

Subsec. (g). Pub. L. 103–198, § 6(b)(5)(D), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” after “Any decision of the”, “decision of the Librarian of Congress” for “Tribunal’s decision” in second sentence, and “Librarian of Congress” for “Tribunal” wherever appearing in third through fifth sentences.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–419 effective 6 months after Nov. 30, 2004, subject to transition provisions, see section 6 of Pub. L. 108–419, set out as an Effective Date; Transition Provisions note under section 801 of this title.

CHAPTER 11—SOUND RECORDINGS AND MUSIC VIDEOS

Sec.

1101. Unauthorized fixation and trafficking in sound recordings and music videos.

§ 1101. Unauthorized fixation and trafficking in sound recordings and music videos

(a) UNAUTHORIZED ACTS.—Anyone who, without the consent of the performer or performers involved—

(1) fixes the sounds or sounds and images of a live musical performance in a copy or phonorecord, or reproduces copies or phonorecords of such a performance from an unauthorized fixation,

(2) transmits or otherwise communicates to the public the sounds or sounds and images of a live musical performance, or

(3) distributes or offers to distribute, sells or offers to sell, rents or offers to rent, or traffics in any copy or phonorecord fixed as described in paragraph (1), regardless of whether the fixations occurred in the United States,

shall be subject to the remedies provided in sections 502 through 505, to the same extent as an infringer of copyright.

(b) DEFINITION.—In this section, the term “traffic” has the same meaning as in section 2320(e)¹ of title 18.

(c) APPLICABILITY.—This section shall apply to any act or acts that occur on or after the date of the enactment of the Uruguay Round Agreements Act.

(d) STATE LAW NOT PREEMPTED.—Nothing in this section may be construed to annul or limit any rights or remedies under the common law or statutes of any State.

(Added Pub. L. 103–465, title V, § 512(a), Dec. 8, 1994, 108 Stat. 4974; amended Pub. L. 109–181, § 2(c)(3), Mar. 16, 2006, 120 Stat. 288.)

Editorial Notes

REFERENCES IN TEXT

Section 2320 of title 18, referred to in subsec. (b), was amended generally by Pub. L. 112–81, div. A, title VIII, § 818(h), Dec. 31, 2011, 125 Stat. 1497, and, as so amended, provisions similar to those formerly appearing in subsec. (e) are now contained in subsec. (f).

The date of the enactment of the Uruguay Round Agreements Act, referred to in subsec. (c), is the date of enactment of Pub. L. 103–465, which was approved Dec. 8, 1994.

¹ See References in Text note below.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109–181 added subsec. (b) and struck out heading and text of former subsec. (b). Text read as follows: “As used in this section, the term ‘traffic’ means transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or make or obtain control of with intent to transport, transfer, or dispose of.”

CHAPTER 12—COPYRIGHT PROTECTION AND MANAGEMENT SYSTEMS

Sec.

- 1201. Circumvention of copyright protection systems.
- 1202. Integrity of copyright management information.
- 1203. Civil remedies.
- 1204. Criminal offenses and penalties.
- 1205. Savings clause.

§ 1201. Circumvention of copyright protection systems

(a) VIOLATIONS REGARDING CIRCUMVENTION OF TECHNOLOGICAL MEASURES.—(1)(A) No person shall circumvent a technological measure that effectively controls access to a work protected under this title. The prohibition contained in the preceding sentence shall take effect at the end of the 2-year period beginning on the date of the enactment of this chapter.

(B) The prohibition contained in subparagraph (A) shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).

(C) During the 2-year period described in subparagraph (A), and during each succeeding 3-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation, shall make the determination in a rulemaking proceeding for purposes of subparagraph (B) of whether persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition under subparagraph (A) in their ability to make noninfringing uses under this title of a particular class of copyrighted works. In conducting such rulemaking, the Librarian shall examine—

(i) the availability for use of copyrighted works;

(ii) the availability for use of works for non-profit archival, preservation, and educational purposes;

(iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research;

(iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and

(v) such other factors as the Librarian considers appropriate.