

TECHNICAL CORRECTIONS TO TITLE 17, UNITED STATES
CODE, RELATING TO COPYRIGHT ROYALTY JUDGES

APRIL 28, 2005.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. SENSENBRENNER, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 1036]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1036) to amend title 17, United States Code, to make technical corrections relating to copyright royalty judges, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

CONTENTS

	Page
Purpose and Summary	1
Background and Need for the Legislation	2
Hearings	3
Committee Consideration	3
Vote of the Committee	3
Committee Oversight Findings	3
New Budget Authority and Tax Expenditures	3
Congressional Budget Office Cost Estimate	3
Performance Goals and Objectives	4
Constitutional Authority Statement	4
Section-by-Section Analysis and Discussion	4
Changes in Existing Law Made by the Bill, as Reported	6
Markup Transcript	17

PURPOSE AND SUMMARY

H.R. 1036, an act to amend title 17, United States Code, is intended to make technical corrections to the copyright royalty judges program, which was authorized by Public Law 108-419, and is scheduled to become, effective on May 31, 2005. These corrections would allow the Register of Copyrights, copyright owners, and com-

mercial users of compulsory licenses to benefit from a more precise delineation of the respective roles of the U.S. Copyright Office and the newly established Copyright Royalty Judges in proceedings that involve the determination of copyright royalty rates and royalty distributions. H.R. 1036 will eliminate unintended ambiguities, thereby ensuring the transitional and permanent provisions that relate to the new program operate efficiently, saving both time and money for future participants in copyright royalty determination and distribution proceedings.

BACKGROUND AND NEED FOR THE LEGISLATION

Last year, Congress enacted two laws¹ that substantially altered the administrative structure within the Library of Congress, that determined copyright royalty rates and distributions under the various compulsory licenses authorized under title 17, United States Code. These laws eliminated the authority of the Librarian of Congress to empanel Copyright Arbitration Royalty Panels, or “CARPs,”² whenever private negotiations among affected stakeholders failed to establish copyright royalty rates or to determine the proper distribution of royalties under the various compulsory licenses.

The new legislation requires the Librarian of Congress, after consultation with the Register of Copyrights, to appoint three full-time Copyright Royalty Judges, or (“CRJs”), and to appoint one of the three as the Chief Copyright Royalty Judge. Qualifications for the new CRJ’s are specified within Public Law 108–419.

Once established, the three CRJs are authorized to: (1) determine and adjust the terms and rates of royalty payments for statutory licenses; (2) adjust statutory royalty rates for secondary transmissions by cable systems to reflect inflation, the average rates charged to cable subscribers for such transmissions, and Federal Communications Commission (FCC) regulations; (3) authorize, and make determinations regarding, distribution of royalty fees collected; (4) accept or reject royalty claims on the basis of timeliness or failure to establish a basis for the claim; (5) accept or reject rate adjustment petitions or petitions to participate; (6) determine whether a device is a digital audio recording device or a digital audio interface device subject to royalty payments; and (7) adopt an agreement on terms, rates, or distribution of royalties that are agreed to by some or all participants in a proceeding if the participants do not object.

In addition to the two aforementioned laws, the 108th Congress also adopted S. Con. Res. 145, which directed the Clerk of the House of Representatives to make corrections in the enrollment of H.R. 1417, as previously passed by the U.S. Senate, before presenting the bill to the President for signature. Notwithstanding the corrections included in S. Con. Res. 145, the Committee believes further improvements are necessary. The Committee believes the CRJ’s and affected stakeholders will benefit from the enactment of

¹The two laws are the “Copyright Royalty and Distribution Reform Act of 2004” (Public Law No. 108–419) and the “Satellite Home Viewer Extension and Reauthorization Act of 2004” (title IX of division J of Public Law 108–447).

²For a more comprehensive discussion of the perceived deficiencies of the CARP system and the need for reform, see H. Rep. No. 108–408, (2004), which accompanied H.R. 1417, the “Copyright Royalty and Distribution Reform Act of 2003.”

H.R. 1036, which includes further typographical, grammatical, and technical corrections that will clarify the intent of the drafters and improve the operation of the new Copyright Royalty Judges program.

HEARINGS

No hearings were held on H.R. 1036.

COMMITTEE CONSIDERATION

On March 3, 2005, the Subcommittee on Courts, the Internet, and Intellectual Property met in open session and ordered favorably reported the bill, H.R. 1036, by a voice vote, a quorum being present. On March 9, 2005, the Committee met in open session and ordered favorably reported the bill, H.R. 1036, without amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of Rule XIII of the Rules of the House of Representatives, the Committee notes that there were no recorded votes during the committee consideration of H.R. 1036.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 1036, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 14, 2005.

Hon. F. JAMES SENSENBRENNER, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1036, a bill to amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Melissa E. Zimmerman, who can be reached at 226–2860.

