

legislation. I also thank the chairman and ranking member of the Judiciary Committee for really helping us move this bill very quickly. I thank the staffs of both the majority and the minority who have worked so very hard on moving this bill forward. And I acknowledge, in particular, the staff on the Subcommittee on Crime, Terrorism, and Homeland Security for their particular help and leadership on this.

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Mr. Speaker, I am glad that we are talking about healthy sports and the recognition and the acceptance, if you will, of those who worked so long and so hard, many from their earlier years, to be Olympians, to play baseball, basketball, football, track, and the many sports that come under the Olympic mandate.

This bill, in particular, I wish to remind our colleagues, again, provides relief, but we really hope it is a deterrent and works to move other nations, the European Union, to be able to establish these kinds of responses to doping.

This act establishes criminal penalties for participating in a scheme in commerce to influence a major international sports competition through prohibitive substances or methods. It also provides restitution to victims of such conspiracy, athletes in particular, many of whom have suffered great losses because of this fraud.

It protects whistleblowers from retaliation by criminalizing participation in international doping fraud conspiracies. Whistleblowers will be included under existing witness protection laws.

It establishes coordination and sharing information with the U.S. Anti-Doping Agency to establish a matrix, if you will, a format.

I want to say that we all have an interest in ensuring our country and our athletes are not defrauded in international sports competitions. This bipartisan bill would fill an unfortunate gap with regard to U.S. law enforcement to hold accountable those who engage in such fraud.

It would also serve as a deterrent to those considering engaging in doping-fraud conspiracies and would provide a mechanism to gain visibility in a wider net of international corrupt practices that are connected to doping fraud.

I leave my colleagues with the very visual that so many of us, if we were not able to be at the Olympics, watched as our athletes were able to stand under our flag, the emotion of that moment, the emotion of the athletes, the emotion of those watching, the excitement of standing in honor of your Nation and representing your Nation. Anyone who has talked to an Olympian knows that that is one of their greatest honors. Let's give them that honor fair and square, if you will.

Since we believe in fairness and squareness in all of our athletic endeavors here in the United States, I

certainly will end, as my friend commented here on the floor, I will end with the healthiness and the upstanding of the World Series and those who will play in it.

I will take the opportunity at this time to say: Go Astros.

I urge my colleagues to support the underlying, commonsense measure, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Texas (Ms. JACKSON LEE) that the House suspend the rules and pass the bill, H.R. 835, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

COPYRIGHT ALTERNATIVE IN SMALL-CLAIMS ENFORCEMENT ACT OF 2019

Mr. JEFFRIES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2426) to amend title 17, United States Code, to establish an alternative dispute resolution program for copyright small claims, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 2426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Alternative in Small-Claims Enforcement Act of 2019" or the "CASE Act of 2019".

SEC. 2. COPYRIGHT SMALL CLAIMS.

(a) IN GENERAL.—Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 15—COPYRIGHT SMALL CLAIMS

- "Sec.
- "1501. Definitions.
- "1502. Copyright Claims Board.
- "1503. Authority and duties of the Copyright Claims Board.
- "1504. Nature of proceedings.
- "1505. Registration requirement.
- "1506. Conduct of proceedings.
- "1507. Effect of proceeding.
- "1508. Review and confirmation by district court.
- "1509. Relationship to other district court actions.
- "1510. Implementation by Copyright Office.
- "1511. Funding.

"§ 1501. Definitions

- "In this chapter—
- "(1) the term 'party'—
- "(A) means a party; and
- "(B) includes the attorney of a party, as applicable;
- "(2) 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);
- "(3) 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); 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).

"§ 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 have—

"(I) 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.

“§ 1503. Authority and duties of the Copyright Claims Board

“(a) FUNCTIONS.—

“(1) COPYRIGHT CLAIMS OFFICERS.—Subject to the provisions of this chapter and applicable regulations, the functions of the Copyright Claims Officers shall be as follows:

“(A) To render determinations on the civil copyright claims, counterclaims, and defenses that may be brought before the Officers under this chapter.

“(B) To ensure that claims, counterclaims, and defenses are properly asserted and otherwise appropriate for resolution by the Copyright Claims Board.

“(C) To manage the proceedings before the Officers and render rulings pertaining to the consideration of claims, counterclaims, and defenses, including with respect to scheduling, discovery, evidentiary, and other matters.

“(D) To request, from participants and nonparticipants in a proceeding, the production of information and documents relevant to the resolution of a claim, counterclaim, or defense.

“(E) To conduct hearings and conferences.

“(F) To facilitate the settlement by the parties of claims and counterclaims.

“(G)(i) To award monetary relief; and

“(ii) to include in the determinations of the Officers a requirement that certain activities under section 1504(e)(2) cease or be mitigated, if the party to undertake the applicable measure has so agreed.

“(H) To provide information to the public concerning the procedures and requirements of the Copyright Claims Board.

“(I) To maintain records of the proceedings before the Officers, certify official records of such proceedings as needed, and, as provided in section 1506(t), make the records in such proceedings available to the public.

“(J) To carry out such other duties as are set forth in this chapter.

“(K) When not engaged in performing the duties of the Officers set forth in this chapter, to perform such other duties as may be assigned by the Register of Copyrights.

“(2) COPYRIGHT CLAIMS ATTORNEYS.—Subject to the provisions of this chapter and applicable regulations, the functions of the Copyright Claims Attorneys shall be as follows:

“(A) To provide assistance to the Copyright Claims Officers in the administration of the duties of those Officers under this chapter.

“(B) To provide assistance to members of the public with respect to the procedures and requirements of the Copyright Claims Board.

“(C) To provide information to potential claimants contemplating bringing a permissible action before the Copyright Claims Board about obtaining a subpoena under section 512(h) for the sole purpose of identifying a potential respondent in such an action.

“(D) When not engaged in performing the duties of the Attorneys set forth in this chapter, to perform such other duties as may be assigned by the Register of Copyrights.

“(b) INDEPENDENCE IN DETERMINATIONS.—

“(1) IN GENERAL.—The Copyright Claims Board shall render the determinations of the Board in individual proceedings independently on the basis of the records in the proceedings before it and in accordance with the provisions of this title, judicial precedent, and applicable regulations of the Register of Copyrights.

“(2) CONSULTATION.—The Copyright Claims Officers and Copyright Claims Attorneys—

“(A) may consult with the Register of Copyrights on general issues of law; and

“(B) subject to section 1506(x), may not consult with the Register of Copyrights with respect to—

“(i) the facts of any particular matter pending before the Officers and the Attorneys; or

“(ii) the application of law to the facts described in clause (i).

“(3) PERFORMANCE APPRAISALS.—Notwithstanding any other provision of law or any regulation or policy of the Library of Congress or Register of Copyrights, any performance appraisal of a Copyright Claims Officer or Copyright Claims Attorney may not consider the substantive result of any individual determination reached by the Copyright Claims Board as a basis for appraisal except to the extent that result may relate to any actual or alleged violation of an ethical standard of conduct.

“(c) DIRECTION BY REGISTER.—Subject to subsection (b), the Copyright Claims Officers and Copyright Claims Attorneys shall, in the administration of their duties, be under the general direction of the Register of Copyrights.

“(d) INCONSISTENT DUTIES BARRED.—A Copyright Claims Officer or Copyright Claims Attorney may not undertake any duty that conflicts with the duties of the Officer or Attorney in connection with the Copyright Claims Board.

“(e) RECUSAL.—A Copyright Claims Officer or Copyright Claims Attorney shall recuse himself or herself from participation in any proceeding with respect to which the Copyright Claims Officer or Copyright Claims Attorney, as the case may be, has reason to believe that he or she has a conflict of interest.

“(f) EX PARTE COMMUNICATIONS.—Except as may otherwise be permitted by applicable law, any party to a proceeding before the Copyright Claims Board shall refrain from ex parte communications with the Copyright Claims Officers and the Register of Copyrights concerning the substance of any active or pending proceeding before the Copyright Claims Board.

“(g) JUDICIAL REVIEW.—Actions of the Copyright Claims Officers and Register of Copyrights under this chapter in connection with the rendering of any determination are subject to judicial review as provided under section 1508(c) and not under chapter 7 of title 5.

“§ 1504. Nature of proceedings

“(a) VOLUNTARY PARTICIPATION.—Participation in a Copyright Claims Board proceeding shall be on a voluntary basis in accordance with this chapter and the right of any party to instead pursue a claim, counterclaim, or defense in a district court of the United States, any other court, or any other forum, and to seek a jury trial, shall be preserved. The rights, remedies, and limitations under this section may not be waived except in accordance with this chapter.

“(b) STATUTE OF LIMITATIONS.—

“(1) IN GENERAL.—A proceeding may not be maintained before the Copyright Claims Board unless the proceeding is commenced, in accordance with section 1506(e), before the Copyright Claims Board within 3 years after the claim accrued.

