

Subsec. (c). Pub. L. 109-303, §4(f)(2), struck out “by the Librarian” after “administrative costs incurred” in last sentence.

2004—Subsec. (a)(1). Pub. L. 108-419, §5(i)(3)(A), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “During the first 2 months of each calendar year after calendar year 1992, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Librarian of Congress a claim for payments collected during the preceding year in such form and manner as the Librarian of Congress shall prescribe by regulation.”

Subsec. (b). Pub. L. 108-419, §5(i)(3)(B), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “After the period established for the filing of claims under subsection (a), in each year after 1992, the Librarian of Congress shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Librarian of Congress determines that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a), after deducting its reasonable administrative costs under this section.”

Subsec. (c). Pub. L. 108-419, §5(i)(3)(B), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If the Librarian of Congress finds the existence of a controversy, the Librarian shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty payments. During the pendency of such a proceeding, the Librarian of Congress shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before authorizing the distribution of such royalty payments, deduct the reasonable administrative costs incurred by the Librarian under this section.”

1997—Subsec. (a)(1). Pub. L. 105-80, §12(a)(25)(A), substituted “calendar year 1992” for “the calendar year in which this chapter takes effect”.

Subsec. (b). Pub. L. 105-80, §§9, 12(a)(25)(B), substituted “After the period established” for “Within 30 days after the period established” and “each year after 1992” for “each year after the year in which this section takes effect”.

1993—Subsec. (a)(1). Pub. L. 103-198, §6(b)(4)(A), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” before “a claim for” and for “Tribunal” before “shall prescribe”.

Subsec. (b). Pub. L. 103-198, §6(b)(4)(B), substituted “Librarian of Congress” for “Copyright Royalty Tribunal” before “shall determine whether” and for “Tribunal” wherever appearing.

Subsec. (c). Pub. L. 103-198, §6(b)(4)(C), substituted first sentence for “If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments.”, substituted “Librarian of Congress” for “Tribunal” wherever appearing in second and third sentences, and “the reasonable administrative costs incurred by the Librarian” for “its reasonable administrative costs” in last sentence.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-303 effective as if included in the Copyright Royalty and Distribution Reform Act of 2004, Pub. L. 108-419, see section 6 of Pub. L. 109-303, set out as a note under section 111 of this title.

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.

SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION

§ 1008. Prohibition on certain infringement actions

No action may be brought under this title alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings.

(Added Pub. L. 102-563, §2, Oct. 28, 1992, 106 Stat. 4244.)

§ 1009. Civil remedies

(a) CIVIL ACTIONS.—Any interested copyright party injured by a violation of section 1002 or 1003 may bring a civil action in an appropriate United States district court against any person for such violation.

(b) OTHER CIVIL ACTIONS.—Any person injured by a violation of this chapter may bring a civil action in an appropriate United States district court for actual damages incurred as a result of such violation.

(c) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

(2) in the case of a violation of section 1002, or in the case of an injury resulting from a failure to make royalty payments required by section 1003, shall award damages under subsection (d);

(3) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof; and

(4) in its discretion may award a reasonable attorney's fee to the prevailing party.

(d) AWARD OF DAMAGES.—

(1) DAMAGES FOR SECTION 1002 OR 1003 VIOLATIONS.—

(A) ACTUAL DAMAGES.—(i) In an action brought under subsection (a), if the court finds that a violation of section 1002 or 1003 has occurred, the court shall award to the complaining party its actual damages if the complaining party elects such damages at any time before final judgment is entered.

(ii) In the case of section 1003, actual damages shall constitute the royalty payments that should have been paid under section 1004 and deposited under section 1005. In such a case, the court, in its discretion, may award an additional amount of not to exceed 50 percent of the actual damages.

(B) STATUTORY DAMAGES FOR SECTION 1002 VIOLATIONS.—

(i) DEVICE.—A complaining party may recover an award of statutory damages for each violation of section 1002(a) or (c) in