

## REMOVAL OF INCONSISTENT PROVISIONS

Pub. L. 109-303, §4(g), Oct. 6, 2006, 120 Stat. 1483, provided that: “The amendments contained in subsection (h) of section 5 of the Copyright Royalty and Distribution Reform Act of 2004 [Pub. L. 108-419, amending this section] shall be deemed never to have been enacted.”

## EFFECT ON CERTAIN PROCEEDINGS

Pub. L. 108-447, div. J, title IX [title I, §106], Dec. 8, 2004, 118 Stat. 3406, provided that: “Nothing in this title [see Short Title of 2004 Amendment note set out under section 101 of this title] shall modify any remedy imposed on a party that is required by the judgment of a court in any action that was brought before May 1, 2004, against that party for a violation of section 119 of title 17, United States Code.”

## APPLICABILITY OF 1994 AMENDMENT

Pub. L. 103-369, §5, Oct. 14, 1994, 108 Stat. 3481, provided that: “The amendments made by this section apply only to section 119 of title 17, United States Code.”

### § 120. Scope of exclusive rights in architectural works

(a) PICTORIAL REPRESENTATIONS PERMITTED.—The copyright in an architectural work that has been constructed does not include the right to prevent the making, distributing, or public display of pictures, paintings, photographs, or other pictorial representations of the work, if the building in which the work is embodied is located in or ordinarily visible from a public place.

(b) ALTERATIONS TO AND DESTRUCTION OF BUILDINGS.—Notwithstanding the provisions of section 106(2), the owners of a building embodying an architectural work may, without the consent of the author or copyright owner of the architectural work, make or authorize the making of alterations to such building, and destroy or authorize the destruction of such building.

(Added Pub. L. 101-650, title VII, §704(a), Dec. 1, 1990, 104 Stat. 5133.)

## EFFECTIVE DATE

Section applicable to any architectural work created on or after Dec. 1, 1990, and any architectural work, that, on Dec. 1, 1990, is unconstructed and embodied in unpublished plans or drawings, except that protection for such architectural work under this title terminates on Dec. 31, 2002, unless the work is constructed by that date, see section 706 of Pub. L. 101-650, set out as an Effective Date of 1990 Amendment note under section 101 of this title.

### § 121. Limitations on exclusive rights: Reproduction for blind or other people with disabilities

(a) Notwithstanding the provisions of section 106, it is not an infringement of copyright for an authorized entity to reproduce or to distribute copies or phonorecords of a previously published, nondramatic literary work if such copies or phonorecords are reproduced or distributed in specialized formats exclusively for use by blind or other persons with disabilities.

(b)(1) Copies or phonorecords to which this section applies shall—

(A) not be reproduced or distributed in a format other than a specialized format exclusively for use by blind or other persons with disabilities;

(B) bear a notice that any further reproduction or distribution in a format other than a specialized format is an infringement; and

(C) include a copyright notice identifying the copyright owner and the date of the original publication.

(2) The provisions of this subsection shall not apply to standardized, secure, or norm-referenced tests and related testing material, or to computer programs, except the portions thereof that are in conventional human language (including descriptions of pictorial works) and displayed to users in the ordinary course of using the computer programs.

(c) Notwithstanding the provisions of section 106, it is not an infringement of copyright for a publisher of print instructional materials for use in elementary or secondary schools to create and distribute to the National Instructional Materials Access Center copies of the electronic files described in sections 612(a)(23)(C), 613(a)(6), and section 674(e) of the Individuals with Disabilities Education Act that contain the contents of print instructional materials using the National Instructional Material Accessibility Standard (as defined in section 674(e)(3) of that Act), if—

(1) the inclusion of the contents of such print instructional materials is required by any State educational agency or local educational agency;

(2) the publisher had the right to publish such print instructional materials in print formats; and

(3) such copies are used solely for reproduction or distribution of the contents of such print instructional materials in specialized formats.

(d) For purposes of this section, the term—

(1) “authorized entity” means a nonprofit organization or a governmental agency that has a primary mission to provide specialized services relating to training, education, or adaptive reading or information access needs of blind or other persons with disabilities;

(2) “blind or other persons with disabilities” means individuals who are eligible or who may qualify in accordance with the Act entitled “An Act to provide books for the adult blind”, approved March 3, 1931 (2 U.S.C. 135a; 46 Stat. 1487) to receive books and other publications produced in specialized formats;

(3) “print instructional materials” has the meaning given under section 674(e)(3)(C) of the Individuals with Disabilities Education Act; and

(4) “specialized formats” means—

(A) braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities; and

(B) with respect to print instructional materials, includes large print formats when such materials are distributed exclusively for use by blind or other persons with disabilities.