“(2) TOLLING.—Subject to section 1507(a), a proceeding commenced before the Copyright Claims Board shall toll the time permitted under section 507(b) for the commencement of an action on the same claim in a district court of the United States during the period in which the proceeding is pending.

“(c) PERMISSIBLE CLAIMS, COUNTERCLAIMS, AND DEFENSES.—The Copyright Claims Board may render determinations with respect to the following claims, counterclaims, and defenses, subject to such further limitations and requirements, including with respect to particular classes of works, as may be set forth in regulations established by the Register of Copyrights:

“(1) A claim for infringement of an exclusive right in a copyrighted work provided under section 106 by the legal or beneficial owner of the exclusive right at the time of the infringement for which the claimant seeks damages, if any, within the limitations set forth in subsection (e)(1).

“(2) A claim for a declaration of noninfringement of an exclusive right in a copyrighted work provided under section 106, consistent with section 2201 of title 28.

“(3) A claim under section 512(f) for misrepresentation in connection with a notification of claimed infringement or a counter notification seeking to replace removed or disabled material, except that any remedies relating to such a claim in a proceeding before the Copyright Claims Board shall be limited to those available under this chapter.

“(4) A counterclaim that is asserted solely against the claimant in a proceeding—

“(A) pursuant to which the counterclaimant seeks damages, if any, within the limitations set forth in subsection (e)(1); and

“(B) that—

“(i) arises under section 106 or section 512(f) and out of the same transaction or occurrence that is the subject of a claim of infringement brought under paragraph (1), a claim of noninfringement brought under paragraph (2), or a claim of misrepresentation brought under paragraph (3); or

“(ii) arises under an agreement pertaining to the same transaction or occurrence that is the subject of a claim of infringement

brought under paragraph (1), if the agreement could affect the relief awarded to the claimant.

“(5) A legal or equitable defense under this title or otherwise available under law, in response to a claim or counterclaim asserted under this subsection.

“(6) A single claim or multiple claims permitted under paragraph (1), (2), or (3) by one or more claimants against one or more respondents, but only if all claims asserted in any one proceeding arise out of the same allegedly infringing activity or continuous course of infringing activities and do not, in the aggregate, result in the recovery of such claim or claims for damages that exceed the limitations under subsection (e)(1).

“(d) EXCLUDED CLAIMS.—The following claims and counterclaims are not subject to determination by the Copyright Claims Board:

“(1) A claim or counterclaim that is not a permissible claim or counterclaim under subsection (c).

“(2) A claim or counterclaim that has been finally adjudicated by a court of competent jurisdiction or that is pending before a court of competent jurisdiction, unless that court has granted a stay to permit that claim or counterclaim to proceed before the Copyright Claims Board.

“(3) A claim or counterclaim by or against a Federal or State governmental entity.

“(4) A claim or counterclaim asserted against a person or entity residing outside of the United States, except in a case in which the person or entity initiated the proceeding before the Copyright Claims Board and is subject to counterclaims under this chapter.

“(e) PERMISSIBLE REMEDIES.—

“(1) MONETARY RECOVERY.—

“(A) ACTUAL DAMAGES, PROFITS, AND STATUTORY DAMAGES FOR INFRINGEMENT.—With respect to a claim or counterclaim for infringement of copyright, and subject to the limitation on total monetary recovery under subparagraph (D), the Copyright Claims Board may award either of the following:

“(i) Actual damages and profits determined in accordance with section 504(b), with that award taking into consideration, in appropriate cases, whether the infringing party has agreed to cease or mitigate the infringing activity under paragraph (2).

“(ii) Statutory damages, which shall be determined in accordance with section 504(c), subject to the following conditions:

“(I) With respect to works timely registered under section 412, so that the works are eligible for an award of statutory damages in accordance with that section, the statutory damages may not exceed \$15,000 for each work infringed.

“(II) With respect to works not timely registered under section 412, but eligible for an award of statutory damages under this section, statutory damages may not exceed \$7,500 per work infringed, or a total of \$15,000 in any 1 proceeding.

“(III) The Copyright Claims Board may not make any finding that, or consider whether, the infringement was committed willfully in making an award of statutory damages.

“(IV) The Copyright Claims Board may consider, as an additional factor in awarding statutory damages, whether the infringer has agreed to cease or mitigate the infringing activity under paragraph (2).

“(B) ELECTION OF DAMAGES.—With respect to a claim or counterclaim of infringement, at any time before final determination is rendered, and notwithstanding the schedule established by the Copyright Claims Board under section 1506(k), the claimant or counterclaimant shall elect—

“(i) to recover actual damages and profits or statutory damages under subparagraph (A); or

“(ii) not to recover damages.

“(C) DAMAGES FOR OTHER CLAIMS.—Damages for claims and counterclaims other than infringement claims, such as those brought under section 512(f), shall be subject to the limitation under subparagraph (D).

“(D) LIMITATION ON TOTAL MONETARY RECOVERY.—Notwithstanding any other provision of law, a party that pursues any one or more claims or counterclaims in any single proceeding before the Copyright Claims Board may not seek or recover in that proceeding a total monetary recovery that exceeds the sum of \$30,000, exclusive of any attorneys’ fees and costs that may be awarded under section 1506(y)(2).

“(2) AGREEMENT TO CEASE CERTAIN ACTIVITY.—In a determination of the Copyright Claims Board, the Board shall include a requirement to cease conduct if, in the proceeding relating to the determination—

“(A) a party agrees—

“(i) to cease activity that is found to be infringing, including removing or disabling access to, or destroying, infringing materials; or

“(ii) to cease sending a takedown notice or counter notice under section 512 to the other party regarding the conduct at issue before the Board if that notice or counter notice was found to be a knowing material misrepresentation under section 512(f); and

“(B) the agreement described in subparagraph (A) is reflected in the record for the proceeding.

“(3) ATTORNEYS’ FEES AND COSTS.—Notwithstanding any other provision of law, except in the case of bad faith conduct as provided in section 1506(y)(2), the parties to proceedings before the Copyright Claims Board shall bear their own attorneys’ fees and costs.

“(f) JOINT AND SEVERAL LIABILITY.—Parties to a proceeding before the Copyright Claims Board may be found jointly and severally liable if all such parties and relevant claims or counterclaims arise from the same activity or activities.

“(g) PERMISSIBLE NUMBER OF CASES.—The Register of Copyrights may establish regulations relating to the permitted number of proceedings each year by the same claimant under this chapter, in the interests of justice and the administration of the Copyright Claims Board.

“§ 1505. Registration requirement

“(a) APPLICATION OR CERTIFICATE.—A claim or counterclaim alleging infringement of an exclusive right in a copyrighted work may not be asserted before the Copyright Claims Board unless—

“(1) the legal or beneficial owner of the copyright has first delivered a completed application, a deposit, and the required fee for registration of the copyright to the Copyright Office; and

“(2) a registration certificate has either been issued or has not been refused.

“(b) CERTIFICATE OF REGISTRATION.—Notwithstanding any other provision of law, a claimant or counterclaimant in a proceeding before the Copyright Claims Board shall be eligible to recover actual damages and profits or statutory damages under this chapter for infringement of a work if the requirements of subsection (a) have been met, except that—

“(1) the Copyright Claims Board may not render a determination in the proceeding until—

“(A) a registration certificate with respect to the work has been issued by the Copyright Office, submitted to the Copyright Claims Board, and made available to the other parties to the proceeding; and

“(B) the other parties to the proceeding have been provided an opportunity to address the registration certificate;

“(2) if the proceeding may not proceed further because a registration certificate for the work is pending, the proceeding shall be held in abeyance pending submission of the certificate to the Copyright Claims Board, except that, if the proceeding is held in abeyance for more than 1 year, the Copyright Claims Board may, upon providing written notice to the parties to the proceeding, and 30 days to the parties to respond to the notice, dismiss the proceeding without prejudice; and

“(3) if the Copyright Claims Board receives notice that registration with respect to the work has been refused, the proceeding shall be dismissed without prejudice.

“(c) PRESUMPTION.—In a case in which a registration certificate shows that registration with respect to a work was issued not later than 5 years after the date of the first publication of the work, the presumption under section 410(c) shall apply in a proceeding before the Copyright Claims Board, in addition to relevant principles of law under this title.

“(d) REGULATIONS.—In order to ensure that actions before the Copyright Claims Board proceed in a timely manner, the Register of Copyrights shall establish regulations allowing the Copyright Office to make a decision, on an expedited basis, to issue or deny copyright registration for an unregistered work that is at issue before the Board.