Sincerely,

DOUGLAS HOLTZ-EAKIN.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 1036—A bill to amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

H.R. 1036 would make technical corrections to the Copyright Royalty and Distribution Reform Act of 2004 and other aspects of copyright law. CBO estimates that implementing the bill would have no effect on spending subject to appropriation. Enacting the bill would not affect direct spending or revenues.

H.R. 1036 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

The CBO staff contact for this estimate is Melissa E. Zimmerman, who can be reached at 226–2860. The estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

H.R. 1036 does not authorize funding. Therefore, clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives is inapplicable. These corrections would allow the Register of Copyrights, copyright owners, and commercial users of compulsory licenses to benefit from a more accurate delineation of the respective roles of the U.S. Copyright Office and the newly established Copyright Royalty Judges in proceedings that involve the determination of copyright royalty rates and royalty distributions.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

SECTION 1. AMENDMENTS TO CHAPTER 8 OF TITLE 17, UNITED STATES CODE.

Section 1 includes principally typographical, grammatical, stylistic and conforming changes, which are needed to eliminate unintended ambiguities in sections 801, 802, 803 and 804 of title 17, United States Code. These sections relate, respectively, to the appointment and functions of CRJs, staff of CRJs, proceedings involving CRJs, and the actual manner for instituting proceedings involving CRJs.

Most of the changes merely correct spelling or punctuation errors, correct cross-references, eliminate unnecessary language, or conform the statute to editorial style/conventions used in the law

of copyright. Therefore, this discussion is limited to an explanation of the technical changes in H.R. 1036 that are most likely to require elucidation.

H.R. 1036 contains two amendments to section 803(a)(1) of title 17, United States Code, which concern proceedings in general. The first is intended to restore noncontroversial language that was deleted from H.R. 1417 before enactment. This language makes clear that CRJs are expected to act in accordance with provisions of the Administrative Procedure Act³ unless provisions of title 17 require otherwise.

The second amendment to section 803(a)(1) of title 17, United States Code, clarifies that prior determinations and interpretations of copyright arbitration royalty panels, or “CARPs,” are considered to be part of the body of past statutory license decisions that CRJs shall consider precedential. This provision is limited to only those determinations and interpretations that are not inconsistent with subsequent determinations of the Librarian of Congress or the Register of Copyrights. It should be noted that this clarification is not intended to elevate panel determinations and interpretations to a precedential level greater than that accorded under prior law, which was applied to panels whose decisions were reviewed by the Librarian of Congress.⁴

H.R. 1036 contains several amendments to 803(b)(6)(C)(i) of title 17, United States Code, which relate to discovery procedures in Copyright Royalty Judge proceedings. One amendment clarifies that CRJs have authority to specify the dates when participants in a proceeding are required to submit both written direct statements and written rebuttal statements. Another clarification is intended to ensure the statute is construed to require only written direct statements (and not written rebuttal statements) to be filed not earlier than 4 months and not later than 5 months after the termination of the voluntary negotiation period.

Finally, an amendment to 804(b)(3) of title 17, United States Code, corrects the “triggering” date for instituting section 112 and 114 proceedings by clarifying that the “date of enactment” of the Copyright Royalty and Distribution Reform Act of 2004 was the date intended by the drafters.

SECTION 2. ADDITIONAL TECHNICAL AMENDMENTS.

Section 2 includes necessary technical and conforming changes to sections 111, 114, 115, 118, 119, and 1007 of title 17, United States Code.

The principal clarifying and conforming changes in Section 2 relate to the relationship between the Copyright Royalty Judges and the Librarian of Congress, who share responsibility for functions that relate to the authority to distribute royalties and the actual distribution or disbursing of such royalties.

H.R. 1036 provides clearly that only the CRJs have authority to adjudicate disputes, to determine if a controversy exists, to authorize the withholding of any funds “in controversy” and to authorize the distribution of any royalties “not in controversy” by the Librarian of Congress. As a corollary, H.R. 1036 clarifies that the Librar-

³The Administrative Procedure Act or “APA” is contained in chapter 5 of title 5, United States Code.

⁴See 17 U.S.C. 802 (c) (2000).

ian of Congress has the responsibility to distribute royalties pursuant to a lawful order from the Copyright Royalty Judges.

The enactment of H.R. 1036, which precisely delineates the respective authorities shared by the CRJs and the Librarian of Congress, will help to ensure the more effective implementation of the “Copyright Royalty and Distribution Reform Act of 2004.” Finally, H.R. 1036 includes a provision that corrects the effective date and transition provisions of Public Law 108–419 to make clear the Librarian of Congress’ authority to terminate any proceeding commenced before the effective date of the legislation.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 17, UNITED STATES CODE

[**Note:** The Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) amends certain provisions of title 17, United States Code which have been carried out here. Section 6 of such Public Law provides that the amendments generally take effect 6 months after November 30, 2004.]

