

108TH CONGRESS
2D SESSION

S. CON. RES. 145

To correct the enrollment of H.R. 1417.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2004

Mr. HATCH (for himself and Mr. LEAHY) submitted the following concurrent resolution; which was considered and agreed to

CONCURRENT RESOLUTION

To correct the enrollment of H.R. 1417.

1 *Resolved by the Senate (the House of Representatives*
2 *concurring)*, That in the enrollment of H.R. 1417, an Act
3 to amend title 17, United States Code, to replace copy-
4 right arbitration royalty panels with Copyright Royalty
5 Judges, and for other purposes (the Copyright Royalty
6 and Distribution Reform Act of 2004), the Clerk of the
7 House of Representatives shall make the following correc-
8 tions:

9 (1) In section 801 of title 17, United States
10 Code, as amended by section 3(a) of H.R. 1417—
11 (A) in subsection (b)(7)(A)—

1 (i) in clause (i), strike “the other par-
2 ticipants” and insert “participants”; and

3 (ii) in clause (ii), strike “any other
4 participant described in subparagraph (A)”
5 and insert “any participant described in
6 clause (i)”;

7 (B) in subsection (b)(7)(B), strike “118(b)
8 (2) or (3)” and insert “118(b)(2)”;

9 (C) in subsection (b)(8), insert a comma
10 after “802(g)”;

11 (D) in subsection (c), strike “As provided
12 in section 801(f)(1), the” and insert “The”.

13 (2) In section 802 of title 17, United States
14 Code, as amended by section 3(a) of H.R. 1417—

15 (A) in subsection (a)(1), in the second sen-
16 tence—

17 (i) strike “two Copyright” and insert
18 “2 Copyright”; and

19 (ii) strike “one shall” and insert “1
20 shall”;

21 (B) in subsection (c)—

22 (i) strike “appointed the Chief Copy-
23 right” and insert “appointed as the Chief
24 Copyright”; and

1 (ii) strike “appointed Copyright” and
2 insert “appointed as Copyright”; and

3 (C) in subsection (f)—

4 (i) in paragraph (1)(A)(ii), strike “14
5 days of receipt by the Register of Copy-
6 rights of all” and insert “14 days after the
7 Register of Copyrights receives all”;

8 (ii) in paragraph (1)(B)(i)—

9 (I) strike “The Register shall”
10 and insert “The Register of Copy-
11 rights shall”;

12 (II) strike “30 days of receipt by
13 the Register of Copyrights of all” and
14 insert “30 days after the Register of
15 Copyrights receives all”; and

16 (III) in the last sentence, insert
17 “to the Copyright Royalty Judges”
18 after “is timely delivered”;

19 (iii) in paragraph (1)(D)—

20 (I) insert after the second sen-
21 tence the following: “The Register of
22 Copyrights shall issue such written
23 decision not later than 60 days after
24 the date on which the final determina-

1 tion by the Copyright Royalty Judges
2 is issued.”;

3 (II) in the following sentence, in-
4 sert a comma after “such written de-
5 cision”;

6 (III) strike “section
7 802(f)(1)(D)” and insert “this sub-
8 paragraph”;

9 (IV) strike “notification and un-
10 dertakes to consult with” and insert
11 “notification to, and undertakes to
12 consult with,”; and

13 (V) strike “fails within reason-
14 able period after receipt of such notifi-
15 cation” and insert “fails, within a rea-
16 sonable period after receiving such no-
17 tification,”.

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

20 (A) in subsection (a)(1), strike “Librarian
21 of Congress, copyright arbitration royalty pan-
22 els,” and insert “the Librarian of Congress,”;

23 (B) in subsection (b)—

24 (i) in paragraph (1), amend subpara-
25 graph (A)(i) to read as follows:

1 “(A) CALL FOR PETITIONS TO PARTICI-
2 PATE.—(i) The Copyright Royalty Judges shall
3 cause to be published in the Federal Register
4 notice of commencement of proceedings under
5 this chapter, calling for the filing of petitions to
6 participate in a proceeding under this chapter
7 for the purpose of making the relevant deter-
8 mination under section 111, 112, 114, 115,
9 116, 118, 119, 1004, or 1007, as the case may
10 be—

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

13 “(II) by no later than January 5 of a
14 year specified in paragraph (2) of section
15 804(b) for the commencement of pro-
16 ceedings;

17 “(III) by no later than January 5 of
18 a year specified in subparagraph (A) or
19 (B) of paragraph (3) of section 804(b) for
20 the commencement of proceedings, or as
21 otherwise provided in subparagraph (A) or
22 (C) of such paragraph for the commence-
23 ment of proceedings;

24 “(IV) as provided under section
25 804(b)(8); or

1 “(V) by no later than January 5 of a
2 year specified in any other provision of sec-
3 tion 804(b) for the filing of petitions for
4 the commencement of proceedings, if a pe-
5 tition has not been filed by that date.”;

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

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

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

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

17 (iv) in paragraph (6)(C)—

18 (I) in clause (iv), insert a comma
19 after “orders”;

20 (II) in clause (v), strike “accord-
21 ing to” and insert “in accordance
22 with”; and

23 (III) in clause (vi)(I), strike “ab-
24 sent the discovery sought” and insert
25 “, absent the discovery sought,”;

1 (v) in clause (vii), strike “interrog-
2 atories and” and insert “interrogatories,
3 and”; and

4 (vi) in clause (ix)—

5 (I) in the first sentence, insert a
6 comma after “give testimony” and in-
7 sert a comma after “inspection of doc-
8 uments or tangible things”; and

9 (II) in the last sentence, strike
10 “subparagraph” and insert “clause”;