“§ 1506. Conduct of proceedings

“(a) IN GENERAL.—

“(1) APPLICABLE LAW.—Proceedings of the Copyright Claims Board shall be conducted in accordance with this chapter and regulations established by the Register of Copyrights under this chapter, in addition to relevant principles of law under this title.

“(2) CONFLICTING PRECEDENT.—If it appears that there may be conflicting judicial precedent on an issue of substantive copyright law that cannot be reconciled, the Copyright Claims Board shall follow the law of the Federal jurisdiction in which the action could have been brought if filed in a district court of the United States, or, if the action could have been brought in more than 1 such jurisdiction, the jurisdiction that the Copyright Claims Board determines has the most significant ties to the parties and conduct at issue.

“(b) RECORD.—The Copyright Claims Board shall maintain records documenting the proceedings before the Board.

“(c) CENTRALIZED PROCESS.—Proceedings before the Copyright Claims Board shall—

“(1) be conducted at the offices of the Copyright Claims Board without the requirement of in-person appearances by parties or others; and

“(2) take place by means of written submissions, hearings, and conferences carried out through internet-based applications and other telecommunications facilities, except that, in cases in which physical or other non-testimonial evidence material to a proceeding cannot be furnished to the Copyright Claims Board through available telecommunications facilities, the Copyright Claims Board may make alternative arrangements for the submission of such evidence that do not prejudice any other party to the proceeding.

“(d) REPRESENTATION.—A party to a proceeding before the Copyright Claims Board may be, but is not required to be, represented by—

“(1) an attorney; or

“(2) a law student who is qualified under applicable law governing representation by law students of parties in legal proceedings and who provides such representation on a pro bono basis.

“(e) COMMENCEMENT OF PROCEEDING.—In order to commence a proceeding under this

chapter, a claimant shall, subject to such additional requirements as may be prescribed in regulations established by the Register of Copyrights, file a claim with the Copyright Claims Board, that—

“(1) includes a statement of material facts in support of the claim;

“(2) is certified under subsection (y)(1); and

“(3) is accompanied by a filing fee in such amount as may be prescribed in regulations established by the Register of Copyrights.

“(f) REVIEW OF CLAIMS AND COUNTERCLAIMS.—

“(1) CLAIMS.—Upon the filing of a claim under subsection (e), the claim shall be reviewed by a Copyright Claims Attorney to ensure that the claim complies with this chapter and applicable regulations, subject to the following:

“(A) If the claim is found to comply, the claimant shall be notified regarding that compliance and instructed to proceed with service of the claim under subsection (g).

“(B) If the claim is found not to comply, the claimant shall be notified that the claim is deficient and be permitted to file an amended claim not later than 30 days after the date on which the claimant receives the notice, without the requirement of an additional filing fee. If the claimant files a compliant claim within that 30-day period, the claimant shall be so notified and be instructed to proceed with service of the claim. If the claim is refiled within that 30-day period and still fails to comply, the claimant shall again be notified that the claim is deficient and shall be provided a second opportunity to amend the claim within 30 days after the date of that second notice, without the requirement of an additional filing fee. If the claim is refiled again within that second 30-day period and is compliant, the claimant shall be so notified and shall be instructed to proceed with service of the claim, but if the claim still fails to comply, upon confirmation of such noncompliance by a Copyright Claims Officer, the proceeding shall be dismissed without prejudice. The Copyright Claims Board shall also dismiss without prejudice any proceeding in which a compliant claim is not filed within the applicable 30-day period.

“(C)(i) Subject to clause (ii), for purposes of this paragraph, a claim against an online service provider for infringement by reason of the storage of or referral or linking to infringing material that may be subject to the limitations on liability set forth in subsection (b), (c), or (d) of section 512 shall be considered noncompliant unless the claimant affirms in the statement required under subsection (e)(1) of this section that the claimant has previously notified the service provider of the claimed infringement in accordance with subsection (b)(2)(E), (c)(3), or (d)(3) of section 512, as applicable, and the service provider failed to remove or disable access to the material expeditiously upon the provision of such notice.

“(ii) If a claim is found to be noncompliant under clause (i), the Copyright Claims Board shall provide the claimant with information concerning the service of such a notice under the applicable provision of section 512.

“(2) COUNTERCLAIMS.—Upon the filing and service of a counterclaim, the counterclaim shall be reviewed by a Copyright Claims Attorney to ensure that the counterclaim complies with the provisions of this chapter and applicable regulations. If the counterclaim is found not to comply, the counterclaimant and the other parties to the proceeding shall be notified that the counterclaim is deficient, and the counterclaimant shall be permitted to file and serve an amended counterclaim within 30 days after the date of such notice. If the counterclaimant files and serves a compliant counterclaim within that

30-day period, the counterclaimant and such other parties shall be so notified. If the counterclaim is refiled and served within that 30-day period but still fails to comply, the counterclaimant and such other parties shall again be notified that the counterclaim is deficient, and the counterclaimant shall be provided a second opportunity to amend the counterclaim within 30 days after the date of the second notice. If the counterclaim is refiled and served again within that second 30-day period and is compliant, the counterclaimant and such other parties shall be so notified, but if the counterclaim still fails to comply, upon confirmation of such noncompliance by a Copyright Claims Officer, the counterclaim, but not the proceeding, shall be dismissed without prejudice.

“(3) DISMISSAL FOR UNSUITABILITY.—The Copyright Claims Board shall dismiss a claim or counterclaim without prejudice if, upon reviewing the claim or counterclaim, or at any other time in the proceeding, the Copyright Claims Board concludes that the claim or counterclaim is unsuitable for determination by the Copyright Claims Board, including on account of any of the following:

“(A) The failure to join a necessary party.

“(B) The lack of an essential witness, evidence, or expert testimony.

“(C) The determination of a relevant issue of law or fact that could exceed either the number of proceedings the Copyright Claims Board could reasonably administer or the subject matter competence of the Copyright Claims Board.

“(g) SERVICE OF NOTICE AND CLAIMS.—In order to proceed with a claim against a respondent, a claimant shall, within 90 days after receiving notification under subsection (f) to proceed with service, file with the Copyright Claims Board proof of service on the respondent. In order to effectuate service on a respondent, the claimant shall cause notice of the proceeding and a copy of the claim to be served on the respondent, either by personal service or pursuant to a waiver of personal service, as prescribed in regulations established by the Register of Copyrights. Such regulations shall include the following requirements:

“(1) The notice of the proceeding shall adhere to a prescribed form and shall set forth the nature of the Copyright Claims Board and proceeding, the right of the respondent to opt out, and the consequences of opting out and not opting out, including a prominent statement that, by not opting out within 60 days after receiving the notice, the respondent—

“(A) loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States; and

“(B) waives the right to a jury trial regarding the dispute.

“(2) The copy of the claim served on the respondent shall be the same as the claim that was filed with the Copyright Claims Board.

“(3) Personal service of a notice and claim may be effected by an individual who is not a party to the proceeding and is older than 18 years of age.

“(4) An individual, other than a minor or incompetent individual, may be served by—

“(A) complying with State law for serving a summons in an action brought in courts of general jurisdiction in the State where service is made;

“(B) delivering a copy of the notice and claim to the individual personally;

“(C) leaving a copy of the notice and claim at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there; or

“(D) delivering a copy of the notice and claim to an agent designated by the respondent to receive service of process or, if not so

designated, an agent authorized by appointment or by law to receive service of process.

“(5)(A) A corporation, partnership, or unincorporated association that is subject to suit in courts of general jurisdiction under a common name shall be served by delivering a copy of the notice and claim to its service agent. If such service agent has not been designated, service shall be accomplished—

“(i) by complying with State law for serving a summons in an action brought in courts of general jurisdiction in the State where service is made; or

“(ii) by delivering a copy of the notice and claim to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process in an action brought in courts of general jurisdiction in the State where service is made and, if the agent is one authorized by statute and the statute so requires, by also mailing a copy of the notice and claim to the respondent.

“(B) A corporation, partnership or unincorporated association that is subject to suit in courts of general jurisdiction under a common name may elect to designate a service agent to receive notice of a claim against it before the Copyright Claims Board by complying with requirements that the Register of Copyrights shall establish by regulation. The Register of Copyrights shall maintain a current directory of service agents that is available to the public for inspection, including through the internet, and may require such corporations, partnerships, and unincorporated associations designating such service agents to pay a fee to cover the costs of maintaining the directory.

“(6) In order to request a waiver of personal service, the claimant may notify a respondent, by first class mail or by other reasonable means, that a proceeding has been commenced, such notice to be made in accordance with regulations established by the Register of Copyrights, subject to the following:

“(A) Any such request shall be in writing, shall be addressed to the respondent, and shall be accompanied by a prescribed notice of the proceeding, a copy of the claim as filed with the Copyright Claims Board, a prescribed form for waiver of personal service, and a prepaid or other means of returning the form without cost.

