

# One Hundred Eighth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Tuesday,  
the twentieth day of January, two thousand and four*

### Concurrent Resolution

*Resolved by the Senate (the House of Representatives concurring), That in the enrollment of H.R. 1417, an Act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes (the Copyright Royalty and Distribution Reform Act of 2004), the Clerk of the House of Representatives shall make the following corrections:*

- (1) In section 801 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—
  - (A) in subsection (b)(7)(A)—
    - (i) in clause (i), strike “the other participants” and insert “participants”; and
    - (ii) in clause (ii), strike “any other participant described in subparagraph (A)” and insert “any participant described in clause (i)”;
  - (B) in subsection (b)(7)(B), strike “118(b) (2) or (3)” and insert “118(b)(2)”;
  - (C) in subsection (b)(8), insert a comma after “802(g)”;
  - and
  - (D) in subsection (c), strike “As provided in section 801(f)(1), the” and insert “The”.
- (2) In section 802 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—
  - (A) in subsection (a)(1), in the second sentence—
    - (i) strike “two Copyright” and insert “2 Copyright”;
  - and
  - (ii) strike “one shall” and insert “1 shall”;
  - (B) in subsection (c)—
    - (i) strike “appointed the Chief Copyright” and insert “appointed as the Chief Copyright”; and
    - (ii) strike “appointed Copyright” and insert “appointed as Copyright”; and
  - (C) in subsection (f)—
    - (i) in paragraph (1)(A)(ii), strike “14 days of receipt by the Register of Copyrights of all” and insert “14 days after the Register of Copyrights receives all”;
    - (ii) in paragraph (1)(B)(i)—
      - (I) strike “The Register shall” and insert “The Register of Copyrights shall”;
      - (II) strike “30 days of receipt by the Register of Copyrights of all” and insert “30 days after the Register of Copyrights receives all”; and
      - (III) in the last sentence, insert “to the Copyright Royalty Judges” after “is timely delivered”;

(iii) in paragraph (1)(D)—

(I) insert after the second sentence the following: “The Register of Copyrights shall issue such written decision not later than 60 days after the date on which the final determination by the Copyright Royalty Judges is issued.”;

(II) in the following sentence, insert a comma after “such written decision”;

(III) strike “section 802(f)(1)(D)” and insert “this subparagraph”;

(IV) strike “notification and undertakes to consult with” and insert “notification to, and undertakes to consult with,”; and

(V) strike “fails within reasonable period after receipt of such notification” and insert “fails, within a reasonable period after receiving such notification,”.

(3) In section 803 of title 17, United States Code, as amended by section 3(a) of H.R. 1417—

(A) in subsection (a)(1), strike “Librarian of Congress, copyright arbitration royalty panels,” and insert “the Librarian of Congress,”;

(B) in subsection (b)—

(i) in paragraph (1), amend subparagraph (A)(i) to read as follows:

“(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) The Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter, calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be—

“(I) promptly upon a determination made under section 804(a);

“(II) by no later than January 5 of a year specified in paragraph (2) of section 804(b) for the commencement of proceedings;

“(III) by no later than January 5 of a year specified in subparagraph (A) or (B) of paragraph (3) of section 804(b) for the commencement of proceedings, or as otherwise provided in subparagraph (A) or (C) of such paragraph for the commencement of proceedings;

“(IV) as provided under section 804(b)(8); or

“(V) by no later than January 5 of a year specified in any other provision of section 804(b) for the filing of petitions for the commencement of proceedings, if a petition has not been filed by that date.”;

(ii) in clause (ii) of paragraph (1)(A)—

(I) strike “proceeding, under clause (i)” and insert “proceeding under clause (i)”; and

(II) strike “section 803(b)(3)” and insert “paragraph (3)”;

(iii) in paragraph (4)(A), strike “a participant in the proceeding asserts a claim in the amount of” and insert “the contested amount of a claim is”;

