Renewal Term Extensions under the 1909 Copyright Act

Extending Term to December 31, 1969

COPYRIGHT PROTECTION IN CERTAIN CASES

June 10, 1968.--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. 172]

The Committee on the Judiciary, to which was referred the joint resolution (S.J. Res. 172) 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, 1969, 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, by Public Law 89-442, or Public Law 90-141 (or by all or certain said laws) where such term would otherwise expire prior to December 31, 1969. 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 fourth such interim extension of copyright. The third extension (Public Law 90-141) will expire on December 31, 1968.

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 have been concluded. 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), and the unavoidable delays resulting from litigation pending in the U.S. Supreme Court relating to the copyright liability of cable television systems, it is apparent that action on the revision bill cannot be completed before the expiration on December 31, 1968, of the temporary extension of copyright terms. 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 the previous extensions warrant the approval of this joint resolution.

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

Form

Attached hereto is the report of the Librarian of Congress, dated June 5, 1968.

THE LIBRARIAN OF CONGRESS,

Washington, D.C., June 5, 1968.

HON. JAMES O. EASTLAND,

Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR EASTLAND: This is in response to your letter of May 27, 1968, requesting our report on Senate Joint Resolution 172, extending the duration of copyright protection in certain cases.

The joint resolution would continue until December 31, 1969, the renewal term of all copyrights that would otherwise expire before that date, including renewal copyrights previously extended to December 31, 1968, by Public Laws 87-668, 89-142, and 90-141.

If enacted, the resolution would be the fourth in a series of extensions aimed at temporarily prolonging the duration of expiring copyrights in anticipation of the enactment of a comprehensive revision of the present copyright law. The general revision bill (H.R. 2512, S. 597), which has passed the House and is now pending before your committee, would extend the total available term of all subsisting copyrights from 56 to 75 years. The series of extensions have been intended to keep works already in their second copyright term from falling into the public domain for the time being, so that they could have the advantage of the 75-year term when the new copyright law comes into effect.

There is an urgent need for complete revision of the present copyright statute, which was enacted in 1909 and is now hopelessly inadequate to deal with the increasing problems presented by the new information, entertainment, and communications media. Passage of the revision bill by the House of Representatives on April 11, 1967, was a major step toward this goal, as was the conclusion of hearings before the Subcommittee on Patents, Trademarks, and Copyrights of the Senate Committee on the Judiciary. During the past year, however, it has become clear that final congressional action must await some resolution of the controversy concerning the copyright liability of community antenna television (CATV) systems, and that there are other issues requiring additional time and effort to settle satisfactorily. A Supreme Court decision in the CATV litigation is expected shortly, but it would be wholly unrealistic to expect the CATV controversy and the remaining problems to be resolved in the time remaining before adjournment of the 90th Congress.

Under these circumstances, I strongly support Senate Joint Resolution 172, particularly as a method of preserving the continuity and momentum of the entire program for general revision of the copyright law. At the same time, I share the concern expressed to your sub-committee earlier by the Register of Copyrights that protracted delays in the revision program may lead to new controversies and may make some of the present issues harder to resolve. A fourth interim extension of subsisting copyrights cannot be justified solely as an end in itself, but its purposes will be amply served if it is followed as soon as possible by enactment of a new copyright law for the United States. Accomplishment of this goal before expiration of the extension on December 31, 1969, will be possible only through the strongest efforts of everyone concerned, but I believe that general revision of the present copyright law is important enough to warrant those efforts.

Sincerely yours,

L. QUINCY MUMFORD,
Librarian of Congress.

EXTENDING THE DURATION OF COPYRIGHT PROTECTION IN CERTAIN CASES

JULY 2, 1968.--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. 172]

The Committee on the Judiciary to whom was referred the joint resolution (S.J.Res. 172) 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 Senate Joint Resolution 172 is to continue until December 31, 1969, 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, by Public Law 89-442, or by Public Law 90-141 (or by all or certain of said laws), where such term would otherwise expire prior to December 31, 1969. The joint resolution would thus provide an interim extension of the renewal term of copyrights

pending the enactment by the Congress of a general revision of the copyright law, including a proposed increase in the length of the copyright term. Enactment of this legislation would mark the fourth such interim extension. The third extension, provided by Public Law 90-141, will expire on December 31, 1968.

