Renewal Term Extensions under the 1909 Copyright Act

Extending Term to December 31, 1968

SREP90-667 EXTENDING THE DURATION OF COPYRIGHT PROTECTION IN CERTAIN CASES

OCTOBER 18, 1967.--Ordered to be printed

Mr. MCCLELLAN, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany S.J. Res. 114]

The Committee on the Judiciary, to which was referred the joint resolution (S.J. Res. 114) extending the duration of copyright protection in certain cases, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

PURPOSE

The purpose of this legislation is to continue until December 31, 1968, the renewal term of any copyright subsisting on the date of approval of this resolution, or the term as extended by Public Law 87-668 or by Public Law 89-442 (or by either or both of said laws) where such term would otherwise expire prior to December 31, 1968. The joint resolution would provide an interim extension of the renewal term of copyrights pending the enactment by the Congress of a general revision of the copyright laws, including a proposed increase in the length of the copyright term. This resolution would be the third such interim extension of copyright. The second extension (Public Law 89-142) will expire on December 31, 1967.

This legislation merely provides for the prolongation of the renewal term of copyright and does not involve creation of a new term of copyright.

STATEMENT

This legislation arises from a study of the U.S. copyright system authorized by the Congress in 1955. After extensive preparatory work, copyright revision bills were introduced in both Houses during the 88th Congress and again in the 89th Congress. In the latter Congress, hearings were commenced on this legislation. At the start of the current Congress, copyright revision bills (S. 597 and H.R. 2512) were again introduced. The House of Representatives on April 11, 1967, passed an amended version of H.R. 2512. This committee's Subcommittee on Patents, Trademarks, and Copyrights has held 17 days of hearings on copyright law revision. These hearings were concluded earlier in this session. Both the bill passed by the House of Representatives and S. 597 would increase the copyright term of new works from 28 years, renewable for a second period of 28 years, to a term for the life of the author and for 50 years thereafter. They also provide for a substantial extension of the term of subsisting copyrights.

Because of difficulties which have arisen concerning certain provisions of the revision bill (not relating to the increase in copyright term), it is apparent that action on the revision bill cannot be completed before the expiration on December 31, 1967, of the temporary extension of copyright term. In these circumstances, it seems desirable that the terms of expiring copyrights should be extended so that the copyright holders may enjoy the benefit of any increase in term that may be enacted by the Congress. It is the view of the committee that the same considerations that led to the enactment of Public Law 87-668 and Public Law 89-142 warrant the approval of this joint resolution.

After a study of the joint resolution, the committee recommends that the legislation be favorably considered.

AGENCY REPORT

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Attached hereto and made a part hereof is the report of the Librarian of Congress on Senate Joint Resolution 114.

THE LIBRARIAN OF CONGRESS,
Washington, D.C., October 12, 1967.

HON. JAMES O. EASTLAND,
Chairman, Senate Judiciary Committee,
New Senate Office Building, Washington, D.C.

DEAR SENATOR EASTLAND: This is in response to your letter of October 9 requesting our report on Senate Joint Resolution 114, extending the duration of copyright protection in certain cases.

The joint resolution would continue until December 31, 1968, the renewal term of all copyrights which would otherwise expire before that date, including those renewal copyrights which were previously extended until December 31, 1967, by Public Law 87-668 and Public Law 89-142.

Public Law 87-668, approved September 19, 1962, was enacted to preserve until December 31, 1965, renewal copyrights that would otherwise have expired between those dates, pending consideration of legislation for general revision of the copyright law which would lengthen the renewal term of all subsisting copyrights. When it became apparent in 1965 that consideration of the general revision bill would not be completed before the end of that year, Public Law 89-142 was enacted on August 28, 1965, to continue until December 31, 1967, all renewal copyrights that would otherwise expire before that date, including those that had previously been extended by Public Law 87-668.

Since the enactment of Public Law 89-142, the general revision bill, H.R. 2512 and S. 597 in the present Congress, has moved ahead through the legislative process. H.R. 2512 was reported favorably by the House Committee on the Judiciary on March 8, 1967 (H. Rept. 83, 90th Cong., first sess.), and was passed by the House, with some amendments, on April 11, 1967. Meanwhile, the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Committee on the Judiciary has completed its hearings on S. 597.

