

section except as otherwise provided in this section.

(B) **APPLICABILITY OF DEFINITIONS.**—Any term used in this section that is defined in section 101 shall have the meaning given that term in section 101.

(g) **APPLICATION OF SECTION 230 SAFE HARBOR.**—For purposes of section 230 of the Communications Act of 1934 (47 U.S.C. 230), subsection (a) shall be considered to be a “law pertaining to intellectual property” under subsection (e)(2) of such section 230.

(h) **APPLICATION TO RIGHTS OWNERS.**—

(1) **TRANSFERS.**—With respect to a rights owner described in subsection (l)(2)(B)—

(A) subsections (d) and (e) of section 201 and section 204 shall apply to a transfer described in subsection (l)(2)(B) to the same extent as with respect to a transfer of copyright ownership; and

(B) notwithstanding section 411, that rights owner may institute an action with respect to a violation of this section to the same extent as the owner of an exclusive right under a copyright may institute an action under section 501(b).

(2) **APPLICATION OF OTHER PROVISIONS.**—The following provisions shall apply to a rights owner under this section to the same extent as any copyright owner:

- (A) Section 112(e)(2).
- (B) Section 112(e)(7).
- (C) Section 114(e).
- (D) Section 114(h).

(i) **EPHEMERAL RECORDINGS.**—An authorized reproduction made under this section shall be subject to section 112(g) to the same extent as a reproduction of a sound recording fixed on or after February 15, 1972.

(j) **RULE OF CONSTRUCTION.**—A rights owner of, or featured recording artist who performs on, a sound recording under this chapter shall be deemed to be an interested copyright party, as defined in section 1001, to the same extent as a copyright owner or featured recording artist under chapter 10.

(k) **TREATMENT OF STATES AND STATE INSTRUMENTALITIES, OFFICERS, AND EMPLOYEES.**—Any State, and any instrumentality, officer, or employee described in subsection (a)(3), shall be subject to the provisions of this section in the same manner and to the same extent as any nongovernmental entity.

(l) **DEFINITIONS.**—In this section:

(1) **COVERED ACTIVITY.**—The term “covered activity” means any activity that the copyright owner of a sound recording would have the exclusive right to do or authorize under section 106 or 602, or that would violate section 1201 or 1202, if the sound recording were fixed on or after February 15, 1972.

(2) **RIGHTS OWNER.**—The term “rights owner” means—

(A) the person that has the exclusive right to reproduce a sound recording under the laws of any State, as of the day before the date of enactment of this section; or

(B) any person to which a right to enforce a violation of this section may be transferred, in whole or in part, after the date of enactment of this section, under—

(i) subsections (d) and (e) of section 201; and

(ii) section 204.

(Added Pub. L. 115–264, title II, §202(a)(2), Oct. 11, 2018, 132 Stat. 3728.)

Editorial Notes

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsecs. (a)(2)(B)(i), (c)(3), (5)(A), (d)(2)–(4)(A), (e)(1), (f)(1)(B), (5)(A)(ii), (B)(i), (ii), and (l)(2), is the date of enactment of Pub. L. 115–264, which was approved Oct. 11, 2018.

The year in which this section is enacted, referred to in subsec. (d)(2)(B), is the year in which Pub. L. 115–264 was enacted. Such Act was approved Oct. 11, 2018.

CHAPTER 15—COPYRIGHT SMALL CLAIMS

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§ 1501. Definitions

In this chapter—

(1) the term “claimant” means the real party in interest that commences a proceeding before the Copyright Claims Board under section 1506(e), pursuant to a permissible claim of infringement brought under section 1504(c)(1), noninfringement brought under section 1504(c)(2), or misrepresentation brought under section 1504(c)(3);

(2) the term “counterclaimant” means a respondent in a proceeding before the Copyright Claims Board that—

(A) asserts a permissible counterclaim under section 1504(c)(4) against the claimant in the proceeding; and

(B) is the real party in interest with respect to the counterclaim described in subparagraph (A);

(3) the term “party”—

(A) means a party; and

(B) includes the attorney of a party, as applicable; and

(4) the term “respondent” means any person against whom a proceeding is brought before the Copyright Claims Board under section 1506(e), pursuant to a permissible claim of infringement brought under section 1504(c)(1), noninfringement brought under section 1504(c)(2), or misrepresentation brought under section 1504(c)(3).

(Added Pub. L. 116–260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2177.)

Statutory Notes and Related Subsidiaries

SEVERABILITY

Pub. L. 116–260, div. Q, title II, §212(f), Dec. 27, 2020, 134 Stat. 2200, provided that: “If any provision of this

section [see Short Title of 2020 Amendment note set out under section 101 of this title], an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section and the amendments made by this section, and the application of the provision or the amendment to any other person or circumstance, shall not be affected.”