“(B) The request shall state the date on which the request is sent, and shall provide the respondent a period of 30 days, beginning on the date on which the request is sent, to return the waiver form signed by the respondent. The signed waiver form shall, for purposes of this subsection, constitute acceptance and proof of service as of the date on which the waiver is signed.

“(7)(A) A respondent's waiver of personal service shall not constitute a waiver of the respondent's right to opt out of the proceeding.

“(B) A respondent who timely waives personal service under paragraph (6) and does not opt out of the proceeding shall be permitted a period of 30 days, in addition to the period otherwise permitted under the applicable procedures of the Copyright Claims Board, to submit a substantive response to the claim, including any defenses and counterclaims.

“(8) A minor or an incompetent individual may only be served by complying with State law for serving a summons or like process on such an individual in an action brought in the courts of general jurisdiction of the State where service is made.

“(9) Service of a claim and waiver of personal service may only be effected within the United States.

“(h) NOTIFICATION BY COPYRIGHT CLAIMS BOARD.—The Register of Copyrights shall establish regulations providing for a written notification to be sent by, or on behalf of, the Copyright Claims Board to notify the respondent of a pending proceeding against the respondent, as set forth in those regulations, which shall—

“(1) include information concerning the respondent’s right to opt out of the proceeding, the consequences of opting out and not opting out, and a prominent statement that, by not opting out within 60 days after the date of service under subsection (g), the respondent loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States and waives the right to a jury trial regarding the dispute; and

“(2) be in addition to, and separate and apart from, the notice requirements under subsection (g).

“(i) OPT-OUT PROCEDURE.—Upon being properly served with a notice and claim, a respondent who chooses to opt out of the proceeding shall have a period of 60 days, beginning on the date of service, in which to provide written notice of such choice to the Copyright Claims Board, in accordance with regulations established by the Register of Copyrights. If proof of service has been filed by the claimant and the respondent does not submit an opt-out notice to the Copyright Claims Board within that 60-day period, the proceeding shall be deemed an active proceeding and the respondent shall be bound by the determination in the proceeding to the extent provided under section 1507(a). If the respondent opts out of the proceeding during that 60-day period, the proceeding shall be dismissed without prejudice, except that, in exceptional circumstances and upon written notice to the claimant, the Copyright Claims Board may extend that 60-day period in the interests of justice.

“(j) SERVICE OF OTHER DOCUMENTS.—Documents submitted or relied upon in a proceeding, other than the notice and claim, shall be served in accordance with regulations established by the Register of Copyrights.

“(k) SCHEDULING.—Upon confirmation that a proceeding has become an active proceeding, the Copyright Claims Board shall issue a schedule for the future conduct of the proceeding. The schedule shall not specify a time that a claimant or counterclaimant is required make an election of damages that is inconsistent with section 1504(e). A schedule issued by the Copyright Claims Board may be amended by the Copyright Claims Board in the interests of justice.

“(l) CONFERENCES.—One or more Copyright Claims Officers may hold a conference to address case management or discovery issues in a proceeding, which shall be noted upon the record of the proceeding and may be recorded or transcribed.

“(m) PARTY SUBMISSIONS.—A proceeding of the Copyright Claims Board may not include any formal motion practice, except that, subject to applicable regulations and procedures of the Copyright Claims Board—

“(1) the parties to the proceeding may make requests to the Copyright Claims Board to address case management and discovery matters, and submit responses thereto; and

“(2) the Copyright Claims Board may request or permit parties to make submissions addressing relevant questions of fact or law, or other matters, including matters raised sua sponte by the Copyright Claims Officers, and offer responses thereto.

“(n) DISCOVERY.—Discovery in a proceeding shall be limited to the production of relevant information and documents, written interrogatories, and written requests for ad-

mission, as provided in regulations established by the Register of Copyrights, except that—

“(1) upon the request of a party, and for good cause shown, the Copyright Claims Board may approve additional relevant discovery, on a limited basis, in particular matters, and may request specific information and documents from participants in the proceeding and voluntary submissions from non-participants, consistent with the interests of justice;

“(2) upon the request of a party, and for good cause shown, the Copyright Claims Board may issue a protective order to limit the disclosure of documents or testimony that contain confidential information; and

“(3) after providing notice and an opportunity to respond, and upon good cause shown, the Copyright Claims Board may apply an adverse inference with respect to disputed facts against a party who has failed to timely provide discovery materials in response to a proper request for materials that could be relevant to such facts.

“(o) EVIDENCE.—The Copyright Claims Board may consider the following types of evidence in a proceeding, and such evidence may be admitted without application of formal rules of evidence:

“(1) Documentary and other nontestimonial evidence that is relevant to the claims, counterclaims, or defenses in the proceeding.

“(2) Testimonial evidence, submitted under penalty of perjury in written form or in accordance with subsection (p), limited to statements of the parties and nonexpert witnesses, that is relevant to the claims, counterclaims, and defenses in a proceeding, except that, in exceptional cases, expert witness testimony or other types of testimony may be permitted by the Copyright Claims Board for good cause shown.

“(p) HEARINGS.—The Copyright Claims Board may conduct a hearing to receive oral presentations on issues of fact or law from parties and witnesses to a proceeding, including oral testimony, subject to the following:

“(1) Any such hearing shall be attended by not fewer than two of the Copyright Claims Officers.

“(2) The hearing shall be noted upon the record of the proceeding and, subject to paragraph (3), may be recorded or transcribed as deemed necessary by the Copyright Claims Board.

“(3) A recording or transcript of the hearing shall be made available to any Copyright Claims Officer who is not in attendance.

“(q) VOLUNTARY DISMISSAL.—

“(1) BY CLAIMANT.—Upon the written request of a claimant that is received before a respondent files a response to the claim in a proceeding, the Copyright Claims Board shall dismiss the proceeding, or a claim or respondent, as requested, without prejudice.

“(2) BY COUNTERCLAIMANT.—Upon written request of a counterclaimant that is received before a claimant files a response to the counterclaim, the Copyright Claims Board shall dismiss the counterclaim, such dismissal to be without prejudice.

“(3) CLASS ACTIONS.—Any party in an active proceeding before the Copyright Claims Board who receives notice of a pending or putative class action, arising out of the same transaction or occurrence, in which that party is a class member may request in writing dismissal of the proceeding before the Board. Upon notice to all claimants and counterclaimants, the Copyright Claims Board shall dismiss the proceeding without prejudice.

“(r) SETTLEMENT.—

“(1) IN GENERAL.—At any time in an active proceeding, some or all of the parties may—

“(A) jointly request a conference with a Copyright Claims Officer for the purpose of facilitating settlement discussions; or

“(B) submit to the Copyright Claims Board an agreement providing for settlement and dismissal of some or all of the claims and counterclaims in the proceeding.

“(2) ADDITIONAL REQUEST.—A submission under paragraph (1)(B) may include a request that the Copyright Claims Board adopt some or all of the terms of the parties’ settlement in a final determination in the proceeding.

“(s) FACTUAL FINDINGS.—Subject to subsection (n)(3), the Copyright Claims Board shall make factual findings based upon a preponderance of the evidence.

“(t) DETERMINATIONS.—

“(1) NATURE AND CONTENTS.—A determination rendered by the Copyright Claims Board in a proceeding shall—

“(A) be reached by a majority of the Copyright Claims Board;

“(B) be in writing, and include an explanation of the factual and legal basis of the determination;

“(C) set forth any terms by which a respondent or counterclaim respondent has agreed to cease infringing activity under section 1504(e)(2);

“(D) to the extent requested under subsection (r)(2), set forth the terms of any settlement agreed to under subsection (r)(1); and

“(E) include a clear statement of all damages and other relief awarded, including under subparagraphs (C) and (D).

“(2) DISSENT.—A Copyright Claims Officer who dissents from a decision contained in a determination under paragraph (1) may append a statement setting forth the grounds for that dissent.

“(3) PUBLICATION.—Each final determination of the Copyright Claims Board shall be made available on a publicly accessible website. The Register shall establish regulations with respect to the publication of other records and information relating to such determinations, including the redaction of records to protect confidential information that is the subject of a protective order under subsection (n)(2).

“(4) FREEDOM OF INFORMATION ACT.—All information relating to proceedings of the Copyright Claims Board under this title is exempt from disclosure to the public under section 552(b)(3) of title 5, except for determinations, records, and information published under paragraph (3).