**CHAPTER 1—SUBJECT MATTER AND SCOPE OF
COPYRIGHT**

* * * * *

§ 111. Limitations on exclusive rights: Secondary transmissions

(a) * * *

* * * * *

(d) **STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS BY CABLE SYSTEMS.—**

(1) * * *

(2) The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest by the Librarian of Congress [in the event no controversy over distribution exists, or by the Copyright Royalty Judges, in the event a controversy over such distribution exists.] *upon authorization by the Copyright Royalty Judges.*

* * * * *

(4) The royalty fees thus deposited shall be distributed in accordance with the following procedures:

(A) * * *

(B) After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. **【If the Copyright Royalty Judges determine that no such controversy exists, the Librarian shall, after deducting reasonable administrative costs under this section, distribute such fees to the copyright owners entitled to such fees, or to their designated agents.】** *If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction by the Librarian of reasonable administrative costs under this section.* If the Copyright Royalty Judges **【finds】** *find* the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

【(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.】

(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.

* * * * *

§ 114. Scope of exclusive rights in sound recordings

(a) * * *

* * * * *

(f) LICENSES FOR CERTAIN NONEXEMPT TRANSMISSIONS.—

(1)(A) Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during the 5-year period beginning on January 1 of the second year following the year in which the proceedings are to be commenced, **【except where 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.】** *except in the case of a different transitional period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree.* Such terms and rates shall distinguish among the different types of digital audio transmission services then in operation. Any copyright owners of sound recordings, preexisting subscription services, or preexisting satellite digital audio radio services may submit to the Copyright Royalty Judges licenses covering such subscription transmissions with

respect to such sound recordings. The parties to each proceeding shall bear their own costs.

* * * * *

(2)(A) Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by eligible nonsubscription transmission services and transmissions by new subscription services specified by subsection (d)(2) during the 5-year period beginning on January 1 of the second year following the year in which the proceedings are to be commenced, [except where a different transitional period is provided] *except in the case of a different transitional period provided* under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services and new subscription services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this paragraph may submit to the Copyright Royalty Judges licenses covering such eligible nonsubscription transmissions and new subscription services with respect to such sound recordings. The parties to each proceeding shall bear their own costs.

* * * * *

§ 115. Scope of exclusive rights in nondramatic musical works: Compulsory license for making and distributing phonorecords

In the case of nondramatic musical works, the exclusive rights provided by clauses (1) and (3) of section 106, to make and to distribute phonorecords of such works, are subject to compulsory licensing under the conditions specified by this section.

(a) * * *

* * * * *

(c) ROYALTY PAYABLE UNDER COMPULSORY LICENSE.—

(1) * * *

* * * * *

(3)(A) * * *

(B) Notwithstanding any provision of the antitrust laws, any copyright owners of nondramatic musical works and any persons entitled to obtain a compulsory license under subsection (a)(1) may negotiate and agree upon the terms and rates of royalty payments under this paragraph and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay or receive such royalty payments. Such authority to negotiate the terms and rates of royalty payments includes, but is not limited to, the authority to negotiate the year during which the royalty rates prescribed under [subparagraphs (B) through

(F)] *this subparagraph and subparagraphs (C) through (E)* and chapter 8 of this title shall next be determined.

* * * * *

(E)(i) License agreements voluntarily negotiated at any time between one or more copyright owners of nondramatic musical works and one or more persons entitled to obtain a compulsory license under subsection (a)(1) shall be given effect in lieu of any determination by the Librarian of Congress and Copyright Royalty Judges. Subject to clause (ii), the royalty rates determined pursuant to subparagraph [(C) or (D)] *(C) and (D)* shall be given effect as to digital phonorecord deliveries in lieu of any contrary royalty rates specified in a contract pursuant to which a recording artist who is the author of a nondramatic musical work grants a license under that person's exclusive rights in the musical work under paragraphs (1) and (3) of section 106 or commits another person to grant a license in that musical work under paragraphs (1) and (3) of section 106, to a person desiring to fix in a tangible medium of expression a sound recording embodying the musical work.musical work.

(ii) The second sentence of clause (i) shall not apply to—

(I) a contract entered into on or before June 22, 1995, and not modified thereafter for the purpose of reducing the royalty rates determined pursuant to subparagraph [(C) or (D)] *(C) and (D)* or of increasing the number of musical works within the scope of the contract covered by the reduced rates, except if a contract entered into on or before June 22, 1995, is modified thereafter for the purpose of increasing the number of musical works within the scope of the contract, any contrary royalty rates specified in the contract shall be given effect in lieu of royalty rates determined pursuant to subparagraph [(C) or (D)] *(C) and (D)* for the number of musical works within the scope of the contract as of June 22, 1995; and

* * * * *

§ 118. Scope of exclusive rights: Use of certain works in connection with noncommercial broadcasting

(a) * * *

(b) Notwithstanding any provision of the antitrust laws, any owners of copyright in published nondramatic musical works and published pictorial, graphic, and sculptural works and any public broadcasting entities, respectively, may negotiate and agree upon the terms and rates of royalty payments and the proportionate division of fees paid among various copyright owners, and may designate common agents to negotiate, agree to, pay, or receive payments.

