

**Editorial Notes**

## REFERENCES IN TEXT

Section 337 of the Tariff Act of 1930, referred to in subsec. (a)(1), is classified to section 1337 of Title 19, Customs Duties.

**§ 1329. Relation to design patent law**

The issuance of a design patent under title 35, United States Code, for an original design for an article of manufacture shall terminate any protection of the original design under this chapter.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2916.)

**§ 1330. Common law and other rights unaffected**

Nothing in this chapter shall annul or limit—

(1) common law or other rights or remedies, if any, available to or held by any person with respect to a design which has not been registered under this chapter; or

(2) any right under the trademark laws or any right protected against unfair competition.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2916.)

**§ 1331. Administrator; Office of the Administrator**

In this chapter, the “Administrator” is the Register of Copyrights, and the “Office of the Administrator” and the “Office” refer to the Copyright Office of the Library of Congress.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2916.)

**§ 1332. No retroactive effect**

Protection under this chapter shall not be available for any design that has been made public under section 1310(b) before the effective date of this chapter.

(Added Pub. L. 105-304, title V, § 502, Oct. 28, 1998, 112 Stat. 2916.)

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## REFERENCES IN TEXT

The effective date of this chapter, referred to in text, is Oct. 28, 1998. See Effective Date note set out under section 1301 of this title.

**CHAPTER 14—UNAUTHORIZED USE OF PRE-1972 SOUND RECORDINGS**

Sec.

1401. Unauthorized use of pre-1972 sound recordings.

**§ 1401. Unauthorized use of pre-1972 sound recordings**

(a) IN GENERAL.—

(1) UNAUTHORIZED ACTS.—Anyone who, on or before the last day of the applicable transition period under paragraph (2), and without the consent of the rights owner, engages in covered activity with respect to a sound recording fixed before February 15, 1972, shall be subject to the remedies provided in sections 502 through 505 and 1203 to the same extent as an infringer of copyright or a person that engages in unauthorized activity under chapter 12.

(2) TERM OF PROHIBITION.—

(A) IN GENERAL.—The prohibition under paragraph (1)—

(i) subject to clause (ii), shall apply to a sound recording described in that paragraph—

(I) through December 31 of the year that is 95 years after the year of first publication; and

(II) for a further transition period as prescribed under subparagraph (B) of this paragraph; and

(ii) shall not apply to any sound recording after February 15, 2067.

(B) TRANSITION PERIODS.—

(i) PRE-1923 RECORDINGS.—In the case of a sound recording first published before January 1, 1923, the transition period described in subparagraph (A)(i)(II) shall end on December 31 of the year that is 3 years after the date of enactment of this section.

(ii) 1923-1946 RECORDINGS.—In the case of a sound recording first published during the period beginning on January 1, 1923, and ending on December 31, 1946, the transition period described in subparagraph (A)(i)(II) shall end on the date that is 5 years after the last day of the period described in subparagraph (A)(i)(I).

(iii) 1947-1956 RECORDINGS.—In the case of a sound recording first published during the period beginning on January 1, 1947, and ending on December 31, 1956, the transition period described in subparagraph (A)(i)(II) shall end on the date that is 15 years after the last day of the period described in subparagraph (A)(i)(I).

(iv) POST-1956 RECORDINGS.—In the case of a sound recording fixed before February 15, 1972, that is not described in clause (i), (ii), or (iii), the transition period described in subparagraph (A)(i)(II) shall end on February 15, 2067.

(3) RULE OF CONSTRUCTION.—For the purposes of this subsection, the term “anyone” includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in the official capacity of the officer or employee, as applicable.

(b) CERTAIN AUTHORIZED TRANSMISSIONS AND REPRODUCTIONS.—A public performance by means of a digital audio transmission of a sound recording fixed before February 15, 1972, or a reproduction in an ephemeral phonorecord or copy of a sound recording fixed before February 15, 1972, shall, for purposes of subsection (a), be considered to be authorized and made with the consent of the rights owner if—

(1) the transmission or reproduction would satisfy the requirements for statutory licensing under section 112(e)(1) or section 114(d)(2), or would be exempt under section 114(d)(1), as the case may be, if the sound recording were fixed on or after February 15, 1972; and

(2) the transmitting entity pays the statutory royalty for the transmission or reproduction pursuant to the rates and terms adopted under sections 112(e) and 114(f), and complies