“(u) RESPONDENT’S DEFAULT.—If a proceeding has been deemed an active proceeding but the respondent has failed to appear or has ceased participating in the proceeding, as demonstrated by the respondent’s failure, without justifiable cause, to meet one or more deadlines or requirements set forth in the schedule adopted by the Copyright Claims Board under subsection (k), the Copyright Claims Board may enter a default determination, including the dismissal of any counterclaim asserted by the respondent, as follows and in accordance with such other requirements as the Register of Copyrights may establish by regulation:

“(1) The Copyright Claims Board shall require the claimant to submit relevant evidence and other information in support of the claimant’s claim and any asserted damages and, upon review of such evidence and any other requested submissions from the claimant, shall determine whether the materials so submitted are sufficient to support a finding in favor of the claimant under applicable law and, if so, the appropriate relief and damages, if any, to be awarded.

“(2) If the Copyright Claims Board makes an affirmative determination under paragraph (1), the Copyright Claims Board shall prepare a proposed default determination,

and shall provide written notice to the respondent at all addresses, including email addresses, reflected in the records of the proceeding before the Copyright Claims Board, of the pendency of a default determination by the Copyright Claims Board and of the legal significance of such determination. Such notice shall be accompanied by the proposed default determination and shall provide that the respondent has a period of 30 days, beginning on the date of the notice, to submit any evidence or other information in opposition to the proposed default determination.

“(3) If the respondent responds to the notice provided under paragraph (2) within the 30-day period provided in such paragraph, the Copyright Claims Board shall consider respondent’s submissions and, after allowing the other parties to address such submissions, maintain, or amend its proposed determination as appropriate, and the resulting determination shall not be a default determination.

“(4) If the respondent fails to respond to the notice provided under paragraph (2), the Copyright Claims Board shall proceed to issue the default determination as a final determination. Thereafter, the respondent may only challenge such determination to the extent permitted under section 1508(c), except that, before any additional proceedings are initiated under section 1508, the Copyright Claims Board may, in the interests of justice, vacate the default determination.

“(v) CLAIMANT’S FAILURE TO PROCEED.—

“(1) FAILURE TO COMPLETE SERVICE.—If a claimant fails to complete service on a respondent within the 90-day period required under subsection (g), the Copyright Claims Board shall dismiss that respondent from the proceeding without prejudice. If a claimant fails to complete service on all respondents within that 90-day period, the Copyright Claims Board shall dismiss the proceeding without prejudice.

“(2) FAILURE TO PROSECUTE.—If a claimant fails to proceed in an active proceeding, as demonstrated by the claimant’s failure, without justifiable cause, to meet one or more deadlines or requirements set forth in the schedule adopted by the Copyright Claims Board under subsection (k), the Copyright Claims Board may, upon providing written notice to the claimant and a period of 30 days, beginning on the date of the notice, to respond to the notice, and after considering any such response, issue a determination dismissing the claimants’ claims, which shall include an award of attorneys’ fees and costs, if appropriate, under subsection (y)(2). Thereafter, the claimant may only challenge such determination to the extent permitted under section 1508(c), except that, before any additional proceedings are initiated under section 1508, the Copyright Claims Board may, in the interests of justice, vacate the determination of dismissal.

“(w) REQUEST FOR RECONSIDERATION.—A party may, within 30 days after the date on which the Copyright Claims Board issues a final determination in a proceeding under this chapter, submit a written request for reconsideration of, or an amendment to, such determination if the party identifies a clear error of law or fact material to the outcome, or a technical mistake. After providing the other parties an opportunity to address such request, the Copyright Claims Board shall either deny the request or issue an amended final determination.

“(x) REVIEW BY REGISTER.—If the Copyright Claims Board denies a party a request for reconsideration of a final determination under subsection (w), that party may, within 30 days after the date of such denial, request review of the final determination by the Register of Copyrights in accordance with regu-

lations established by the Register. Such request shall be accompanied by a reasonable filing fee, as provided in such regulations. The review by the Register shall be limited to consideration of whether the Copyright Claims Board abused its discretion in denying reconsideration of the determination. After providing the other parties an opportunity to address the request, the Register shall either deny the request for review, or remand the proceeding to the Copyright Claims Board for reconsideration of issues specified in the remand and for issuance of an amended final determination. Such amended final determination shall not be subject to further consideration or review, other than under section 1508(c).

“(y) CONDUCT OF PARTIES AND ATTORNEYS.—

“(1) CERTIFICATION.—The Register of Copyrights shall establish regulations requiring certification of the accuracy and truthfulness of statements made by participants in proceedings before the Copyright Claims Board.

“(2) BAD FAITH CONDUCT.—Notwithstanding any other provision of law, in any proceeding in which a determination is rendered and it is established that a party pursued a claim, counterclaim, or defense for a harassing or other improper purpose, or without a reasonable basis in law or fact, then, unless inconsistent with the interests of justice, the Copyright Claims Board shall in such determination award reasonable costs and attorneys’ fees to any adversely affected party of in an amount of not more than \$5,000, except that—

“(A) if an adversely affected party appeared pro se in the proceeding, the award to that party shall be for costs only, in an amount of not more than \$2,500; and

“(B) in extraordinary circumstances, such as where a party has demonstrated a pattern or practice of bad faith conduct as described in this paragraph, the Copyright Claims Board may, in the interests of justice, award costs and attorneys’ fees in excess of the limitations under this paragraph.

“(3) ADDITIONAL PENALTY.—If the Board finds that on more than one occasion within a 12-month period a party pursued a claim, counterclaim, or defense before the Copyright Claims Board for a harassing or other improper purpose, or without a reasonable basis in law or fact, that party shall be barred from initiating a claim before the Copyright Claims Board under this chapter for a period of 12 months beginning on the date on which the Board makes such a finding. Any proceeding commenced by that party that is still pending before the Board when such a finding is made shall be dismissed without prejudice, except that if a proceeding has been deemed active under subsection (i), the proceeding shall be dismissed under this paragraph only if the respondent provides written consent thereto.

“(z) REGULATIONS FOR SMALLER CLAIMS.—The Register of Copyrights shall establish regulations to provide for the consideration and determination, by at least one Copyright Claims Officer, of any claim under this chapter in which total damages sought do not exceed \$5,000 (exclusive of attorneys’ fees and costs) that are otherwise consistent with this chapter. A determination issued under this subsection shall have the same effect as a determination issued by the entire Copyright Claims Board.

“§ 1507. Effect of proceeding

“(a) DETERMINATION.—Subject to the reconsideration and review processes provided under subsections (w) and (x) of section 1506 and section 1508(c), the issuance of a final determination by the Copyright Claims Board in a proceeding, including a default deter-

mination or determination based on a failure to prosecute, shall, solely with respect to the parties to such determination, preclude re-litigation before any court or tribunal, or before the Copyright Claims Board, of the claims and counterclaims asserted and finally determined by the Board, and may be relied upon for such purpose in a future action or proceeding arising from the same specific activity or activities, subject to the following:

“(1) A determination of the Copyright Claims Board shall not preclude litigation or re-litigation as between the same or different parties before any court or tribunal, or the Copyright Claims Board, of the same or similar issues of fact or law in connection with claims or counterclaims not asserted or not finally determined by the Copyright Claims Board.

“(2) A determination of ownership of a copyrighted work for purposes of resolving a matter before the Copyright Claims Board may not be relied upon, and shall not have any preclusive effect, in any other action or proceeding before any court or tribunal, including the Copyright Claims Board.

“(3) Except to the extent permitted under this subsection and section 1508, any determination of the Copyright Claims Board may not be cited or relied upon as legal precedent in any other action or proceeding before any court or tribunal, including the Copyright Claims Board.

“(b) CLASS ACTIONS NOT AFFECTED.—

“(1) IN GENERAL.—A proceeding before the Copyright Claims Board shall not have any effect on a class action proceeding in a district court of the United States, and section 1509(a) shall not apply to a class action proceeding in a district court of the United States.

“(2) NOTICE OF CLASS ACTION.—Any party to an active proceeding before the Copyright Claims Board who receives notice of a pending class action, arising out of the same transaction or occurrence as the proceeding before the Copyright Claims Board, in which the party is a class member shall either—

“(A) opt out of the class action, in accordance with regulations established by the Register of Copyrights; or

“(B) seek dismissal under section 1506(q)(3) of the proceeding before the Copyright Claims Board.

“(c) OTHER MATERIALS IN PROCEEDING.—Except as permitted under this section and section 1508, a submission or statement of a party or witness made in connection with a proceeding before the Copyright Claims Board, including a proceeding that is dismissed, may not be cited or relied upon in, or serve as the basis of, any action or proceeding concerning rights or limitations on rights under this title before any court or tribunal, including the Copyright Claims Board.