(1) * * *

* * * * *

(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to [copyright owners in works]

owners of copyright in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

(c) Subject to the terms of any voluntary license agreements that have been negotiated as provided by subsection (b)(2) or (3), a public broadcasting entity may, upon compliance with the provisions of this section, including the rates and terms established by the **【Copyright Royalty Judges under subsection (b)(4), to the extent that they were accepted by the Librarian of Congress】** *Copyright Royalty Judges under subsection (b)(4)*, engage in the following activities with respect to published nondramatic musical works and published pictorial, graphic, and sculptural works:

(1) * * *

* * * * *

§ 119. Limitations on exclusive rights: Secondary transmissions of superstations and network stations for private home viewing

(a) * * *

* * * * *

(b) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS FOR PRIVATE HOME VIEWING.—

(1) * * *

* * * * *

(4) PROCEDURES FOR DISTRIBUTION.—The royalty fees deposited under paragraph (2) shall be distributed in accordance with the following procedures:

(A) * * *

(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Librarian of Congress shall determine whether there exists a controversy concerning the distribution of royalty fees. **【If the Librarian of Congress determines that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents.】** *If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction by the Librarian of reasonable administrative costs under this section.* If the Librarian of Congress finds the existence of a controversy, the Librarian of Congress shall, pursuant to chapter 8 of this title, convene a copyright arbitration royalty panel to determine the distribution of royalty fees.

【(C) WITHHOLDING OF FEES DURING CONTROVERSY.—

During the pendency of any proceeding under this subsection, the Librarian of Congress shall withhold from dis-

tribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.】

(C) *WITHHOLDING OF FEES DURING CONTROVERSY.*—
During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.

* * * * *

**CHAPTER 8—COPYRIGHT ARBITRATION ROYALTY
 PANELS**

* * * * *

§ 801. Copyright Royalty Judges; appointment and functions

- (a) * * *
- (b) **FUNCTIONS.**—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, [119 and 1004] *119, and 1004*. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

- (A) * * *

* * * * *

- (f) **INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.**—

(1) **IN MAKING DETERMINATIONS.**—

(A) **IN GENERAL.**—(i) Subject to [clause (ii) of this subparagraph and subparagraph (B)] *subparagraph (B) and clause (ii) of this subparagraph*, the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact.

(ii) [A Copyright Royalty Judge or Judges, or, by motion to the Copyright Royalty Judge or Judges,] *One or more Copyright Royalty Judges or, by motion to one or more Copyright Royalty Judges*, any participant in a proceeding may request an interpretation by the Register of Copyrights concerning any material question of substantive law [(not including) *(other than* questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate) concerning an interpretation or construction of those provisions of this title that are the subject of the proceeding. Any such request for a written interpretation by the Register of Copy-

rights shall be on the record. Reasonable provision shall be made for comment by the participants in the proceeding on the material question of substantive law, in such a way as to minimize duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a response within 14 days after the Register of **Copyrights** *Copyrights* receives all of the briefs or comments of the participants. Such decision shall be in writing and shall be included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered to the Copyright Royalty Judges, the Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights in resolving material questions of substantive law.

* * * * *

(D) REVIEW OF LEGAL CONCLUSIONS BY THE REGISTER OF COPYRIGHTS.—The Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under this title that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall issue a written decision correcting such legal error, which shall be made part of the record of the proceeding. 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. Additionally, the Register of Copyrights shall cause to be published in the Federal Register such written decision, together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. As to conclusions of substantive law involving an interpretation of the statutory provisions of this title, the decision of the Register of Copyrights shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings under this chapter. When a decision has been rendered pursuant to this subparagraph, the Register of Copyrights may, on the basis of and in accordance with such decision, intervene as of right in any appeal of a final determination of the Copyright Royalty Judges pursuant to section 803(d) in the United States Court of Appeals for the District of Columbia Circuit. If, prior to intervening in such an appeal, the Register of Copyrights gives notification to, and undertakes to consult with, the Attorney General with respect to such intervention, and the Attorney General fails, within a reasonable period after receiving such notification, to intervene in such appeal, the Register of Copyrights may intervene in such appeal in his or her own name by any attorney designated by the Register of Copyrights for such purpose. Intervention by the Register of Copyrights in his or her own name shall not preclude

the Attorney General from intervening on behalf of the United States in such an appeal as may be otherwise provided or required by law.

* * * * *

§ 803. Proceedings of Copyright Royalty Judges

(a) PROCEEDINGS.—

(1) IN GENERAL.—**[The Copyright]** *The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, the Register of Copyrights, copyright arbitration royalty panels (to the extent those determinations are not inconsistent with a decision of the Librarian of Congress or the Register of Copyrights), and the Copyright Royalty Judges (to the extent those determinations are not inconsistent with a decision of the Register of Copyrights that was timely delivered to the Copyright Royalty Judges pursuant to section 802(f)(1) (A) or (B), or with a decision of the Register of Copyrights pursuant to section 802(f)(1)(D)), under this chapter, and decisions of the court of appeals under this chapter before, on, or after the effective date of the Copyright Royalty and Distribution Reform Act of 2004.*

* * * * *

(b) PROCEDURES.—

(1) INITIATION.—

(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) * * *

* * * * *

(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, except that **[in the case of]** *the publication of notice requirement shall not apply in the case of proceedings under section 111 that are scheduled to commence in 2005***[, such notice may not be published]**..