11 (C) in subsection (c)—

12 (i) in paragraph (1), strike
13 “(b)(3)(C)(x)” and insert “(b)(6)(C)(x)”;

14 (ii) in paragraph (2)—

15 (I) in subparagraph (A)—

16 (aa) insert “in a pro-
17 ceeding” after “a participant”;
18 and

19 (bb) strike “a proceeding is
20 issued” and insert “the pro-
21 ceeding is issued”;

22 (II) in subparagraph (B), strike
23 “their initial determination concerning
24 rates and terms to the participants in
25 the proceeding” and insert “to the

1 participants in the proceeding their
2 initial determination concerning rates
3 and terms”; and

4 (III) in subparagraph (C), strike
5 “except as provided under subsection
6 (d)(1)” and insert “except that non-
7 participation may give rise to the limi-
8 tations with respect to judicial review
9 provided for in subsection (d)(1)”;
10 and

11 (iii) in paragraph (6), strike “Fol-
12 lowing review of the determination by the
13 Register of Copyrights under section
14 802(f)(1)(D)” and insert “By no later
15 than the end of the 60-day period provided
16 in section 802(f)(1)(D)”;

17 (D) in the second sentence of subsection
18 (d)(2)(A), strike “transmission service” and in-
19 sert “licensee”.

20 (4) In section 5(b)(1)—

21 (A) in subparagraph (A), strike “and” at
22 the end;

23 (B) strike subparagraph (B); and

24 (C) redesignate subparagraphs (C) and
25 (D) as subparagraphs (B) and (C), respectively.

1 (5) In the amendment made by section
2 5(b)(1)(A)—

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

5 (B) strike “such other periods” and insert
6 “such other period”.

7 (6) Strike paragraph (3) of section 5(b) and in-
8 sert the following:

9 (3) in paragraph (5), by striking “determina-
10 tion by a copyright arbitration royalty panel or deci-
11 sion by the Librarian of Congress” and inserting
12 “decision by the Librarian of Congress or deter-
13 mination by the Copyright Royalty Judges”;

14 (7) In the amendment made by section
15 5(c)(1)(A)(i)—

16 (A) strike “5-year periods” and insert “the
17 5-year period”; and

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

24 (8) In the amendment made by section
25 5(c)(1)(B)(i), strike “in section 804(b)” and insert

1 “under section 6(b)(3) of the Copyright Royalty and
2 Distribution Reform Act of 2004”.

3 (9) In the amendment made by section
4 5(c)(2)(A)—

5 (A) strike “5-year periods” and insert “the
6 5-year period”; and

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

13 (10) In the amendment made by section
14 5(c)(2)(B)(i), strike “in section 804(b)” and insert
15 “under section 6(b)(3) of the Copyright Royalty and
16 Distribution Reform Act of 2004”.

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

19 (3) in paragraph (3), by striking “determina-
20 tion by a copyright arbitration royalty panel or deci-
21 sion by the Librarian of Congress” and inserting
22 “decision by the Librarian of Congress or deter-
23 mination by the Copyright Royalty Judges”; and

1 (12) In section 5(e)(4)(B), insert “of subpara-
2 graph (A) the following:” after “by adding after the
3 first sentence”.

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

7 (14) In section 5(d)(4)—

8 (A) strike “and” at the end of subpara-
9 graph (B);

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

12 (C) add after subparagraph (C) the fol-
13 lowing:

14 (D) in the last sentence, by striking “Li-
15 brarian of Congress” and inserting “Copyright
16 Royalty Judges”.

17 (15) In the amendment made by section
18 5(d)(5)(A)(i), strike “, Copyright Royalty Judges, or
19 a copyright arbitration royalty panel to the extent
20 those determinations were accepted by the Librarian
21 of Congress” and insert “or Copyright Royalty
22 Judges”.

23 (16) In the amendment made by section
24 5(f)(1)(B)—

1 (A) strike “, a copyright arbitration roy-
2 alty panel,”; and

3 (B) strike “to the extent that they were ac-
4 cepted by the Librarian of Congress,”.

5 (17) In section 5, insert the following after sub-
6 section (g) and redesignate succeeding subsections
7 accordingly:

8 (h) RATEMAKING FOR SATELLITE CARRIERS.—Sec-
9 tion 119(c) of title 17, United States Code, is amended—

10 (1) in paragraph (2)—

11 (A) in subparagraph (B), by striking “Li-
12 brarian of Congress” and inserting “Copyright
13 Royalty Judges”; and

14 (B) in subparagraph (C), by striking “Reg-
15 ister of Copyrights shall prescribe” and insert-
16 ing “Copyright Royalty Judges shall prescribe
17 as provided in section 803(b)(6); and

18 (2) in paragraph (3)—

19 (A) in subparagraph (A)—

20 (i) by striking “arbitration pro-
21 ceedings” and inserting “proceedings”; and

22 (ii) by striking “arbitration pro-
23 ceeding” and inserting “proceedings”;

24 (B) in subparagraph (B)—

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

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

9 (C) in subparagraph (C)—

10 (i) in the heading, by striking “DECI-
11 SION OF ARBITRATION PANEL OR ORDER
12 OF LIBRARIAN” and inserting “DETER-
13 MINATION UNDER CHAPTER 8”; and

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

16 “(i) is made by the Copyright Royalty
17 Judges pursuant to this paragraph and be-
18 comes final, or

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

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

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

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

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

5 (2) CERTAIN ROYALTY RATE PROCEEDINGS.—
6 Notwithstanding paragraph (1), the amendments
7 made by this Act shall not affect proceedings to de-
8 termine royalty rates pursuant to section 119(e) of
9 title 17, United States Code, that are commenced
10 before January 31, 2006.

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