“(d) APPLICABILITY OF SECTION 512(g).—A claim or counterclaim before the Copyright Claims Board that is brought under subsection (c)(1) or (c)(4) of section 1504, or brought under subsection (c)(6) of section 1504 and that relates to a claim under subsection (c)(1) or (c)(4) of such section, qualifies as an action seeking an order to restrain a subscriber from engaging in infringing activity under section 512(g)(2)(C) if—

“(1) notice of the commencement of the Copyright Claims Board proceeding is provided by the claimant to the service provider’s designated agent before the service provider replaces the material following receipt of a counter notification under section 512(g); and

“(2) the claim brought alleges infringement of the material identified in the notification of claimed infringement under section 512(c)(1)(C).

“(e) FAILURE TO ASSERT COUNTERCLAIM.—The failure or inability to assert a counterclaim in a proceeding before the Copyright Claims Board shall not preclude the assertion of that counterclaim in a subsequent court action or proceeding before the Copyright Claims Board.

“(f) OPT-OUT OR DISMISSAL OF PARTY.—If a party has timely opted out of a proceeding under section 1506(i) or is dismissed from a proceeding before the Copyright Claims Board issues a final determination in the proceeding, the determination shall not be binding upon and shall have no preclusive effect with respect to that party.

“§ 1508. Review and confirmation by district court

“(a) IN GENERAL.—In any proceeding in which a party has failed to pay damages, or has failed otherwise to comply with the relief, awarded in a final determination of the Copyright Claims Board, including a default determination or a determination based on a failure to prosecute, the aggrieved party may, not later than 1 year after the date on which the final determination is issued, any reconsideration by the Copyright Claims Board or review by the Register of Copyrights is resolved, or an amended final determination is issued, whichever occurs last, apply to the United States District Court for the District of Columbia or any other appropriate district court of the United States for an order confirming the relief awarded in the final determination and reducing such award to judgment. The court shall grant such order and direct entry of judgment unless the determination is or has been vacated, modified, or corrected under subsection (c). If the United States District Court for the District of Columbia or other district court of the United States, as the case may be, issues an order confirming the relief awarded by the Copyright Claims Board, the court shall impose on the party who failed to pay damages or otherwise comply with the relief, the reasonable expenses required to secure such order, including attorneys’ fees, that were incurred by the aggrieved party.

“(b) FILING PROCEDURES.—

“(1) APPLICATION TO CONFIRM DETERMINATION.—Notice of the application under subsection (a) for confirmation of a determination of the Copyright Claims Board and entry of judgment shall be provided to all parties to the proceeding before the Copyright Claims Board that resulted in the determination, in accordance with the procedures applicable to service of a motion in the district court of the United States where the application is made.

“(2) CONTENTS OF APPLICATION.—The application shall include the following:

“(A) A certified copy of the final or amended final determination of the Copyright Claims Board, as reflected in the records of the Copyright Claims Board, following any process of reconsideration or review by the Register of Copyrights, to be confirmed and rendered to judgment.

“(B) A declaration by the applicant, under penalty of perjury—

“(i) that the copy is a true and correct copy of such determination;

“(ii) stating the date it was issued;

“(iii) stating the basis for the challenge under subsection (c)(1); and

“(iv) stating whether the applicant is aware of any other proceedings before the court concerning the same determination of the Copyright Claims Board.

“(c) CHALLENGES TO THE DETERMINATION.—

“(1) BASES FOR CHALLENGE.—Not later than 90 days after the date on which Copyright Claims Board issues a final or amended final determination in a proceeding, or not later than 90 days after the date on which the Reg-

ister of Copyrights completes any process of reconsideration or review of the determination, whichever occurs later, a party may seek a court order vacating, modifying, or correcting the determination of the Copyright Claims Board in the following cases:

“(A) If the determination was issued as a result of fraud, corruption, misrepresentation, or other misconduct.

“(B) If the Copyright Claims Board exceeded its authority or failed to render a final determination concerning the subject matter at issue.

“(C) In the case of a default determination or determination based on a failure to prosecute, if it is established that the default or failure was due to excusable neglect.

“(2) PROCEDURE TO CHALLENGE.—

“(A) NOTICE OF APPLICATION.—Notice of the application to challenge a determination of the Copyright Claims Board shall be provided to all parties to the proceeding before the Copyright Claims Board, in accordance with the procedures applicable to service of a motion in the court where the application is made.

“(B) STAYING OF PROCEEDINGS.—For purposes of an application under this subsection, any judge who is authorized to issue an order to stay the proceedings in an any other action brought in the same court may issue an order, to be served with the notice of application, staying proceedings to enforce the award while the challenge is pending.

“§ 1509. Relationship to other district court actions

“(a) STAY OF DISTRICT COURT PROCEEDINGS.—Subject to section 1507(b), a district court of the United States shall issue a stay of proceedings or such other relief as the court determines appropriate with respect to any claim brought before the court that is already the subject of a pending or active proceeding before the Copyright Claims Board.

“(b) ALTERNATIVE DISPUTE RESOLUTION PROCESS.—A proceeding before the Copyright Claims Board under this chapter shall qualify as an alternative dispute resolution process under section 651 of title 28 for purposes of referral of eligible cases by district courts of the United States upon the consent of the parties.

“§ 1510. Implementation by Copyright Office

“(a) REGULATIONS.—

“(1) IMPLEMENTATION GENERALLY.—The Register of Copyrights shall establish regulations to carry out this chapter. Such regulations shall include the fees prescribed under subsections (e) and (x) of section 1506. The authority to issue such fees shall not limit the authority of the Register of Copyrights to establish fees for services under section 708. All fees received by the Copyright Office in connection with the activities under this chapter shall be deposited by the Register of Copyrights and credited to the appropriations for necessary expenses of the Office in accordance with section 708(d). In establishing regulations under this subsection, the Register of Copyrights shall provide for the efficient administration of the Copyright Claims Board, and for the ability of the Copyright Claims Board to timely complete proceedings instituted under this chapter, including by implementing mechanisms to prevent harassing or improper use of the Copyright Claims Board by any party.

“(2) LIMITS ON MONETARY RELIEF.—

“(A) IN GENERAL.—Subject to subparagraph (B), not earlier than 3 years after the date on which Copyright Claims Board issues the first determination of the Copyright Claims Board, the Register of Copyrights may, in order to further the goals of the Copyright Claims Board, conduct a rulemaking to ad-

just the limits on monetary recovery or attorneys’ fees and costs that may be awarded under this chapter.

“(B) EFFECTIVE DATE OF ADJUSTMENT.—Any rule under subparagraph (A) that makes an adjustment shall take effect at the end of the 120-day period beginning on the date on which the Register of Copyrights submits the rule to Congress and only if Congress does not, during that 120-day period, enact a law that provides in substance that Congress does not approve the rule.

“(b) NECESSARY FACILITIES.—Subject to applicable law, the Register of Copyrights may retain outside vendors to establish internet-based, teleconferencing, and other facilities required to operate the Copyright Claims Board.

“(c) FEES.—Any filing fees, including the fee to commence a proceeding under section 1506(e), shall be prescribed in regulations established by the Register of Copyrights. The sum total of such filing fees shall be in an amount of at least \$100, may not exceed the cost of filing an action in a district court of the United States, and shall be fixed in amounts that further the goals of the Copyright Claims Board.

“§ 1511. Funding

“There are authorized to be appropriated such sums as may be necessary to pay the costs incurred by the Copyright Office under this chapter that are not covered by fees collected for services rendered under this chapter, including the costs of establishing and maintaining the Copyright Claims Board and its facilities.”

(b) CLERICAL AMENDMENT.—The table of chapters for title 17, United States Code, is amended by adding after the item relating to chapter 14 the following:

“15. Copyright Small Claims 1501”.
SEC. 3. IMPLEMENTATION.

Not later 1 year after the date of enactment of this Act, the Copyright Claims Board established under section 1502 of title 17, United States Code, as added by section 2 of this Act, shall begin operations.

SEC. 4. STUDY.

Not later than 3 years after the date on which Copyright Claims Board issues the first determination of the Copyright Claims Board under chapter 15 of title 17, United States Code, as added by section 2 of this Act, the Register of Copyrights shall conduct, and report to Congress on, a study that addresses the following:

(1) The use and efficacy of the Copyright Claims Board in resolving copyright claims, including the number of proceedings the Copyright Claims Board could reasonably administer.

(2) Whether adjustments to the authority of the Copyright Claims Board are necessary or advisable, including with respect to—

(A) eligible claims, such as claims under section 1202 of title 17, United States Code; and

(B) works and applicable damages limitations.

(3) Whether greater allowance should be made to permit awards of attorneys’ fees and costs to prevailing parties, including potential limitations on such awards.

(4) Potential mechanisms to assist copyright owners with small claims in ascertaining the identity and location of unknown online infringers.

(5) Whether the Copyright Claims Board should be expanded to offer mediation or other nonbinding alternative dispute resolution services to interested parties.

(6) Such other matters as the Register of Copyrights believes may be pertinent concerning the Copyright Claims Board.