* * * * *

(6) REGULATIONS.—

(A) * * *

* * * * *

(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

(i) The written direct statements *and written rebuttal statements* of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, [which may] *which, in the case of written direct statements, may* be not earlier than 4 months, and not later than 5 months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, the Copyright Royalty Judges may allow a participant in a proceeding to file an amended written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period specified in [clause (iii)] *clause (iv)*.

* * * * *

(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—

(1) * * *

(2) REHEARINGS.—

(A) * * *

(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver to the participants in the proceeding their initial determination [concerning rates and terms].

* * * * *

(7) LATE PAYMENT.—A determination [of Copyright] *of the Copyright Royalty Judges* may include terms with respect to late payment, but in no way shall such terms prevent the copyright holder from asserting other rights or remedies provided under this title.

(d) JUDICIAL REVIEW.—

(1) * * *

(2) EFFECT OF RATES.—

(A) * * *

* * * * *

(C) OBLIGATION TO MAKE PAYMENTS.—

(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from—

(I) providing the [statements of account and any report of use] *applicable statements of account and reports of use*; and

* * * * *

§ 804. Institution of proceedings

(a) * * *

(b) TIMING OF PROCEEDINGS.—

(1) SECTION 111 PROCEEDINGS.—(A) * * *

(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section [801(b)(3) (B) or (C)] 801(b)(2)(B) or (C), as the case may be. A petition for adjustment of rates established by section 111(d)(1)(B) as a result of a change [is] in the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

* * * * *

(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the [effective date] *date of enactment* of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

* * * * *

(C)(i) * * *

(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service [that] is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

(iii) The proceeding shall follow the schedule set forth in [such] subsections (b), (c), and (d) of section 803, except that—

(I) * * *

* * * * *

**CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES
AND MEDIA**

SUBCHAPTER A—DEFINITIONS

* * * * *

§ 1007. Procedures for distributing royalty payments

(a) * * *

(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the [Librarian of Congress] *Copyright Royalty Judges* 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). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred [by the Librarian] under this section.

(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges 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 such royalty payments are distributed, deduct the reasonable administrative costs incurred [by the Librarian] under this section.

* * * * *

**SECTION 6 OF THE COPYRIGHT ROYALTY AND
DISTRIBUTION REFORM ACT OF 2004**

SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) * * *

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the effective date provided in subsection (a) under the provisions of title 17, United States Code, as amended by this Act, and pending on such effective date. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted. For purposes of this paragraph, the Librarian of Congress may determine whether a proceeding has commenced. The Librarian of Congress may

terminate any proceeding [commenced before the date of enactment of this Act] *commenced before the effective date provided in subsection (a)* pursuant to chapter 8 of title 17, United States Code, and any proceeding so terminated shall become null and void. In such cases, the Copyright Royalty Judges may initiate a new proceeding in accordance with regulations adopted pursuant to section 803(b)(6) of title 17, United States Code.

* * * * *

MARKUP TRANSCRIPT

BUSINESS MEETING

WEDNESDAY, MARCH 9, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. F. James Sensenbrenner, Jr. [Chairman of the Committee] presiding.

Chairman SENSENBRENNER. The Committee will be in order. A working quorum is present comprised entirely of Members of the majority party. So rather than doing a ratification of minority Committee assignments, since there is no one here to make a motion to do that, we will now go to the next item on the agenda which is the adoption of S. 167, the "Family Entertainment and Copyright Act of 2005," and the Chair recognizes the gentlemen from Texas, Mr. Smith, the Chairman of the Subcommittee on Courts, the Internet, and Intellectual Property for a motion.

Mr. SMITH. Mr. Chairman, I ask unanimous consent that we consider the following bills en bloc: S. 167, H.R. 683, H.R. 1036, H.R. 1037, H.R. 1038.

Chairman SENSENBRENNER. How about House Concurrent Resolution—

Mr. SMITH. It's my understanding, Chairman, that needs to be considered separately.

Chairman SENSENBRENNER. Okay. Without objection, the 5 bills mentioned by the gentleman from Texas will be considered en bloc, and the Chair recognizes the gentleman from Texas to explain them.

Mr. SMITH. I'll try to be brief, Mr. Chairman. The first bill, S. 167 really consists of three previous bills that this Committee has approved and that passed the House last year. The first one is the Family Movie Act, and I think Members will recall that that simply gives parents the right to determine what their children see when they rent or buy a movie video.

