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SENATE

REPORT
101-267

THE COPYRIGHT FEES AND TECHNICAL AMENDMENTS ACT OF 1989

APRIL 19 (legislative day, APRIL 18), 1990.—Ordered to be printed

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

REPORT

[To accompany S. 1271 and H.R. 1622]

The Committee on the Judiciary, to which was referred the bills (S. 1271 and H.R. 1622), having considered the same reports favorably thereon and recommends that the bills, as amended, do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This act may be cited as the "Copyright Fees and Technical Amendments Act of 1989".

SEC. 2. FEES OF COPYRIGHT OFFICE.

(a) FEE SCHEDULE.—Section 708(a) of title 17, United States Code, is amended to read as follows:

"(a) The following fees shall be paid to the Register of Copyrights:

"(1) on filing each application under section 408 for registration of a copyright claim or for a supplementary registration, including the issuance of a certificate of registration if registration is made, $20;

"(2) on filing each application for registration of a claim for renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, $12;

"(3) (for the issuance of a receipt for deposit under section 407, $4;

"(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document covering not more than one title, $20; for additional titles, $10 for each group of not more than 10 titles;

"(5) for the filing, under section 115(b) of a notice of intention to obtain a compulsory license, $12;

"(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of anomymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $20 for a document covering not more than one title; for each additional title, $2;

"(7) For the issuance, under section 706, of an additional certificate of registration, $8;

"(8) for the issuance of any other certification, $20 for each hour or fraction of an hour consumed with respect thereto;

"(9) for the making and reporting of a search as provided by section 705, and for any related services, $20 for each hour or fraction of an hour consumed with respect thereto; and

"(10) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

The Register of Copyrights is authorized to fix the fees for preparing copies of Copyright Office records, whether or not such copies are certified, on the basis of the cost of such preparation.".

(b) ADJUSTMENT OF FEES.—Section 708 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) In calendar year 1995 and in each subsequent fifth calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) by the percent change in the annual average, for the preceding calendar year, of the Consumer Price Index published by the Bureau of Labor Statistics, over the annual average of the Consumer Price Index for the fifth calendar year preceding the calendar year in which such increase is authorized.".

(c) CONFORMING AMENDMENT.—Section 704(e) of title 17, United States Code, is amended by striking out "708(a)(11)" and inserting in lieu thereof "708(a)(10)".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act and shall apply to—

(A) claims to original, supplementary, and renewal copyright received for registration, and to items received for recordation in the Copyright Office, on or after such effective date, and

(B) other requests for services received on or after such effective date, or received before such effective date for services not yet rendered as of such date.

(2) PRIOR CLAIMS.—Claims to original, supplementary, and renewal copyright received for registration and items received for recordation in acceptable form in the Copyright Office before the effective date set forth in paragraph (1), and requests for services which are rendered before such effective date shall be governed by section 708 of title 17, United States Code, as in effect before such effective date.

SEC. 3. TECHNICAL AMENDMENTS.

(a) SECTION 111.—Section 111 of title 17, United States Code, is amended—

(1) in subsection (c)(2)(B) by striking out "recorded the notice specified by subsection (d) and"; and

(2) in subsection (d)—

(A) in paragraph (2) by striking out "paragraph (1)" and inserting in lieu thereof "clause (1)";

(B) in paragraph (3) by striking out "clause (5)" and inserting in lieu thereof "clause (4)"; and

(C) in paragraph (3)(B) by striking out "clause (2)(A)" and inserting in lieu thereof "clause (1)(A)".

(b) SECTION 801.—Section 801(b)(2)(D) of title 17, United States Code, is amended by striking out "111(d)(2) (C) and (D)" and inserting in lieu thereof "111(d)(1) (C) and (D)".

(c) SECTION 804.—Section 804(a)(2)(C)(i) of title 17, United States Code, is amended by striking out "115" and inserting in lieu thereof "116".

