874, ch. 301, 18 Stat. 79, which provided that the Commissioner of Patents is "charged with the supervision and control of the entry or registry of such prints or labels."

[n40] Footnote 41. This was § 62 of the 1909 Act. It read as follows:

That in the interpretation and construction of this Act "the date of publication" shall in the case of a work of which copies are reproduced for sale or distribution be held to be the earliest date when copies of the first authorized edition

were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority, and the word "author" shall include an employer in the case of works made for hire.

The 1947 codification did not change the text.

[n41] Footnote 42. The following material has been added by Pub. L. 92-140, and became effective February 15, 1972. See § 5(n) *supra.*

[n42] Footnote 43. This was § 41 of the 1909 Act.

[n43] Footnote 44. This was § 42 of the 1909 Act.

[n44] Footnote 45. This was § 43 of the 1909 Act.

[n45] Footnote 46. This was § 44 of the 1909 Act.

[n46] Footnote 47. This was § 45 of the 1909 Act.

[n47] Footnote 48. This was § 46 of the 1909 Act.

[n48] Footnote 49. This was § 25 of the 1909 Act. Subsection (b) of the 1909 Act was amended in 1912 to allow protection for motion pictures. The italicized text below in (b) reflects this additional material. Otherwise, what follows is the original text of the 1909 Act:

That if any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable:

"(a) To an injunction restraining such infringement;

"(b) To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits such damages as to the court shall appear to be just, and assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in case of a newspaper reproduction of a copyrighted photograph such damages shall not exceed the sum of two hundred dollars nor be less than the sum of fifty dollars, *and in the case of the infringement of an undramatized or nondramatic work by means of motion pictures, where the infringer shall show that he was not aware that he was infringing, and that such infringement could not have been reasonably foreseen, such damages shall not exceed the sum of one hundred dollars; and in the case of an infringement of a copyrighted dramatic or dramatico-musical work by a maker of motion pictures and his agencies for distribution thereof to exhibitors, where such infringer shows that he was not aware that he was infringing a copyrighted work, and that such infringements could not reasonably have been foreseen, the entire sum of such damages recoverable by the copyright proprietor from such infringing maker and his agencies for the distribution to exhibitors of such infringing motion picture shall not exceed the sum of five thousand dollars nor be less than two hundred and fifty dollars,* and such damages shall in no other case exceed the sum of five thousand dollars nor be less than the sum of two hundred and fifty dollars, and shall not be regarded as a penalty. *But the foregoing exceptions shall not deprive the copyright proprietor of any other remedy given him under this law, nor shall the limitation as to the amount of recovery apply to infringements occurring after the actual notice to a defendant, either by service of process in a suit or other written notice served upon him.*

"First. In the case of a painting, statue, or sculpture, ten dollars for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

"Second. In the case of any work enumerated in section five of this Act, except a painting, statue, or sculpture, one dollar for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

"Third. In the case of a lecture, sermon, or address, fifty dollars for every infringing delivery;

"Fourth. In the case of a dramatic or dramatico-musical or a choral or orchestral composition, one hundred dollars for the first and fifty dollars for every subsequent infringing performance; in the case of other musical compositions, ten dollars for every infringing performance;

"(c) To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright;

"(d) To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, molds, matrices or other means for making such infringing copies as the court may order.

"(e) Whenever the owner of a musical copyright has used or permitted the use of the copyrighted work upon the parts of musical instruments serving to reproduce mechanically the musical work, then in case of infringement of such copyright by the unauthorized manufacture, use, or sale of interchangeable parts, such as disks, rolls, bands, or cylinders for use in mechanical music-producing machines adapted to reproduce the copyrighted music, no criminal action shall be brought, but in a civil action an injunction may be granted upon such terms as the court may impose, and the plaintiff shall be entitled to recover in lieu of profits and damages a royalty as provided in section one, subsection (e), of this Act: *Provided also,* That whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this Act, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice; and in case of his failure so to do the court may, in its discretion, in addition to sums hereinabove mentioned, award the complainant a further sum, not to exceed three times the amount provided by section one, subsection (e), by way of damages, and not as a penalty, and also a temporary injunction until the full award is paid.

Rules and regulations for practice and procedure under this section shall be prescribed by the Supreme Court of the United States.

When the 1909 Act was codified the last sentence became subsection (f). The Act June 25, 1948 repealed subsection (f) effective September 1, 1948. This section is now covered by *28 U.S.C. § 1338.*

In 1971, Pub. L. 92-140 substituted an entirely new subsection (e) to protect against the unauthorized mechanical reproduction of musical works.

[n49] Footnote 50. Section 101(e) as amended by the Act of October 15, 1971, 85 Stat. 391. The 1947 heading was "Royalties for Use of Mechanical Reproduction of Musical Works."

[n50] Footnote 51. This was § 28 of the 1909 Act.

[n51] Footnote 52. The rest of this subsection presents the text of the 1909 Act. Subsection (b) was added by Act December 31, 1974, Pub. L. 93-573, title I, § 102, 88 Stat. 1873.

[n52] Footnote 53. This was § 29 of the 1909 Act.

R.S. § 4963, as amended (R.S. § 4963, Act of July 8, 1870, ch. 230, 16 Stat. 214, amended by Act of March 3, 1891, ch. 565, 26 Stat. 1109, and again amended by Act of Mar. 3, 1897, ch. 392, 29 Stat. 694), made every person impressing a false notice of copyright or knowingly issuing or selling an article bearing a false notice, liable to penalty of one hundred dollars, recoverable in a qui tam action; prohibited the importation of such articles; and authorized federal Circuit Courts to enjoin the issuing, publishing, or selling of such articles. The amendment of act March 3, 1897, ch. 392, 29 Stat. 694, above mentioned, included in its terms as to impressing notice or words of the same purport on the articles specified therein this significant clause: "whether such article be subject to copyright or otherwise." This clause was omitted from the corresponding portion of the 1909 Act.