The second part of this particular bill is the Art Act which creates new penalties for those who camcord movies in public theaters and who willfully infringe copyright law by distributing copies of prereleased works, movies or otherwise.

The Trademark Dilution Revision Act of 2005 simply, basically protects trademarks in a better way and also makes sure that people cannot infringe trademarks as easily as they do now. It also

does a good job of trying to keep us out of court to determine some of the ambiguities of that particular subject.

The two technical correction bills are just that, technical corrections of the Satellite Viewer, Home Viewer Movie Act, and the technical corrections, in addition to the satellite corrections are technical corrections of the CARP bill, which we approved last year and which passed the House.

The last bill in the en bloc package, Mr. Chairman, is your bill, the Multidistrict Litigation Restoration Act of 2005, and I will yield to you to make any comments on that.

And that would be the quick summary of the five bills en bloc. [The bill, H.R. 1036, follows:]

109TH CONGRESS
1ST SESSION

H. R. 1036

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

IN THE HOUSE OF REPRESENTATIVES

MARCH 2, 2005

Mr. SMITH of Texas (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 17, United States Code, to make technical corrections relating to copyright royalty judges.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. AMENDMENTS TO CHAPTER 8 OF TITLE 17,**
4 **UNITED STATES CODE.**

5 Chapter 8 of title 17, United States Code, is amended
6 as follows:

7 (1) Section 801(b)(1) is amended, in the matter
8 preceding subparagraph (A), by striking “119 and
9 1004” and inserting “119, and 1004”.

10 (2) Section 802(f)(1)(A) is amended—

1 (A) in clause (i), by striking “clause (ii) of
2 this subparagraph and subparagraph (B)” and
3 inserting “subparagraph (B) and clause (ii) of
4 this subparagraph”; and

5 (B) in clause (ii)—

6 (i) in the first sentence—

7 (I) by striking “A Copyright
8 Judge or Judges, or by motion to the
9 Copyright Judge or Judges,” and in-
10 sserting “One or more Copyright Roy-
11 alty Judges or, by motion to one or
12 more Copyright Royalty Judges,”; and

13 (II) by striking “(not including”
14 and inserting “(other than”;

15 (ii) in the third sentence, by inserting
16 a comma after “substantive law”; and

17 (iii) in the fourth sentence, by striking
18 “Copyrights” and inserting “Copyrights”.

19 (3) Section 802(f)(1)(D) is amended by insert-
20 ing a comma after “undertakes to consult with”.

21 (4) Section 803(a)(1) is amended—

22 (A) by striking “The Copyright” and in-
23 sserting “The Copyright Royalty Judges shall
24 act in accordance with this title, and to the ex-
25 tent not inconsistent with this title, in accord-

1 ance with subchapter II of chapter 5 of title 5,
2 in carrying out the purposes set forth in section
3 801. The Copyright”; and

4 (B) by inserting after “Congress, the Reg-
5 ister of Copyrights,” the following: “copyright
6 arbitration royalty panels (to the extent those
7 determinations are not inconsistent with a deci-
8 sion of the Librarian of Congress or the Reg-
9 ister of Copyrights),”.

10 (5) Section 803(b) is amended—

11 (A) in paragraph (1)(A)(i)(V)—

12 (i) by striking “in the case of” and in-
13 serting “the publication of notice require-
14 ment shall not apply in the case of”; and

15 (ii) by striking “, such notice may not
16 be published”; and

17 (B) in paragraph (6)(C)(i)—

18 (i) in the first sentence, by inserting
19 “and written rebuttal statements” after
20 “written direct statements”;

21 (ii) in the first sentence, by striking
22 “which may” and inserting “which, in the
23 case of written direct statements, may”;
24 and

1 (iii) by striking “clause (iii)” and in-
2 serting “clause (iv)”.

3 (6) Section 803(c)(2)(B) is amended by striking
4 “concerning rates and terms”.

5 (7) Section 803(c)(7) is amended by striking
6 “of Copyright” and inserting “of the Copyright”.

7 (8) Section 803(d)(2)(C)(i)(I) is amended by
8 striking “statements of account and any report of
9 use” and inserting “applicable statements of account
10 and reports of use”.

11 (9) Section 804(b)(1)(B) is amended—

12 (A) by striking “801(b)(3)(B) or (C)” and
13 inserting “801(b)(2)(B) or (C)”; and

14 (B) in the last sentence, by striking
15 “change is” and inserting “change in”.

16 (10) Section 804(b)(3) is amended—

17 (A) in subparagraph (A), strike “effective
18 date” and insert “date of enactment”; and

19 (B) in subparagraph (C)—

20 (i) in clause (ii), by striking “that is
21 filed” and inserting “is filed”; and

22 (ii) in clause (iii), by striking “such
23 subsections (b)” and inserting “subsections
24 (b)”.