(d) SECTION 106.—Section 106 of title 17, United States Code, is amended by striking out "118" and inserting in lieu thereof "119".

(e) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall be effective as of August 27, 1986.

(2) The amendment made by subsection (c) shall be effective as of October 31, 1988.

(3) The amendment made by subsection (d) shall be effective as of November 16, 1988.

I. PURPOSE

Copyright fees have not been adjusted since the enactment of the Copyright Act of 1976. S. 1271 doubles the fee schedule for copyright registrations under the copyright laws, adjusting them for inflation over the past 10 years. The bill also grants the Register of Copyrights the authority to increase these fees every 5 years, beginning in 1995, to account for the increasing costs of providing Copyright Office services.

II. LEGISLATIVE HISTORY

Congress set the current fees schedule in the Copyright Act of 1976. The act embodied what Congress decided should be the proper proportion of Copyright Office costs borne by direct beneficiaries and users of copyright services and those to be borne by the taxpayers. S. 1271 and H.R. 1622 are designed to return the Copyright Office to its historic ratio of earned fees to Office expenses.

S. 1271 was introduced by Senator DeConcini on June 23, 1989, and referred to the Senate Committee on the Judiciary. On July 12, 1989, the Patents, Copyrights and Trademarks subcommittee held a public hearing on the act and cleared it for the full committee on July 26, 1989. S. 1271 was reported favorably by the Senate Committee on the Judiciary on March 22, 1990, by unanimous consent.

The House companion to S. 1271, H.R. 1622, was introduced by Representative Kastenmeier on the same day as S. 1271. It was reported favorably by the House Judiciary Committee on October 13, 1989, and was passed by the full House of Representatives—as amended—by a voice vote on October 16, 1989. H.R. 1622 was received in the Senate and was also reported favorably out of the Senate Committee on the Judiciary on March 22, 1990, by unanimous consent.

Subsequent to the committee vote, the committee unanimously agreed by written poll to substitute the text of H.R. 1622 for the language of S. 1271 and favorably report S. 1271, as thus amended, to the full Senate. Consequently, both S. 1271 and H.R. 1622 contain identical texts.

III. DISCUSSION

The "Copyright Fees and Technical Amendments Act of 1989" involves two main provisions: (1) a fee increase for most copyright fee

services, and (2) authorization for the Register of Copyrights to adjust the fee schedule every five years.

FEE SCHEDULE INCREASE

S. 1271 effectively doubles the fees that authors and copyright owners will pay for most Copyright Office services. These services include filing claims for copyright registration, copyright renewals, issuing receipts for deposit, recording transfers of copyright ownership, filing notices of intention to obtain a compulsory license, recording statements revealing the identity of an author of an anonynmous or pseudonymons work or death of an author, and issuing additional certificates of registration. Fees for searches have been adjusted also.

While the Copyright Office has seen its workload in these areas increase by almost 50 percent over the past 9 years and its personnel decrease by 23 percent, direct-user copyright service fees have remained constant since 1976. The increased revenue from the enactment of this act will allow the Office to become more self-sustaining. According to Copyright Office estimates, the increased revenues will offset approximately two-thirds of the $19 million it takes to sustain Office operations. Without this adjustment, the Copyright Office may find it necessary to cut services as well as face a likely growth in registration backlogs.

5-YEAR INFLATION ADJUSTMENT AUTHORITY

S. 1271 also authorizes the Register of Copyrights to adjust the copyright fee schedule at 5-year intervals to account for periodic inflation. Over time, the appropriateness of the fee schedule, as amended by this bill, will be eroded as inflation drives up the costs of delivering copyright services while revenues are frozen by law. Although Congress has responded to this disparity before, needed adjustments have usually followed a lengthy time lag. Enactment of the fee-adjustment authority will assist the Copyright Office in long-range planning involving personnel and new equipment, enabling it to maintain efficiency in the future and limit the time before costs outstrip revenues.

The Copyright Fees and Technical Amendments Act of 1989 will confront inflationary pressures placed on the Copyright Office and ensure that it is able to manage the public record in a timely manner responsive to the needs of the creative community and the public.

