

ern proceedings commenced pursuant to section 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

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

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

(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3)(B) and (C).

(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of

royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

(Added Pub. L. 108–419, §3(a), Nov. 30, 2004, 118 Stat. 2357; amended Pub. L. 109–303, §3(12), (13), Oct. 6, 2006, 120 Stat. 1481; Pub. L. 111–175, title I, §104(f), May 27, 2010, 124 Stat. 1238.)

#### REFERENCES IN TEXT

The enactment of and the date of enactment of the Copyright Royalty and Distribution Reform Act of 2004, referred to in subsecs. (a) and (b)(1)(B), (3)(A), mean the date of enactment of Pub. L. 108–419, which was approved Nov. 30, 2004.

#### PRIOR PROVISIONS

A prior section 804 was renumbered section 803 of this title prior to the general amendment of this chapter by Pub. L. 108–419.

#### AMENDMENTS

2010—Subsec. (b)(1)(A), (B). Pub. L. 111–175 substituted “2015” for “2005”.

2006—Subsec. (b)(1)(B). Pub. L. 109–303, §3(12), substituted “801(b)(2)(B) or (C)” for “801(b)(3)(B) or (C)” and “change in” for “change is”.

Subsec. (b)(3)(A). Pub. L. 109–303, §3(13)(A), substituted “date of enactment” for “effective date”.

Subsec. (b)(3)(C)(ii). Pub. L. 109–303, §3(13)(B)(i), substituted “is filed” for “that is filed”.

Subsec. (b)(3)(C)(iii). Pub. L. 109–303, §3(13)(B)(ii), substituted “subsections (b)” for “such subsections (b)”.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–175 effective Feb. 27, 2010, see section 307(a) of Pub. L. 111–175, set out as a note under section 111 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

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

### § 805. General rule for voluntarily negotiated agreements

Any rates or terms under this title that—

(1) are agreed to by participants to a proceeding under section 803(b)(3),

(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

shall remain in effect for such period of time as would otherwise apply under such determina-

tion, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.

(Added Pub. L. 108-419, §3(a), Nov. 30, 2004, 118 Stat. 2360.)

#### PRIOR PROVISIONS

Prior sections 805 to 810 were repealed by Pub. L. 103-198, §2(e), Dec. 17, 1993, 107 Stat. 2308.

Section 805, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to staff of Copyright Royalty Tribunal.

Section 806, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to administrative support of Tribunal.

Section 807, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to deduction of costs of proceedings involving distribution of royalty fees.

Section 808, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to reporting requirements of the Tribunal.

Section 809, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to effective date of final determinations of Tribunal.

Section 810, Pub. L. 94-553, title I, §101, Oct. 19, 1976, 90 Stat. 2598, related to judicial review of final decisions of Tribunal.

### CHAPTER 9—PROTECTION OF SEMICONDUCTOR CHIP PRODUCTS

Sec.	
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#### AMENDMENTS

2002—Pub. L. 107-273, div. C, title III, §13210(11), Nov. 2, 2002, 116 Stat. 1910, substituted “licensing” for “licensure” in item 903.

1997—Pub. L. 105-80, §12(a)(21), Nov. 13, 1997, 111 Stat. 1535, substituted “Ownership, transfer, licensure, and recordation” for “Ownership and transfer” in item 903.

#### § 901. Definitions

(a) As used in this chapter—

(1) a “semiconductor chip product” is the final or intermediate form of any product—

(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

(B) intended to perform electronic circuitry functions;

(2) a “mask work” is a series of related images, however fixed or encoded—

(A) having or representing the predetermined, three-dimensional pattern of metal-

lic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

(3) a mask work is “fixed” in a semiconductor chip product when its embodiment in the product is sufficiently permanent or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

(4) to “distribute” means to sell, or to lease, bail, or otherwise transfer, or to offer to sell, lease, bail, or otherwise transfer;

(5) to “commercially exploit” a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

(6) the “owner” of a mask work is the person who created the mask work, the legal representative of that person if that person is deceased or under a legal incapacity, or a party to whom all the rights under this chapter of such person or representative are transferred in accordance with section 903(b); except that, in the case of a work made within the scope of a person’s employment, the owner is the employer for whom the person created the mask work or a party to whom all the rights under this chapter of the employer are transferred in accordance with section 903(b);

(7) an “innocent purchaser” is a person who purchases a semiconductor chip product in good faith and without having notice of protection with respect to the semiconductor chip product;

(8) having “notice of protection” means having actual knowledge that, or reasonable grounds to believe that, a mask work is protected under this chapter; and

(9) an “infringing semiconductor chip product” is a semiconductor chip product which is made, imported, or distributed in violation of the exclusive rights of the owner of a mask work under this chapter.

(b) For purposes of this chapter, the distribution or importation of a product incorporating a semiconductor chip product as a part thereof is a distribution or importation of that semiconductor chip product.

(Added Pub. L. 98-620, title III, §302, Nov. 8, 1984, 98 Stat. 3347.)

#### AUTHORIZATION OF APPROPRIATIONS

Section 304 of title III of Pub. L. 98-620 provided that: “There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title and the amendments made by this title [enacting this chapter].”

#### § 902. Subject matter of protection

(a)(1) Subject to the provisions of subsection (b), a mask work fixed in a semiconductor chip product, by or under the authority of the owner