1 **SEC. 2. ADDITIONAL TECHNICAL AMENDMENTS.**

2 (a) DISTRIBUTION OF ROYALTY FEES.—Section
3 111(d) of title 17, United States Code, is amended—

4 (1) in the second sentence of paragraph (2), by
5 striking all that follows “Librarian of Congress” and
6 inserting “upon authorization by the Copyright Roy-
7 alty Judges.”;

8 (2) in paragraph (4)—

9 (A) in subparagraph (B)—

10 (i) by striking the second sentence
11 and inserting the following: “If the Copy-
12 right Royalty Judges determine that no
13 such controversy exists, the Copyright Roy-
14 alty Judges shall authorize the Librarian
15 of Congress to proceed to distribute such
16 fees to the copyright owners entitled to re-
17 ceive them, or to their designated agents,
18 subject to the deduction by the Librarian
19 of reasonable administrative costs under
20 this section.”; and

21 (ii) in the last sentence, by striking
22 “finds” and inserting “find”; and

23 (B) by striking subparagraph (C) and in-
24 sserting the following:

25 “(C) During the pendency of any pro-
26 ceeding under this subsection, the Copyright

1 Royalty Judges shall have the discretion to au-
2 thorize the Librarian of Congress to proceed to
3 distribute any amounts that are not in con-
4 troversy.”.

5 (b) SOUND RECORDINGS.—Section 114(f) of title 17,
6 United States Code, is amended—

7 (1) in paragraph (1)(A), in the first sentence,
8 by striking “except where” and all that follows
9 through the end period and inserting “, except in
10 the case of a different transitional period provided
11 under section 6(b)(3) of the Copyright Royalty and
12 Distribution Reform Act of 2004, or such other pe-
13 riod as the parties may agree.”; and

14 (2) in paragraph (2)(A), by striking “except
15 where a different transitional period is provided”
16 and inserting “except in the case of a different tran-
17 sitional period provided”.

18 (c) PHONORECORDS OF NONDRAMATIC MUSICAL
19 WORKS.—Section 115(c)(3) of title 17, United States
20 Code, is amended—

21 (1) in subparagraph (B), by striking “subpara-
22 graphs (B) through (F)” and inserting “this sub-
23 paragraph and subparagraphs (C) through (E)”;
24 and

1 (2) in subparagraph (E), in clauses (i) and
2 (ii)(I), by striking “(C) or (D)” each place it ap-
3 pears and inserting “(C) and (D)”.

4 (d) NONCOMMERCIAL BROADCASTING.—Section 118
5 of title 17, United States Code, is amended—

6 (1) in subsection (b)(3), by striking “copyright
7 owners in works” and inserting “owners of copyright
8 in works”; and

9 (2) in subsection (c), by striking “Copyright
10 Royalty Judges” and all that follows through “Li-
11 brarian of Congress” and inserting “Copyright Roy-
12 alty Judges under subsection (b)(4)”.

13 (e) SATELLITE CARRIERS.—Section 119(b)(4) of title
14 17, United States Code, is amended—

15 (1) in subparagraph (B), by striking the second
16 sentence and inserting the following: “If the Copy-
17 right Royalty Judges determine that no such con-
18 troversy exists, the Copyright Royalty Judges shall
19 authorize the Librarian of Congress to proceed to
20 distribute such fees to the copyright owners entitled
21 to receive them, or to their designated agents, sub-
22 ject to the deduction by the Librarian of reasonable
23 administrative costs under this section.”; and

24 (2) by amending subparagraph (C) to read as
25 follows:

1 “(C) WITHHOLDING OF FEES DURING
2 CONTROVERSY.—During the pendency of any
3 proceeding under this subsection, the Copyright
4 Royalty Judges shall have the discretion to au-
5 thorize the Librarian of Congress to proceed to
6 distribute any amounts that are not in con-
7 troversy.”.

8 (f) DIGITAL AUDIO RECORDING DEVICES.—Section
9 1007 of title 17, United States Code, is amended—

10 (1) in subsection (b)—

11 (A) in the second sentence, by striking
12 “Librarian of Congress” and inserting “Copy-
13 right Royalty Judges”; and

14 (B) in the last sentence, by striking “by
15 the Librarian”; and

16 (2) in subsection (c), in the last sentence, by
17 striking “by the Librarian”.

18 (g) EFFECTIVE DATE.—Section 6(b)(1) of the Copy-
19 right Royalty and Distribution Reform Act of 2004 (Pub-
20 lic Law 108–419) is amended by striking “commenced be-
21 fore the date of enactment of this Act” and inserting
22 “commenced before the effective date provided in sub-
23 section (a)”.

○

Chairman SENSENBRENNER. The Chair passes on this.
Without objection, all Members may place opening statements in the record on each of the bills being considered en bloc at this time. Hearing no objection, so ordered.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF THE HONORABLE LAMAR SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS, AND CHAIRMAN, SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY

The enactment of H.R. 1417, the "Copyright Royalty and Distribution Reform Act of 2004" last Congress was a signature and bipartisan achievement.