SEC. 5. SEVERABILITY.

If any provision of this Act, an amendment made by this Act, or the application of such

provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act and the amendments made by this Act, and the application of the provision or the amendment to any other person or circumstance, shall not be affected.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. JEFFRIES) and the gentleman from Virginia (Mr. CLINE) each will control 20 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. JEFFRIES. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. JEFFRIES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, we will vote on H.R. 2426, the Copyright Alternative in Small-Claims Enforcement Act, otherwise known as the CASE Act, a bill that will allow creators to protect their copyrighted work under law.

Copyright infringement is not a victimless crime. Photographers, illustrators, visual artists, authors, songwriters, and musicians all rely upon their protected works to put food on the table, clothing on their backs, and support their families. When their copyrighted work is used unlawfully or pirated, that is the functional equivalent of a burglary.

But small creators victimized by infringement often find themselves in a tough spot. They have a right to enforce their work under copyright law but are often unable to do so in a practical sense.

On the one hand, you have the notice and takedown process that can be inefficient, cumbersome, and, as many small creators will tell you, often pointless. On the other hand, there is the Article III Federal court system that can be expensive, time-consuming, and often out of reach for many working-class and middle-class creators.

For instance, the average cost of litigating an infringement case in Federal court is approximately \$350,000, but the total amount of damages that can be awarded, for instance, in a CASE Act-eligible matter cannot exceed \$30,000. In that instance, the cost of litigating a case could be more than 10 times the damages that are at issue.

According to a survey by the American Bar Association, which supports this legislation, most lawyers will not take infringement cases with damages at or lower than \$30,000. As a result, many petitioners are functionally unable to vindicate their rights under law. In other words, these creators are given a right without a remedy.

The CASE Act will provide a viable alternative. This legislation would es-

tablish a voluntary forum for small copyright claims housed within the Copyright Office. Disputes would be heard by a new entity called the Copyright Claims Board made up of intellectual property experts with experience representing both creators and the users of copyrighted material.

Unlike Federal court, the cases before the board will have limited damages. Parties would not have to appear in person and can proceed, if they choose, without an attorney.

These provisions address the significant burdens that currently exist, imposed by Federal court litigation, making this system more user-friendly for all, regardless of your side, but inclusive of working-class and middle-class members of the creative community.

Both sides must agree to participate in order for the small claims tribunal to have jurisdiction. It is a voluntary system where either side can opt out.

Simply put, the legislation allows for copyright disputes to be resolved in a fair, timely, and affordable manner.

I urge my colleagues to support this bill, and I reserve the balance of my time.

Mr. CLINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York for his leadership on this important issue.

The United States Constitution expressly calls for the protection of creative works in order to promote innovation and creativity. Under that lofty authority, Congress established the copyright system. As was the hope, copyright-intensive industries have become critical to our economy, reportedly contributing more than \$1 trillion.

Unfortunately, in the system that we have today, many small businesses and individuals are unable to enforce their copyrights because they do not have deep enough pockets. It costs tens or hundreds of thousands of dollars to hire lawyers to litigate a copyright claim in Federal court.

Sadly, this forces individuals to stand idly by as thieves profit off of their work. Our Founding Fathers wouldn't want a copyright system that discourages creators. After all, they wanted to create a system that fosters the creation of artistic works. That is why so many members of the Judiciary Committee helped craft legislation to stop the theft of copyrighted works and so many Members of the House have joined in support of it.

H.R. 2426, the CASE Act, would establish a copyright small claims proceeding within the Copyright Office to provide a less expensive alternative to costly Federal court litigation.

The proceedings would be simple, conducted remotely, handled by a panel of copyright experts, and limited to straightforward cases of alleged copyright infringement.

Damage awards would be low, reaching a maximum of no greater than \$15,000 per work, with a total award for a case capped at \$30,000. Participation

in such a small claims proceeding would be completely voluntary, and anyone falsely accused of infringement could simply opt out of the small claims proceeding.

The CASE Act includes a number of other safeguards to prevent abuse. The Copyright Office is authorized to limit the number of cases one person can file and will review the allegations for sufficiency before forwarding them to the accused infringer.

If an accuser files in bad faith, he or she would have to pay fees to the party falsely accused of infringement and be barred for 1 year.

Several other provisions of H.R. 2426 would protect against inadvertent default judgments. They include requirements that the accused infringer be physically served; the complaint warn the accused infringer of the ramifications of not responding; and the accused be given several notices and chances to respond to the allegations against them.

Most importantly, before a default judgment can be granted, the copyright owner must establish that their copyright was actually infringed by the accused.

The bill is intended to provide a streamlined, inexpensive alternative for parties to resolve small claims of copyright infringement outside of court. H.R. 2426 accomplishes all of these goals.

I am proud to join my colleagues—Congressman JEFFRIES, Ranking Member COLLINS, Chairman NADLER, MARTHA ROBY, HANK JOHNSON, JUDY CHU, TED LIEU, and BRIAN FITZPATRICK—to provide an important avenue of relief to the creators in our communities who provide such significant support to our local economies.

I urge my colleagues to support this legislation, and I reserve the balance of my time.

Mr. JEFFRIES. Mr. Speaker, let me first thank the distinguished gentleman from the Commonwealth of Virginia (Mr. CLINE) for his leadership as it relates to the CASE Act.

Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. NADLER), the distinguished chair of the House Judiciary Committee.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 2426, the Copyright Alternative in Small-Claims Enforcement Act of 2019, or the CASE Act.

This important bipartisan legislation would establish a voluntary small claims court within the Copyright Office to hear copyright suits seeking \$30,000 or less in total damages.

Today, many small creators, especially visual artists, are unable to protect their rights because the cost of pursuing an infringement claim in Federal court is far greater, as much as 10 times or more than the damages they could ever hope to receive. Few attorneys would take a case when such limited damages are at stake because they would not likely recoup their costs.

It is a fundamental principle of the American legal system that a right must have a remedy. But if it costs \$250,000 to recover a few thousand dollars from someone who has infringed your copyright, then what remedy do you really have?

The CASE Act would provide important protections for the many independent creators who are currently unable to protect their work in Federal court. It would establish a small claims board within the Copyright Office to resolve infringement claims seeking \$30,000 or less in total damages, with claims officers appointed by the Librarian of Congress.

The proceedings are designed to be less expensive and much easier to navigate, even without an attorney, than Federal court. And they would enable parties to represent themselves or to seek pro bono assistance from law students.

The board would conduct its proceedings entirely by telephone and the internet, and no one would need to travel to a hearing or a courthouse.

The bill caps damages at no more than \$15,000 per work infringed, and no more than \$30,000 total. The board would work with the parties to settle their claims.

Importantly, the proceedings would be voluntary. Plaintiffs can decide whether this is the proper forum to file their claim, and defendants may opt out of the process if they prefer to have their case heard by a Federal judge.

□ 1615

The sponsor of this legislation, the gentleman from New York (Mr. JEFFRIES), has worked tirelessly to ensure that this legislation includes revisions and suggestions from many Members and stakeholders. The revisions include various heightened due process protections and provisions intended to reduce potential abuse of the system, all of which has made a good bill even better.

For far too long, it has been virtually impossible for small creators to vindicate their right to a just measure of damages from infringers. Today we have an opportunity to take an important step in helping independent photographers, filmmakers, graphic designers, and other creators to protect their work.

I would like to thank Mr. JEFFRIES and Ranking Member COLLINS for their outstanding leadership on the CASE Act.

I would also like to thank the Copyright Office, which conducted an exhaustive study on the issue and whose recommendations form the basis for the bill.

In addition, I appreciate the support of colleagues on both sides of the aisle, including the gentlewoman from California (Ms. JUDY CHU), who has introduced similar legislation in previous Congresses and who has been tireless in her work to protect creators' rights.

Mr. Speaker, I am proud to be a cosponsor of this important legislation,

and I urge my colleagues to support the bill.

Mr. CLINE. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I thank the gentleman again for his leadership on this issue, and I thank the chairman for his remarks.

Again, this bill is a purely optional system and allows anyone who doesn't wish to participate to opt out. The Copyright Office considered this feature in its report back in 2013 and highlighted significant shortcomings of an opt-in approach, including concerns that such a system would fail to capture infringers who choose to ignore a claim of infringement and/or fail to return an affirmative written response regarding agreement to participate in the system, as is currently the case.

The opt-out system provided in the CASE Act does not change the voluntary nature of the small claims process it creates. In fact, it is simple, and respondents would be made aware of their right to opt out as well as the consequences of opting out and not opting out, which would be prominently stated and explained in the notice they receive.

Again, Mr. Speaker, I would say that this is a bipartisan initiative. I would just add several different Members on both sides participated. I want to thank all of them for their hard work. I want to thank the staff for their hard work, as well.