§ 1502. Copyright Claims Board

(a) IN GENERAL.—There is established in the Copyright Office the Copyright Claims Board, which shall serve as an alternative forum in which parties may voluntarily seek to resolve certain copyright claims regarding any category of copyrighted work, as provided in this chapter.

(b) OFFICERS AND STAFF.—

(1) COPYRIGHT CLAIMS OFFICERS.—The Register of Copyrights shall recommend 3 full-time Copyright Claims Officers to serve on the Copyright Claims Board in accordance with paragraph (3)(A). The Officers shall be appointed by the Librarian of Congress to such positions after consultation with the Register of Copyrights.

(2) COPYRIGHT CLAIMS ATTORNEYS.—The Register of Copyrights shall hire not fewer than 2 full-time Copyright Claims Attorneys to assist in the administration of the Copyright Claims Board.

(3) QUALIFICATIONS.—

(A) COPYRIGHT CLAIMS OFFICERS.—

(i) IN GENERAL.—Each Copyright Claims Officer shall be an attorney who has not fewer than 7 years of legal experience.

(ii) EXPERIENCE.—Two of the Copyright Claims Officers shall—

(I) have substantial experience in the evaluation, litigation, or adjudication of copyright infringement claims; and

(II) between those 2 Officers, have represented or presided over a diversity of copyright interests, including those of both owners and users of copyrighted works.

(iii) ALTERNATIVE DISPUTE RESOLUTION.—The Copyright Claims Officer not described in clause (ii) shall have substantial familiarity with copyright law and experience in the field of alternative dispute resolution, including the resolution of litigation matters through that method of resolution.

(B) COPYRIGHT CLAIMS ATTORNEYS.—Each Copyright Claims Attorney shall be an attorney who has not fewer than 3 years of substantial experience in copyright law.

(4) COMPENSATION.—

(A) COPYRIGHT CLAIMS OFFICERS.—

(i) DEFINITION.—In this subparagraph, the term “senior level employee of the Federal Government” means an employee, other than an employee in the Senior Executive Service, the position of whom is classified above GS–15 of the General Schedule.

(ii) PAY RANGE.—Each Copyright Claims Officer shall be compensated at a rate of pay that is not less than the minimum, and not more than the maximum, rate of

pay payable for senior level employees of the Federal Government, including locality pay, as applicable.

(B) COPYRIGHT CLAIMS ATTORNEYS.—Each Copyright Claims Attorney shall be compensated at a rate of pay that is not more than the maximum rate of pay payable for level 10 of GS–15 of the General Schedule, including locality pay, as applicable.

(5) TERMS.—

(A) IN GENERAL.—Subject to subparagraph (B), a Copyright Claims Officer shall serve for a renewable term of 6 years.

(B) INITIAL TERMS.—The terms for the first Copyright Claims Officers appointed under this chapter shall be as follows:

(i) The first such Copyright Claims Officer appointed shall be appointed for a term of 4 years.

(ii) The second Copyright Claims Officer appointed shall be appointed for a term of 5 years.

(iii) The third Copyright Claims Officer appointed shall be appointed for a term of 6 years.

(6) VACANCIES AND INCAPACITY.—

(A) VACANCY.—

(i) IN GENERAL.—If a vacancy occurs in the position of a Copyright Claims Officer, the Librarian of Congress shall, upon the recommendation of, and in consultation with, the Register of Copyrights, act expeditiously to appoint a Copyright Claims Officer for that position.

(ii) VACANCY BEFORE EXPIRATION.—An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the individual was appointed shall be appointed to serve a 6-year term.

(B) INCAPACITY.—If a Copyright Claims Officer is temporarily unable to perform the duties of the Officer, the Librarian of Congress shall, upon recommendation of, and in consultation with, the Register of Copyrights, act expeditiously to appoint an interim Copyright Claims Officer to perform such duties during the period of such incapacity.

(7) SANCTION OR REMOVAL.—Subject to section 1503(b), the Librarian of Congress may sanction or remove a Copyright Claims Officer.

(8) ADMINISTRATIVE SUPPORT.—The Register of Copyrights shall provide the Copyright Claims Officers and Copyright Claims Attorneys with necessary administrative support, including technological facilities, to carry out the duties of the Officers and Attorneys under this chapter.

(9) LOCATION OF COPYRIGHT CLAIMS BOARD.—The offices and facilities of the Copyright Claims Officers and Copyright Claims Attorneys shall be located at the Copyright Office.

(Added Pub. L. 116–260, div. Q, title II, §212(b), Dec. 27, 2020, 134 Stat. 2177.)