102D CONGRESS
1ST SESSION

S. 756

To amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 21 (legislative day, FEBRUARY 6), 1991

Mr. DECONCINI (for himself and Mr. HATCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Consistent with the provisions of subparagraphs (B) and (C), any copyright, the first term

of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) 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 47 years.

"(C) 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 or her next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(A) of this subsection, the copyright shall endure for a renewed and

extended further term of 47 years which shall vest upon the beginning of such further term—

"(i) in the proprietor of the copyright if—

"(I) an application to register a claim to such further term shall have been made to the Copyright Office and registered within 1 year prior to the expiration of the original term of copyright; or

"(II) no such application is made and registered; and

"(ii) in the person or entity that was the proprietor of the copyright on the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years which shall vest, upon, the beginning of such further term—

"(i) in any person entitled under paragraph (1)(C) to the renewal and extension of the copyright, if—

"(I) an application to register a claim to such further term shall have been made to the Copyright Office and registered within 1 year

prior to the expiration of the original term of copyright; or

"(II) no such application is made and registered; and

"(ii) in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to such further term of 47 years.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year prior to the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or their successors or assigns, so long as the application is made in the name of the vested statutory claimants.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not

made and registered within 1 year before the expiration of the original term of copyright in a work, then a derivative work prepared under authority of a grant made prior to the expiration of the original term of copyright, may continue to be utilized under the terms of the grant during the renewed and extended term of copyright, but this privilege does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made and registered within 1 year before its expiration, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration of a renewed and extended term of copyright made thereafter shall be within the discretion of the court.".

(b) LEGAL EFFECT OF RENEWAL OF COPYRIGHT IS UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years as provided under sections 304(a) (1) and (2) of title 17, United States Code (as amended by subsection (a) of this section) shall have the same effect with respect to prior grants of a transfer or

license of the further term as did the renewal of a copyright prior to the effective date of this Act under the law then in effect.

(c) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended to read as follows:

"(a) REGISTRATION PERMISSIVE.—At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by this section, together with the application and fee specified by sections 409 and 708. Such registration is not a condition of copyright protection.".

(d) FALSE REPRESENTATION.—Section 506(e) of title 17, United States Code, is amended to read as follows:

"(e) FALSE REPRESENTATION.—Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in the application for a renewal registration, or in any written statement filed in connection

with either application, shall be fined not more than $2,500.".

(e) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended to read as follows:

"(2) on filing each application of registration of a claim to a renewal of a subsisting copyright under section 304(a), including the issuance of a certificate of registration if registration is made, $20.".

(f) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) This section shall take effect upon the date of enactment.

(2) The provisions of this section shall apply only to those copyrights secured between January 1, 1963 and December 31, 1977. Copyrights secured prior to January 1, 1963 shall be governed by the provisions of section 304(a) in effect on the day prior to the effective date of this Act.

SEC. 2. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

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