(iv) in paragraph (6)(C)—

- (I) in clause (iv), insert a comma after “orders”;
- (II) in clause (v), strike “according to” and insert “in accordance with”; and
- (III) in clause (vi)(I), strike “absent the discovery sought” and insert “, absent the discovery sought,”;
- (v) in clause (vii), strike “interrogatories and” and insert “interrogatories, and”; and
- (vi) in clause (ix)—
  - (I) in the first sentence, insert a comma after “give testimony” and insert a comma after “inspection of documents or tangible things”; and
  - (II) in the last sentence, strike “subparagraph” and insert “clause”;
- (C) in subsection (c)—
  - (i) in paragraph (1), strike “(b)(3)(C)(x)” and insert “(b)(6)(C)(x)”;
  - (ii) in paragraph (2)—
    - (I) in subparagraph (A)—
      - (aa) insert “in a proceeding” after “a participant”; and
      - (bb) strike “a proceeding is issued” and insert “the proceeding is issued”;
    - (II) in subparagraph (B), strike “their initial determination concerning rates and terms to the participants in the proceeding” and insert “to the participants in the proceeding their initial determination concerning rates and terms”; and
    - (III) in subparagraph (C), strike “except as provided under subsection (d)(1)” and insert “except that nonparticipation may give rise to the limitations with respect to judicial review provided for in subsection (d)(1)”;
  - (iii) in paragraph (6), strike “Following review of the determination by the Register of Copyrights under section 802(f)(1)(D)” and insert “By no later than the end of the 60-day period provided in section 802(f)(1)(D)”;
  - (D) in the second sentence of subsection (d)(2)(A), strike “transmission service” and insert “licensee”.
- (4) In section 5(b)(1)—
  - (A) in subparagraph (A), strike “and” at the end;
  - (B) strike subparagraph (B); and
  - (C) redesignate subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.
- (5) In the amendment made by section 5(b)(1)(A)—
  - (A) strike “5-year periods” and insert “5-year period”; and
  - (B) strike “such other periods” and insert “such other period”.
- (6) Strike paragraph (3) of section 5(b) and insert the following:
  - (3) in paragraph (5), by striking “determination by a copyright arbitration royalty panel or decision by the Librarian of Congress” and inserting “decision by the Librarian of Congress or determination by the Copyright Royalty Judges”;
- (7) In the amendment made by section 5(c)(1)(A)(i)—

(A) strike “5-year periods” and insert “the 5-year period”; and

(B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(8) In the amendment made by section 5(c)(1)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(9) In the amendment made by section 5(c)(2)(A)—

(A) strike “5-year periods” and insert “the 5-year period”; and

(B) strike “different transitional periods are provided in section 804(b), or such periods” and insert “a different transitional period is provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period”.

(10) In the amendment made by section 5(c)(2)(B)(i), strike “in section 804(b)” and insert “under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004”.

(11) Strike paragraph (3) of section 5(c) and insert the following:

(3) in paragraph (3), by striking “determination by a copyright arbitration royalty panel or decision by the Librarian of Congress” and inserting “decision by the Librarian of Congress or determination by the Copyright Royalty Judges”; and

(12) In section 5(c)(4)(B), insert “of subparagraph (A) the following:” after “by adding after the first sentence”.

(13) In the amendment made by section 5(d)(3)(A), strike “during periods” and insert “during the period”.

(14) In section 5(d)(4)—

(A) strike “and” at the end of subparagraph (B);

(B) add “and” after the semicolon at the end of subparagraph (C); and

(C) add after subparagraph (C) the following:

(D) in the last sentence, by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”.

(15) In the amendment made by section 5(d)(5)(A)(i), strike “, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress” and insert “or Copyright Royalty Judges”.

(16) In the amendment made by section 5(f)(1)(B)—

(A) strike “, a copyright arbitration royalty panel,”; and

(B) strike “to the extent that they were accepted by the Librarian of Congress,”.

(17) In section 5, insert the following after subsection (g) and redesignate succeeding subsections accordingly:

(h) RATEMAKING FOR SATELLITE CARRIERS.—Section 119(c) of title 17, United States Code, is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking “Librarian of Congress” and inserting “Copyright Royalty Judges”; and

(B) in subparagraph (C), by striking “Register of Copyrights shall prescribe” and inserting “Copyright Royalty

Judges shall prescribe as provided in section 803(b)(6); and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking “arbitration proceedings” and inserting “proceedings”; and

(ii) by striking “arbitration proceeding” and inserting “proceedings”;

(B) in subparagraph (B)—

(i) by striking “copyright arbitration royalty panel appointed under chapter 8” and inserting “Copyright Royalty Judges”; and

(ii) by striking “panel shall base its decision” and inserting “Copyright Royalty Judges shall base their determination”; and

(C) in subparagraph (C)—

(i) in the heading, by striking “DECISION OF ARBITRATION PANEL OR ORDER OF LIBRARIAN” and inserting “DETERMINATION UNDER CHAPTER 8”; and

(ii) by striking clauses (i) and (ii) and inserting the following:

“(i) is made by the Copyright Royalty Judges pursuant to this paragraph and becomes final, or

“(ii) is made by the court on appeal under section 803(d)(3).”

(18) In the first sentence of section 6(b)(1)—

(A) strike “date of enactment of this Act” and insert “effective date provided in subsection (a)”; and

(B) strike “such date of enactment” and insert “such effective date”.

(19) Strike paragraph (2) of section 6(b) and insert the following:

(2) CERTAIN ROYALTY RATE PROCEEDINGS.—Notwithstanding paragraph (1), the amendments made by this Act shall not affect proceedings to determine royalty rates pursuant

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to section 119(c) of title 17, United States Code, that are commenced before January 31, 2006.

Attest:

*Secretary of the Senate.*

Attest:

*Clerk of the House of Representatives.*