IV. VOTE OF THE COMMITTEE

On March 22, 1990, with a quorum present, by voice vote, the Committee on the Judiciary unanimously ordered the bills (S. 1271 and H.R. 1622) favorably reported. On March 30, 1990, by written poll, the Committee unanimously agreed to substitute the language of H.R. 1622 for the text of S. 1271 and to favorably report S. 1271, as amended, to the full Senate.

V. Section-by-Section Analysis

SECTION 1

Section 1 is the short title of the bill. The bill may be cited as the "Copyright Fees and Technical Amendments Act of 1989."

SECTION 2

Section 2(a) amends section 708(a) of title 17, of the United States Code, adjusting the fees of the Copyright Office for services as listed in the Copyright Act of 1976. The adjustments represent a 100-percent increase in the cost on the services provided to account for inflation.

Section 2(b) authorizes the Register of Copyrights to increase the fees specified in subsection (a) by the change in the annual average of the Consumer Price Index between the year of the increase and the year preceding the calendar year of the increase.

Section 2(c) specifies that the changes in the fee schedule will become effective 6 months after the date of the enactment of the act. Claims, as specified in the bill, received before the effective date, will be governed by the fee schedule as it existed before the enactment of the act.

SECTION 3

Section 3 consists of miscellaneous technical changes to sections 111, 801, 804, and 106 of title 17, United States Code, and do not affect the substantive content of the Copyright Act of 1976.

VI. Agency Views

The Librarian of Congress and the Register of Copyrights both submitted statements in favor of S. 1271 and H.R. 1622. The Register of Copyrights testified at a public hearing in support of the bills.

VII. Cost Estimate

In accordance with paragraph 11(a), rule XXVI, of the Standing Rules of the Senate, the committee offers the Report of the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, DC, March 29, 1990.

Hon. Joseph R. Biden, Jr.,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 1271, the Copyright Fees and Technical Amendments Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

Robert F. Hale
(For Robert D. Reischauer.)

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1271.

2. Bill title: Copyright Fees and Technical Amendments Act of 1989.

3. Bill status: As ordered reported by the Senate Committee on the Judiciary, March 22, 1990.

4. Bill purpose: S. 1271 would amend section 708(a) of the Copyright Act of 1976 to double certain fees payable to the Copyright Office. In addition, the bill would authorize the Register of Copyrights to adjust the fee schedule at five-year intervals to account for inflation. S. 1271 also would make technical corrections to Title 17 of the United States Code to correct minor errors in recently enacted public laws.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1991	1992	1993	1994	1995
Authorizations:					
Estimated authorization level	−6	−7	−8	−8	−8
Estimated outlays	−6	−7	−8	−8	−8

Basis of estimate: Assuming enactment of the bill on June 1, 1990, the new fee schedule would take effect on December 1, 1990. Beginning in fiscal year 1991, additional receipts of $6 million to $8 million a year would be collected and recorded as offsetting collections to the Copyright Office salaries and expenses account. Savings would be realized only if the amount appropriated for the Copyright Office is reduced to reflect the increased collections.

6. Estimated cost to state and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On October 10, 1989, CBO prepared a cost estimate for H.R. 1622 as ordered reported by the House Committee on the Judiciary on October 3, 1989. The estimated impact of the House bill differed from this estimate because an earlier enactment date was assumed.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 29, 1990.

Hon. JOSEPH R. BIDEN, Jr.,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1622, the Copyright Fees and Technical Amendments Act of 1989.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer.)

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1622.