This legislation represented the culmination of more than 20 years of Congressional efforts to develop the appropriate administrative and adjudicatory constructs to oversee the royalty rate-setting and distribution functions that are necessitated by commercial reliance on compulsory licenses.

The new processes were developed after extensive consultation with the Register of Copyrights, copyright owners, and many of the commercial users who are beneficiaries of these licenses.

Before addressing the specifics of the bill, I'd like to take a moment to acknowledge the longstanding concern and incredible dedication of the Subcommittee Ranking Member, Mr. Berman, to this issue. I think it also appropriate to acknowledge the energy, enthusiasm and expertise contributed by his former Counsel, Alec French.

When the Copyright Royalty Judge, or "CRJ," system is fully implemented, disputes will be settled in a more predictable, rational and consistent manner; decisions will be improved by the involvement of judges required to possess relevant subject matter expertise; and significant cost savings and efficiencies should be realized by participants.

A clear articulation of the precise delineation of the respective roles of the Copyright Office and the new CRJ's is fundamental to the success of the new system.

Under the CRJ construct, the Librarian of Congress remains responsible for a number of administrative and ministerial duties, to include the actual distribution of royalties determined to be not in controversy.

Conversely, the CRJs are responsible for fact-finding in adjudicatory proceedings, for determining whether or not a controversy exists and for authorizing the distribution of royalties by the Librarian.

Unfortunately, as enrolled, H.R. 1417 inadvertently stated in some places that the Librarian was charged with "authoriz[ing]" the distribution of funds.

This error is representative of the types of errors that needs to be corrected. In addition, this bill contains further non-controversial stylistic, technical, clarifying and conforming changes.

I urge my colleagues to adopt the provisions in H.R. 1036, which I believe will help to alleviate needless uncertainties and contribute to the smooth, efficient operation of the new CRJ process.

[The prepared statement of Mr. Berman follows:]

PREPARED STATEMENT OF THE HONORABLE HOWARD L. BERMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND RANKING MEMBER, SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY

I want to thank the Chairman for his able leadership in moving this bill forward expeditiously.

One of the Subcommittee's major accomplishments last Congress was to see the CARP reform bill from its inception to ultimate passage. The original bill accomplished much with a general overhaul of the administrative construct by which copyright royalties are determined and distributed based on the compulsory licenses authorized by the Copyright Act.

H.R. 1036, the Technical Corrections to the Copyright Royalty and Distribution Reform Act of 2004, which I introduced with the Chairman of the Subcommittee, makes a number of technical corrections. Some provisions merely change spelling and punctuation; others correct cross-references, paragraph numbering, or editorial style in copyright law.

The corrections not in the aforementioned categories are merely technical as well. Those changes include amending the statute to correctly identify the roles of the copyright royalty judges and the librarian of congress in authorizing and distributing royalty payments. In addition, the bill addresses the omission of CARP deci-

sions serving as precedent and provides consistency for written direct statements and written rebuttal statements.

I want to thank the Copyright Office, the Legislative Counsel and some outside groups for their assistance in noting many of the errors and then their help in drafting this bill.

I urge my colleagues to support this bill.

Chairman SENSENBRENNER. Are there any amendments to any of the bills?

[No response.]

Chairman SENSENBRENNER. There being no amendments, without objection, the previous question is ordered on reporting the bills favorably and the vote on reporting these bills favorably will be taken when a reporting quorum is present.

Without objection the order for the previous question is vitiated. There is a Subcommittee amendment on H.R. 683, the Dilution Bill. Without objection, the Subcommittee amendment is agreed to. Hearing none, so ordered.

And now without objection, the previous question is ordered on reporting the bills favorably with H.R. 683 being reported favorably as amended. And the vote will be taken at the time that a reporting quorum appears.

[Intervening business.]

Chairman SENSENBRENNER. If there are no further amendments, without objection, the previous question is ordered favorably reporting Senate 167.

We are still one short of a reporting quorum. I would ask the Members present to be patient, and as soon as we round up—here we go. They have been rounded up. [Laughter.]

The previous question has been ordered on reporting favorably the following bills: Senate 167, H.R. 683, H.R. 1036, H.R. 1037 and H.R. 1038. So many as are in favor of reporting these bills favorably will say aye.

Opposed, no?

The ayes appear to have it. The ayes have it, and the bills are reported favorably.

Without objection, those bills which were amended here, meaning H.R. 683, will be reported favorably to the House in the form of a single amendment in the nature of a substitute, incorporating the amendments adopted here today. That unanimous consent request also includes Senate 167 as amended.

Is there any objection?

[Intervening business.]

Chairman SENSENBRENNER. Okay. Without objection, all Members will be given 2 days as provided by House rules, in which to submit additional dissenting supplemental or minority views, and without objection the staff is directed to make any technical and conforming changes.

[Intervening business.]

Chairman SENSENBRENNER. There being no further business to come before the Committee, the Committee stands adjourned.

[Whereupon, at 10:17 a.m., the Committee was adjourned.]