(Added Pub. L. 104-197, title III, §316(a), Sept. 16, 1996, 110 Stat. 2416; amended Pub. L. 106-379, §3(b), Oct. 27, 2000, 114 Stat. 1445; Pub. L. 107-273, div. C, title III, §13210(3)(A), Nov. 2, 2002, 116 Stat. 1909; Pub. L. 108-446, title III, §306, Dec. 3, 2004, 118 Stat. 2807.)

## REFERENCES IN TEXT

Sections 612, 613, and 674 of the Individuals with Disabilities Education Act, referred to in subsecs. (c) and (d)(3), are classified to sections 1412, 1413, and 1474, respectively, of Title 20, Education.

The Act approved March 3, 1931, referred to in subsec. (d)(2), is act Mar. 3, 1931, ch. 400, 46 Stat. 1487, as amended, which is classified generally to sections 135a and 135b of Title 2, The Congress. For complete classification of this Act to the Code, see Tables.

## AMENDMENTS

2004—Subsec. (c). Pub. L. 108-446, §306(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 108-446, §306(1), redesignated subsec. (c) as (d).

Subsec. (d)(3), (4). Pub. L. 108-446, §306(3), added pars. (3) and (4) and struck out former par. (3) which read as follows: “‘specialized formats’ means braille, audio, or digital text which is exclusively for use by blind or other persons with disabilities.”

2002—Pub. L. 107-273 substituted “Reproduction” for “reproduction” in section catchline.

2000—Subsec. (a). Pub. L. 106-379 substituted “section 106” for “sections 106 and 710”.

### § 122. Limitations on exclusive rights: Secondary transmissions of local television programming by satellite

#### (a) SECONDARY TRANSMISSIONS INTO LOCAL MARKETS.—

(1) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS WITHIN A LOCAL MARKET.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station’s local market shall be subject to statutory licensing under this section if—

(A) the secondary transmission is made by a satellite carrier to the public;

(B) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

(C) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

(i) each subscriber receiving the secondary transmission; or

(ii) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

#### (2) SIGNIFICANTLY VIEWED STATIONS.—

(A) IN GENERAL.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a network station or a non-network station to a subscriber who resides outside the station’s local market but within a community in which the signal has been determined by the Federal Communications Commission to be significantly viewed in such community,

pursuant to the rules, regulations, and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

(B) WAIVER.—A subscriber who is denied the secondary transmission of the primary transmission of a network station or a non-network station under subparagraph (A) may request a waiver from such denial by submitting a request, through the subscriber’s satellite carrier, to the network station or non-network station in the local market affiliated with the same network or non-network where the subscriber is located. The network station or non-network station shall accept or reject the subscriber’s request for a waiver within 30 days after receipt of the request. If the network station or non-network station fails to accept or reject the subscriber’s request for a waiver within that 30-day period, that network station or non-network station shall be deemed to agree to the waiver request.

#### (3) SECONDARY TRANSMISSION OF LOW POWER PROGRAMMING.—

(A) IN GENERAL.—Subject to subparagraphs (B) and (C), a secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall be subject to statutory licensing under this paragraph if the secondary transmission is of the primary transmission of a television broadcast station that is licensed as a low power television station, to a subscriber who resides within the same designated market area as the station that originates the transmission.

(B) NO APPLICABILITY TO REPEATERS AND TRANSLATORS.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

(C) NO IMPACT ON OTHER SECONDARY TRANSMISSIONS OBLIGATIONS.—A satellite carrier that makes secondary transmissions of a primary transmission of a low power television station under a statutory license provided under this section is not required, by reason of such secondary transmissions, to make any other secondary transmissions.

(4) SPECIAL EXCEPTIONS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station to subscribers who receive secondary transmissions of primary transmissions under paragraph (1) shall, if the secondary transmission is made by a satellite carrier that complies with the requirements of paragraph (1), be subject to statutory licensing under this paragraph as follows:

(A) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that