2. Bill title: Copyright Fees and Technical Amendments Act of 1989.

3. Bill status: As ordered reported by the Senate Committee on the Judiciary, March 22, 1990.

4. Bill purpose: H.R. 1622 would amend section 708(a) of the Copyright Act of 1976 to double certain fees payable to the Copyright Office. In addition, the act would authorize the Register of Copyrights to adjust the fee schedule at five-year intervals to account for inflation. H.R. 1622 also would make technical corrections to Title 17 of the United States Code to correct minor errors in recently enacted public laws.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

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Basis of estimate: Assuming enactment of the legislation on June 1, 1990, the new fee schedule would take effect on December 1, 1990. Beginning in fiscal year 1991, additional receipts of $6 million to $8 million a year would be collected and recorded as offsetting collections to the Copyright Office salaries and expenses account. Savings would be realized only if the amount appropriated for the Copyright Office is reduced to reflect the increased collections.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On October 10, 1989, CBO prepared a cost estimate for H.R. 1622 as ordered reported by the House Committee on the Judiciary on October 3, 1989. The estimated impact of the House bill differed from this estimate because an earlier enactment date was assumed.

9. Estimate prepared by: Douglas Criscitello.

10. Estimate approved by: C.G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

VIII. REGULATORY IMPACT STATEMENT

Pursuant to paragraph 11(b), rule XXVI of the Standing Rules of the Senate, the committee, after due consideration, concludes that the act will have a regulatory impact in that it will result in an increased cost to copyright holders. After consultation with the copyright community, the committee concludes that the economic

impact is justified by the increased costs to the Copyright Office that has occurred through inflation and an increase in volume of registrations.

IX. Changes in Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1271 and H.R. 1622, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 17, UNITED STATES CODE

* * * * * * *

CHAPTER 1—SUBJECT MATTER AND SCOPE OF COPYRIGHT

* * * * * * *

§ 106. Exclusive rights in copyrighted works

Subject to sections 107 through [118,] *119,* the owner of copyright under this title has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the copyright work in copies or phonorecords;

(2) to prepare derivative works based upon the copyrighted work;

(3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

(4) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly; and

(5) in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly.

* * * * * * *

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) * * *

* * * * * * *

(c) Secondary transmissions by cable systems:

(1) * * *

(2) Notwithstanding the provisions of clause (1) of this subsection, the willful or repeated secondary transmission to the public by a cable system of a primary transmission made by a broadcast station licensed by the Federal Communications

Commission or by an appropriate governmental authority of Canada or Mexico and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, in the following cases:

(A) where the carriage of the signals comprising the secondary transmission is not permissible under the rules, regulations, or authorizations of the Federal Communications Commission; or

(B) where the cable system has not [recorded the notice specified by subsection (d) and] deposited the statement of account and royalty fee required by subsection (d).

* * * * * * *

(d) Compulsory license for secondary transmissions by cable systems:

(1) * * *

(2) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Copyright Royalty Tribunal as provided by this title. The Register shall submit to the Copyright Royalty Tribunal, on a semiannual basis, a compilation of all statements of account covering the relevant six-month period provided by [paragraph (1)] *clause (1)* of this subsection.

(3) The royalty fees thus deposited shall, in accordance with the procedures provided by [clause 5,] *clause (4),* be distributed to those among the following copyright owners who claim that their works were the subject of secondary transmissions by cable systems during the relevant semiannual period:

(A) any such owner whose work was included in a secondary transmission made by a cable system of a nonnetwork television program in whole or in part beyond the local service area of the primary transmitter; and

(B) any such owner whose work was included in a secondary transmission identified in a special statement of account deposited under [clause (2)(A);] *clause (1)(A);* and

(C) any such owner whose work was included in nonnetwork programing consisting exclusively of aural signals carried by a cable system in whole or in part beyond the local service area of the primary transmitter of such programs.

* * * * * * *

CHAPTER 7—COPYRIGHT OFFICE

* * * * * * *

§ 704. Retention and disposition of articles deposited in Copyright Office

(a) Upon their deposit in the Copyright Office under sections 407 and 408, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.

* * * * * * *

(e) The depositor of copies, phonorecords, or identifying material under section 408, or the copyright owner of record, may request retention, under the control of the Copyright Office, of one or more of such articles for the full term of copyright in the work. The Register of Copyrights shall prescribe, by regulation, the conditions under which such requests are to be made and granted, and shall fix the fee to be charged under section [708(a)(11)] *708(a)(10)* if the request is granted.