[n53] Footnote 54. This was § 30 of the 1909 Act. Similar provisions were contained in Act March 3, 1897, ch. 392, 29 Stat. 694, amending R.S. 4963.

[n54] Footnote 55. This was § 31 of the 1909 Act.

[n55] Footnote 56. This was § 32 of the 1909 Act.

[n56] Footnote 57. This was § 33 of the 1909 Act, which read as follows:

That the Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce such joint rules and regulations as shall prevent the importation into the United States in the mails of articles prohibited importation by this Act, and may require notice to be given to the Treasury Department or Post Office Department, as the case may be, by copyright proprietors or injured parties, of the actual or contemplated importation of articles prohibited importation by this Act, and which infringe the rights of such copyright proprietors or injured parties.

In 1940, this was amended to read as follows:

That the Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce individually or jointly such rules and regulations as shall prevent the importation into the United States of articles prohibited importation by this Act, and may require, as conditions precedent to exclusion of any work in which copyright is claimed, the copyright proprietor or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such work to file with the Post Office Department or the Treasury Department a certificate of the Register of Copyrights that the provisions of section 12 of this Act, as amended, have been fully complied with, and to give notice of such compliance with, and to give notice of such compliance to postmasters or to customs officers at the ports of entry in the United States in such form and accompanied by such exhibits as may be deemed necessary for the practical and efficient administration and enforcement of the provisions of sections 30 and 31 of this Act.

[n57] Footnote 58. This was § 36 of the 1909 Act.

[n58] Footnote 59. The 1909 Act is the same, except that it began as follows: "That any such court or judge thereof shall have power, upon bill in equity filed ..." The 1947 codification substituted the word "complaint" for "bill in equity." The 1951 amendment added the references to title 28.

[n59] Footnote 60. This was § 37 of the 1909 Act.

[n60] Footnote 61. This was § 38 of the 1909 Act, which read as follows:

That the orders, judgments, or decrees of any court mentioned in section thirty-four of this Act arising under the copyright laws of the United States may be reviewed on appeal or writ of error in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively.

The text of the 1947 codification was as follows:

The orders, judgments, or decrees of any court mentioned in section 110 of this title arising under the copyright laws of the United States may be reviewed on appeal in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively.

[n61] Footnote 62. This was § 39 of the 1909 Act which read as follows:

That no criminal proceeding shall be maintained under the provisions of this Act unless the same is commenced within three years after the cause of action arose.

The 1947 codification did not alter the text which was amended by Pub. L. 85-313, effective September 7, 1958.

[n62] Footnote 63. This was § 40 of the 1909 Act.

[n63] Footnote 64. This was § 47 of the 1909 Act.

[n64] Footnote 65. This was § 48 of the 1909 Act. In the 1947 codification, the salaries of the Register and Assistant Register were dropped from the statute.

[n65] Footnote 66. This was § 49 of the 1909 Act.

[n66] Footnote 67. This was § 50 of the 1909 Act. It was repealed in 1972.

[n67] Footnote 68. This was § 51 of the 1909 Act.

[n68] Footnote 69. This was § 52 of the 1909 Act which read as follows:

That the seal provided under the Act of July eigth, eighteen hundred and seventy, and at present used in the copyright office, shall continue to be the seal thereof, and by it all papers issued from the copyright office requiring authentication shall be authenticated.

[n69] Footnote 70. This was § 53 of the 1909 Act.

[n70] Footnote 71. This was § 54 of the 1909 Act.

[n71] Footnote 72. This was § 55 of the 1909 Act which read as follows:

That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain his name and address, the title of the work upon which copyright is claimed, the date of the deposit of the copies of such work, and such marks as to class designation and entry

number as shall fully identify the entry. In the case of a book the certificate shall also state the receipt of the affidavit as provided by section sixteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same, and the said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

This was amended in 1913 to read as follows (new matter in italics):

That in the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain the name and address of said claimant, *the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same),* the title of the work *which is registered* for which copyright is claimed, the date of the deposit of the copies of such work, *the date of publication if the work has been reproduced in copies for sale, or publicly distributed,* and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book, the certificate shall also state the receipt of the affidavit, as provided by section sixteen of this Act, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The register of copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for *in the case of all registrations made after July 1, 1909, and in the case of all previous registrations so far as the copyright office record books shall show such facts,* which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same. Said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration.

[n72] Footnote 73. This was § 56 of the 1909 Act.

[n73] Footnote 74. This was § 57 of the 1909 Act. The 1948 Act provided for distribution of catalogs by the "Superintendent of Documents" instead of the "Copyright Office" as in the 1909 Act. It also raised the maximum price of catalogs from $ 10 to $ 25. The 1965 Amendment increased the maximum price of the yearly catalog to $ 75.

[n74] Footnote 75. This was § 58 of the 1909 Act.

[n75] Footnote 76. This was § 59 of the 1909 Act.

[n76] Footnote 77. The 1909 Act had the following words here: "or of this Act."

[n77] Footnote 78. This was § 60 of the 1909 Act.

[n78] Footnote 79. This was § 61 of the 1909 Act. This section has been amended numerous times in order to raise fees, etc.

[n79] Footnote 80. Section 216 was added by the Act of April 13, 1954, ch. 137, § 1, 68 Stat. 52.