It should be noted that the legislation would merely provide a prolongation of the renewal term of copyrights that are about to expire; it would not create 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 (S. Rept. No. 1181, 90th Cong., 2d sess.). The subject legislation arises from a study of the U.S. copyright system authorized by Congress in 1955. After extensive preparatory work, copyright revision bills were introduced in both Houses during the 88th Congress and again during the 89th Congress. In the latter Congress, hearings were commenced. At the start of the present Congress, copyright revision bills (H.R. 2512 and S. 597) were again introduced. On April 11, 1967, the House of Representatives passed an amended version of H.R. 2512. During the present Congress, also, the Senate Subcommittee on Patents, Trademarks, concluded hearings on copyright law revision. Both H.R. 2512 as it passed the House 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 would also extend the total available term of all subsisting copyrights from the present maximum of 56 years to 75 years.

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 Senate consideration of the revision bill cannot be completed before the expiration, on December 31, 1968, of the currently effective temporary extension of copyright terms. 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 int he term of subsisting copyrights that may be enacted by the Congress. It is the view of the committee that the same considerations that led to the enactment of the previous extensions warrant the approval of this joint resolution.

Form

In his favorable report on Senate Joint Resolution 172, attached hereto, the Acting Librarian of Congress recommends that the resolution be amended to extend copyright renewal terms for another 2 years, until December 31, 1970, rather than for only 1 year until December 31, 1969. The committee, however, is of the opinion that a 1-year extension is better calculated to preserve the continuity and momentum of the revision program. Accordingly, the committee recommends enactment of Senate Joint Resolution 172, without amendment.

THE LIBRARIAN OF CONGRESS,
Washington, D.C., June 26, 1968.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CELLER: This is in response to your letter of June 20, 1968, requesting our views on Senate Joint Resolution 172, extending the duration of copyright protection in certain cases.

The joint resolution would continue until December 31, 1969, the renewal form of all copyrights that would otherwise expire before that date, including renewal copyrights previously extended to December 31, 1968, by Public Laws 87-668, 89-142, and 90-141.

If enacted, the resolution would be the fourth in a series of extensions aimed at temporarily prolonging the duration of expiring copyrights in anticipation of the enactment of a comprehensive revision of the present copyright law. The general revision bill (H.R. 2512), which has passed the House but is still pending in the Senate, would extend the total available term of all subsisting copyrights from 56 to 75 years. The series of extensions have been intended to keep works already in their second copyright term from falling into the public domain for the time being, so that they would have the advantage of the 75-year term when the new copyright law comes into effect.

There is an urgent need for complete revision of the present copyright statute, which was enacted in 1909 and is now hopelessly inadequate to deal with the increasing problems presented by the new information, entertainment, and communications media. Passage of the revision bill by the House of Representatives on April 11, 1967, was a major step toward this goal, as was the conclusion of hearings before the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights. During the past year, however, it has become increasingly clear that final congressional action must await some resolution of the controversy concerning the copyright liability of cable television systems (CATV), and that there are other issues requiring additional time and effort to settle satisfactorily. The Supreme Court decision on June 17, 1968, holding certain CATV systems exempt from copyright liability, seems likely to delay settlement of the controversy further. It would be wholly unrealistic to expect these problems to be resolved in the time remaining before adjournment of the 90th Congress.

Under these circumstances, I strongly support Senate Joint Resolution 172, particularly as a method of preserving the continuity and momentum of the entire program for general revision of the copyright law. At the same time, I am seriously concerned that protracted delays in the revision program may lead to new controversies and may make some of the present issues harder to resolve. A fourth interim extension of subsisting copyrights cannot be justified solely as an end in itself, but its purpose will be amply served if it is followed as soon as possible by enactment of a new copyright law for the United States.

As it passed the Senate, Senate Joint Resolution 172 would extend expiring renewal copyrights for only 1 year, from December 31, 1968, through December 31, 1969. I recommend that the resolution be amended to extend copyright renewals for another 2 years, making the cutoff date December 31, 1970. On June 12, 1968, when the Senate passed the resolution limiting the extension to 1 year, there was a possibility that the Supreme Court might hold CATV systems fully liable for copyright infringement, thus making copyright law revision a matter of immediate urgency. The court's decision on June 17 completely removes this factor.

In view of the obvious time and effort that will be required to resolve the CATV issue and certain other unsettled problems, to revise the bill to the extent necessary, and to obtain action in both Houses, an extension of only 1 year seems unrealistically short. An extension of 2 years would add approximately 24,000 renewals to the 58,000 already extended, and would allow time in both sessions of the 91st Congress for final action on the bill for general revision of the copyright law.

Yours sincerely,

PAUL L. BERRY,
Acting Librarian of Congress.

Public Law 90-416
90th Congress, S. J. Res. 172
July 23, 1968
82 Stat. 397

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, by Public Law 89-142, or by Public Law 90-141 (or by all or certain of said laws), would expire prior to December 31, 1969, such term is hereby continued until December 31, 1969.

Approved July 23, 1968.