* * * * * * *

§ 708. Copyright Office fees

[(a) The following fees shall be paid to the Register of Copyrights:

[(1) on filing each application for registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration if registration is made, $10;

[(2) on filing each application for registration of a claim to renewal of a subsisting copyright on its term under section 304(a), including the issuance of a certificate of registration if registration is made, $6;

[(3) for the issuance of a receipt for a deposit under section 407, $2;

[(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, $10; for each page over six and each title over one, 50 cents additional;

[(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, $6;

[(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, $1 additional;

[(7) for the issuance, under section 601, of an import statement, $3;

[(8) for the issuance, under section 706, of an additional certificate of registration, $4;

[(9) for the issuance of any other certification, $4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

[(10) for the making and reporting of a search as provided by section 705, and for any related services, $10 for each hour or fraction of an hour consumed;

[(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.]

(a) The following fees shall be paid to the Register of Copyrights:

(1) on filing each application under section 408 for registration of a copyright claim or for a supplementary registration, including the issuance of a certificate of registration if registration is made, $20;

(2) on filing each application for registration of a claim for renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, $12;

(3) for the issuance of a receipt for a deposit under section 407, $4;

(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document covering not more than one title, $20; for additional titles, $10 for each group of not more than 10 titles;

(5) for the filing, under section 115(b), of a notice of intention to obtain a compulsory license, $12;

(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $20 for a document covering not more than one title; for each additional title $2;

(7) for the issuance, under section 706, of an additional certificate of registration, $8;

(8) for the issuance of any other certification, $20 for each hour or fraction of an hour consumed with respect thereto;

(9) for the making and reporting of a search as provided by section 705, and for any related services, $20 for each hour or fraction of an hour consumed with respect thereto; and

(10) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service. The Register of Copyrights is authorized to fix the fees for preparing copies of Copyright Office records, whether or not such copies are certified, on the basis of the cost of such preparation.

(b) In calendar year 1995 and in each subsequent fifth calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) by the percent change in the annual average, for the preceding calendar year, of the Consumer Price Index published by the Bureau of Labor Statistics, over the annual average of the Consumer Price Index for the fifth calendar year preceding the calendar year in which such increase is authorized.

[(b)] *(c)* The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to

waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

[(c)] *(d)* All fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriation for necessary expenses of the Copyright Office. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section.

* * * * * * *

CHAPTER 8—COPYRIGHT ROYALTY TRIBUNAL

* * * * * * *

§ 801. Copyright Royalty Tribunal: Establishment and purpose

(a) * * *

(b) Subject to the provisions of this chapter, the purposes of the Tribunal shall be—

(1) * * *

(2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:

(A) * * *

* * * * * * *

(D) The gross receipts limitations established by section [111(d)(2) (C) and (D)] *111(d)(1) (C) and (D)* shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

* * * * * * *

§ 804. Institution and conclusion of proceedings

(a) With respect to proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in sections 115 and 116, and with respect to proceedings under section 801(b)(2) (A) and (D)—

(1) * * *

(2) during the calendar years specified in the following schedule, any owner or user of a copyright work whose royalty rates are specified by this title, or by a rate established by the Tribunal, may file a pension with the Tribunal declaring that the petitioner requests an adjustment of the rate. The Tribunal shall make a determination as to whether the applicant has a significant interest in the royalty rate in which an adjustment is requested. If the Tribunal determines that the petitioner has a significant interest, the Chairman shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with notice of commencement of proceedings under this chapter.

(A) * * *

* * * * * * *

(C)(i) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section [115,] *116,* such petition may be filed in 1990 and in each subsequent tenth calendar year, and at any time within 1 year after negotiated license authorized by section 116A are terminated or expire and are not replaced by subsequent agreements.

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