The general revision bill would extend the renewal term of all subsisting copyrights to run for 19 years beyond the 28-year renewal period provided in the present law. It is anticipated, however, that the legislative process for enactment of the revision bill will not be completed until the next session of Congress in 1968. In accordance with the considerations that led to the enactment of Public Laws 87-668 and 89-142, it would therefore be appropriate to continue preserving renewal copyrights that would otherwise expire pending the anticipated enactment of the general revision bill.

We recommend approval of Senate Joint Resolution 114 to continue all renewal copyrights now subsisting until December 31, 1968.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

HREP870 EXTENDING THE DURATION OF COPYRIGHT
PROTECTION IN CERTAIN CASES

OCTOBER 31, 1967.--Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary, submitted the following
R E P O R T
[To accompany S.J. Res. 114]

The Committee on the Judiciary, to whom was referred the joint resolution (S.J.Res. 114) extending the duration of copyright protection in certain cases, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

PURPOSE

The purpose of this legislation is to continue until December 31, 1968, the renewal term of any copyright subsisting on the date of approval of this resolution, or the term as extended by Public Law 87-668 or by Public Law 89-442 (or by either or both of said laws) where such term would otherwise expire prior to December 31, 1968. The joint resolution would provide an interim extension of the renewal term of copyrights pending the enactment by the Congress of a general revision of the copyright laws, including a proposed increase in the length of the copyright term. This resolution would be the third such interim extension of copyright. The second extension (Public Law 89-142) will expire on

December 31, 1967. This legislation merely provides for the prolongation of the renewal term of copyright and does not involve creation of a new term of copyright.

STATEMENT

For its report herein the committee adopts in substance the report on this measure filed by the Senate Committee on the Judiciary. This legislation arises from a study of the U.S. copyright system authorized by the Congress in 1955. After extensive preparatory work, copyright revision bills were introduced in both Houses during the 88th Congress and again in the 89th Congress. In the latter Congress, hearings were commenced on this legislation. At the start of the current Congress, copyright revision bills (S. 597 and H.R. 2512) were again introduced. The House of Representatives on April 11, 1967, passed an amended version of H.R. 2512. The Senate Subcommittee on Patents, Trademarks, and Copyrights has held 17 days of hearings on copyright law revision. These hearings were concluded earlier in this session. Both the bill passed by the House of Representatives and S. 597 would increase the copyright term of the new works from 28 years, renewable for a second period of 28 years, to a term for the life of the author and for 50 years thereafter. They also provide for a substantial extension of the term of subsisting copyrights.

Because of complexities which have arisen concerning certain provisions of the revision bill (not relating to the increase in copyright term), it is apparent that Senate action on the revision bill cannot be completed before the expiration, on December 31, 1967, of the temporary extension of copyright term. In these circumstances, the committee deems it desirable that the terms of expiring copyrights should be extended so that the copyright holders may enjoy the benefit of any increase in term that may be enacted by the Congress. It is the view of the committee that the same considerations that led to the enactment of Public Law 87-668 and Public Law 89-142 warrant the approval of this joint resolution.

Accordingly, the committee recommends that the legislation be favorably considered.

DEPARTMENTAL REPORTS

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Attached hereto and made a part hereof are the report of the Acting Librarian of Congress on Senate Joint Resolution 114, and the statement of the Register of Copyrights presented at the hearing held by Subcommittee No. 3.

THE LIBRARIAN OF CONGRESS,
Washington, D.C., October 27, 1967.

Form

Hon. ROBERT KASTENMEIER,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR MR. KASTENMEIER: This is in response to your request for comments on Senate Joint Resolution 114, a joint resolution extending the duration of copyright in certain cases. The resolution would continue to December 31, 1968, the renewal term of all copyrights that would otherwise expire before that date, including renewal copyrights previously extended under Public Laws 87-668 and 89-142.

I have read the testimony given by the Register of Copyrights, Abraham L. Kaminstein, on October 26, 1967, during the hearing before your subcommittee on Senate Joint Resolution 114. I concur in the Register's views, and I thoroughly endorse his recommendation that the joint resolution be adopted.

It now seems clear that, although the House has passed the bill for general revision of the copyright law (H.R. 2512), and the Senate hearings have been completed, there is no chance for final congressional action before 1968. It would be most unfortunate if renewal copyrights already extended through December 31, 1967, under Public Laws 87-668 and 89-142 were allowed to fall into the public domain only a few months before the terms of all subsisting copyrights are extended. Approval of Senate Joint Resolution 114 would avoid this result and carry out the basic purposes of the general revision bill as passed by the House of Representatives on April 11.