This will go a long way toward furthering the protection of creative works as our Founders intended in the U.S. Constitution.

Mr. Speaker, I yield back the balance of my time.

Mr. JEFFRIES. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, the CASE Act is the product of more than 10 years of careful study by this House and the United States Copyright Office.

As Chairman NADLER indicated, I want to thank the Copyright Office for the work that they have done in laying the foundation for the CASE Act.

Once again, I urge my colleagues to support this legislation so that creators, authors, musicians, and users finally have a forum for small copyright claims where they can meaningfully assert their rights and defenses.

This bill has support through cosponsorship of more than 150 Members of this House on both sides of the aisle, and I thank each and every one of them.

The bill is endorsed by dozens of groups, including the American Bar Association, AFL-CIO, the NAACP, the Copyright Alliance, the United States Chamber of Commerce, the Association of American Publishers, the Authors Guild, CreativeFuture, Nashville Songwriters, National Press Photographers, the Recording Academy, the Latin American Recording Academy, the Songwriters Guild of America, the Institute for Intellectual Property and Social Justice, the Songwriters of

North America, as well as SAG-AFTRA, and many, many more. I would like to thank all of them for their advocacy and for their effort.

Article I, Section 8, Clause 8 of the United States Constitution gives Congress the power to create a robust intellectual property system in order to, in the words of the Framers of the Constitution, "promote the progress of science and useful arts."

The Founders recognized that society would benefit if we incentivize and protect creativity and innovation. In doing so, the creative community will continue to share their creative brilliance with the American people and the world and experience some benefit from the fruits of their labor.

Times have changed since the provisions of Article I, Section 8, Clause 8 were first written into the Constitution in 1787, but the constitutional principle remains the same, and that is what the CASE Act is all about.

I would like to thank the many cosponsors of this legislation, including my good friend, Judiciary Committee Ranking Member DOUG COLLINS; the Judiciary Committee chair for his tremendous leadership, JERRY NADLER; Courts, Intellectual Property, and the Internet Subcommittee Chairman Hank Johnson; Courts, Intellectual Property, and the Internet Subcommittee Ranking Member MARTHA ROBY; TED LIEU; BEN CLINE; JUDY CHU; BRIAN FITZPATRICK; and many, many others.

On the Senate side, I am grateful for the leadership of Senators JOHN KENNEDY, DICK DURBIN, THOM TILLIS, and MAZIE HIRONO, who are original cosponsors of the Senate companion to this legislation, which is making its way through that Chamber as well.

In the last Congress, we came together, Democrats and Republicans, progressives and conservatives, the left and the right, to pass the historic Music Modernization Act that was signed into law by President Donald Trump, illustrating that we can come together. In this instance, I am grateful that the same coalition has come back together in support of the working-class and middle-class creative community.

Mr. Speaker, I urge all of my colleagues to support this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CARSON of Indiana). The question is on the motion offered by the gentleman from New York (Mr. JEFFRIES) that the House suspend the rules and pass the bill, H.R. 2426, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. AMASH. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this motion will be postponed.

NATIONAL POW/MIA FLAG ACT

Mr. COHEN. Mr. Speaker, I move to suspend the rules and pass the bill (S. 693) to amend title 36, United States Code, to require that the POW/MIA flag be displayed on all days that the flag of the United States is displayed on certain Federal property.

The Clerk read the title of the bill.

The text of the bill is as follows:

S. 693

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National POW/MIA Flag Act".

SEC. 2. DAYS ON WHICH THE POW/MIA FLAG IS DISPLAYED ON CERTAIN FEDERAL PROPERTY.

Section 902 of title 36, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) DAYS FOR FLAG DISPLAY.—For the purposes of this section, POW/MIA flag display days are all days on which the flag of the United States is displayed."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. COHEN) and the gentleman from Virginia (Mr. CLINE) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee.

GENERAL LEAVE

Mr. COHEN. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. COHEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 693, the National POW/MIA Flag Act. This bill would effectively require that the National League of Families POW/MIA flag be flown every day at certain specified locations.

Under current law, the flag must be displayed on six designated days: Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day, and Veterans Day. In addition, the flag must be flown at the World War II Memorial, Korean War Veterans Memorial, Vietnam Veterans Memorial, Veterans Affairs medical centers, and post offices on every day the United States flag is displayed.

Current law requires that the POW/MIA flag be displayed on these designated days at the Capitol; the White House; the World War II, Korean War Veterans, and Vietnam Veterans Memorials; each national cemetery; the buildings containing offices of the Secretaries of State, Defense, and Veterans Affairs, and the Director of the Selective Service System; each major military installation; each Veterans Affairs medical center; and each post office.

This bill simply strikes the provision designating days for display of the POW/MIA flag from current law and replaces it with the mandate that the POW/MIA flag be flown on all days on which the United States flag is displayed.

Enacting this bill into law would be an appropriate tribute to all those who have served our Nation in uniform, and especially those who made the sacrifice of being held prisoner by our Nation's enemies in wartime and for those who remain missing as a result of hostile action.

The POW/MIA flag not only reminds every American of these individuals' sacrifices, but also acts as a symbol of the Nation's commitment to achieve, as the statute says, "the fullest possible accounting of Americans who, having been prisoners of war or missing in action, still remain unaccounted for."

I will look at this flag in future years and think of Sam Johnson, a great Member of this House, and John McCain, a great American, an honest American, and a great leader.

I applaud Senator ELIZABETH WARREN for introducing this bill which passed the Senate by unanimous consent.

I also congratulate Representative CHRIS PAPPAS, who introduced an identical bill in the House and has worked tirelessly to shepherd this legislation through House passage. I thank him for his hard work and leadership on this meaningful measure that recognizes these heroes.

Mr. Speaker, I urge the House to pass this bill and the President to sign it into law, and I reserve the balance of my time.

Mr. CLINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Tennessee for his leadership on this issue. I also want to thank Congressman PAPPAS for his introduction of an identical bill in the House.

Many Americans may not be aware that more than 82,000 Americans are listed as prisoners of war, missing in action, or otherwise unaccounted for as a result of engagement in military conflicts. Displaying the POW/MIA flag alongside the American flag invites everyone to reflect on that somber number and appreciate the sacrifices people have made for the freest country on the planet.

S. 693 would require the POW/MIA flag to be displayed whenever the American flag is displayed on Federal properties, including the U.S. Capitol, the White House, the World War II Memorial, the Korean War Veterans Memorial, the Vietnam Veterans Memorial, every national cemetery and major military installation as designated by the Secretary of Defense, and every U.S. post office.

I look forward to passage of this bipartisan bill and to seeing the POW/MIA flag fly along with the Stars and Stripes to remind us that freedom comes at a cost and we owe more than

we know to the brave men and women who gave their lives and their liberty for their fellow Americans.

Mr. Speaker, I reserve the balance of my time.

Mr. COHEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire (Mr. PAPPAS), who is the author.

Mr. PAPPAS. Mr. Speaker, I thank the gentleman for yielding, and I thank him for his words.

As well, I thank Mr. CLINE for his words in support of this legislation.

Mr. Speaker, I rise in support of S. 693, the National POW/MIA Flag Act.

In May, I had the privilege of visiting America's longest running POW/MIA vigil, in my district, in Meredith, New Hampshire. There, on the shores of Lake Winnepesaukee, participants have been gathering every Thursday evening for more than 30 years to honor and remember servicemembers listed as prisoners of war, missing in action, or otherwise unaccounted for.

It doesn't matter if it is a night in the depths of a frigid winter or a sweltering summer, every vigil brings out a strong community of veterans, family members, and supporters who call on all of us to remember these heroes. Vigils like these happen all across this great country to ensure no servicemember's sacrifice is forgotten.

Flying over these vigils with the Stars and Stripes is the POW/MIA flag. This flag was conceived in the early 1970s during the Vietnam war by family members who awaited the return of their loved ones. It was adopted by Congress "as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing, and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation."

□ 1630

It has become an enduring national symbol of POW/MIA's from conflicts throughout our history.

That is why I was proud to introduce this bipartisan companion legislation in the House, along with my colleague, Representative BERGMAN, which would display the POW/MIA flag alongside the American flag at all Federal buildings, memorials, and all national cemeteries throughout the year.

Under current law, the POW/MIA flag is required to be displayed by the Federal Government only 6 days per year. This flag is representative of profound courage and sacrifice, and it is only right that those who served their country honorably but never returned home, are remembered appropriately at our Federal buildings, cemeteries, and memorials.

This bipartisan legislation passed the Senate unanimously, and it is endorsed by Rolling Thunder; the National League of POW/MIA Families; the Veterans of Foreign Wars; the American Legion; the National Alliance of Families for the Return of America's Missing Servicemen; and American Ex-Prisoners of War.