Sincerely yours,

JOHN G. LORENZ,
Acting Librarian of Congress.

STATEMENT OF ABRAHAM L. KAMINSTEIN, REGISTER OF COPYRIGHTS

I appreciate the opportunity to express my views on Senate Joint Resolution 114, which would extend through December 31, 1968, those renewal copyrights otherwise scheduled to expire before that date. This resolution was passed by the Senate on October 19, 1967.

I strongly support Senate Joint Resolution 114, not only because I believe its purpose is fully justified but also because I regard it as an important part of the overall program for general revision of the copyright law. In 1962, when the first joint resolution for the interim extension of expiring renewals was before your committee, I withheld support because there was then no assurance that the author or his heirs would benefit from the extended term under the revision bill. This issue had been resolved by 1965, when the second interim extension resolution was before the Congress, and the measure therefore had my full support. This third extension resolution, which is based on the realistic assumption that the bill for general revision of the copyright law will be enacted before the end of next year, strikes me as even more urgent and justifiable.

On April 11 of this year the House of Representatives, by a vote of 379 to 29, passed and sent to the Senate the general revision bill (H.R. 2512) containing provisions that would change the duration of copyright in the United States. In effect, copyrights that are already in existence would be extended from a maximum of 56 years to a maximum of 75 years; copyrights that have already been renewed would thus have an additional 19 years added to their term. As the record of your hearings shows, nearly everyone agrees that the present U.S. copyright term is too short, especially in view of the increased life expectancy since 1909, and that it is badly out of line with copyright terms throughout the rest of the world.

After House passage of the general revision bill, the Senate Judiciary Subcommittee completed its 17 days of hearings on the subject. A great many detailed questions or suggestions were thrown out during those hearings, and these have required a good deal of time for consideration. More serious were the major controversies over uses of copyrighted works by community antenna television systems and in the operation of computers, both of which tended to stall the bill for a time while intermediate solutions were being sought. I believe that these solutions have now been found, and that action on the general revision bill in the Senate can be expected early in 1968. In his remarks upon introducing Senate Joint Resolution 114 (Congressional Record, Oct. 3, 1967, p. S14067) Senator McClellan indicates that, although the CATV issue presented a serious difficulty, continuing negotiations have avoided the necessity for special interim legislation on that subject at the present time. Thus, the only interim legislation needed now is that contained in Senate Joint Resolution 114.

It should be emphasized that those 58,000 renewal copyrights affected by the resolution will not receive any longer protection than the other renewal copyrights affected by the general revision bill. To take an example, a work copyrighted in 1907 and renewed in 1935 would ordinarily have expired in 1963 and would then have fallen permanently in the public domain. Congress first extended that copyright to the end of 1965, and later, on the assumption that general revision would be enacted before now, to the end of 1967. Enactment of Senate Joint Resolution 114 would extend the term for 1 more year, till the end of 1968. If general revision is enacted next year, the copyright term will be extended again to a total of 75 years, so it would then expire in 1982, 75 years from the original copyright date of 1907. In other words, the revision bill would extend the total term in this case by only 14 years, since the work will already have received 5 years of added protection under the interim extensions.

I confidently expect that general revision will be enacted in 1968. Since no real issue on the extension of term was raised in the Senate, the duration provisions as passed by the House in April will, I believe, be incorporated in the new revision statute. The poignant irony of copyrights that have already been extended in anticipation of revision being allowed to fall into the public domain only a few months short of their goal is too obvious to require elaboration. If achievement of general revision were not so close I might have some misgivings about going back to the well a third time, but as things now stand I believe that failure to give expiring renewal copyrights 1 more year would be most unfortunate.

For these reasons, I urge the adoption of Senate Joint Resolution 114.

November 16, 1967

JOINT RESOLUTION

Extending the duration of copyright protection in certain cases.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case in which the renewal term of copyright subsisting in any work on the date of approval of this resolution, or the term thereof as extended by Public Law 87-668, or by Public Law 89-142 (or by either or both of said laws), would expire prior to December 31, 1968, such term is hereby continued until December 31, 1968.

Approved November 16, 1967.