HEINONLINE

Citation: 2 William H. Manz Federal Copyright Law The Histories of the Major Enactments of the 105th 0 1999

Content downloaded/printed from HeinOnline (http://heinonline.org) Wed Apr 10 13:44:28 2013

-- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at http://heinonline.org/HOL/License

-- The search text of this PDF is generated from uncorrected OCR text.

EXTENSIONS OF REMARKS

THE COPYRIGHT TERM EXTENSION ACT, H.R. 2589

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. COBLE. Mr. Speaker, I would like to extend my remarks regarding H.R. 2589, the "Copyright Term Extension Act," which was passed by the House on March 25, 1998.

The writers, screen actors, and directors guilds have expressed concern about their inability to obtain residual payments that are due to their members in situations where the producer of the motion picture fails to make these payments, for example where it no longer exists or is bankrupt. The guilds may be unable to seek recourse against the exclusive distributors, transferees of rights in the motion picture, because those parties are not subject to the collective bargaining agreement or otherwise in privity with the guilds. Although the collective bargaining agreements generally require the production company to obtain assumption agreements from distributors that would effectively create such privity, some production companies apparently do not always do so.

Section 5 of H.R. 2589 would address this problem without interfering with the collective bargaining process and the ability of the parties to determine the terms of their relationships. It would, in certain circumstances, impose on distributors the obligations to make residual payments and provide related notices that are currently required by the collective bargaining agreements governing the motion picture. It does so by making the distributor subject to the applicable obligations under the assumption agreements, incorporating the applicable terms into the transfer instrument by operation of law. The provision would not affect broadcast and cable licensees because it excludes transfers that are limited to public performance rights.

The "reason to know" language is intended to be interpreted in light of common sense and industry practice. Because many motion pictures made in the United States are produced subject to one or more collective bargaining agreements, the distributor would ordinarily perform some check on whether the motion picture is subject to such an agreement, for example by inquiring of the producer. The provision would not, however, require a burdensome or exhaustive investigation. Publicly available information that indicates a work's status, such as records of a guild's security interest in the motion picture filed with the Copyright Office, would ordinarily provide "reason to know" within the meaning of the Act. The guilds may wish to provide an easily accessible source of information, such as a World Wide Web Site, that identifies which motion pictures are subject to a collective bargaining agreement. If the existence of such a site is made known in the industry, the listing of a particular motion picture would clearly give reason to know of that picture's status.

In order to protect distributors who have negotiated transfers based on misrepresentations, the provision makes the producer who fails to inform distributors of its collective bargaining agreement obligations liable to those distributors for any resulting damages. Disputes about the application of the provision and claims for damages from misrepresentation would be resolved in federal district court, with the court having discretion to award costs and reasonable attorneys' fees.

TRIBUTE TO EL CAMINO REAL HIGH SCHOOL

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to the students of El Camino Real High School, winners of the National Academic Decathlon title. I would like to take this opportunity to acknowledge this team of champions made up of Taimur Baig, Michael Beatty, Steve Chae, Nancy Fu, Bruce Ngo, Elana Pelman, Carina Yuen and Adi Zarchi, who were led by coaches David Roberson, Mark Johnson and Principal Ron Bauer.

The academic decathlon is the equivalent of an intellectual Olympics. Students are asked to compete in a variety of areas, including analyzing poetry, solving complicated trigonometry problems and answering questions about the lives of great composers. They are also tested on various aspects of global economies, including inflation, interest rates, the North American Free Trade Agreement and the International Monetary Fund.

The El Camino Conquistadors are to be commended for their dedication, hard work and discipline. In preparation for this grueling competition, students have spent 50 hours a week throughout this past year studying everything from music theory to chemical equations. In addition, each student also read "Jane Eyre" five times, and together the team took more than 450 multiple choice practice tests. Their success has been recognized on the front page of every newspaper in the area, by local radio and television stations, and most recently by President Clinton.

President Kennedy once said that we should think of education as the ". . . . means of developing our greatest abilities, because in each of us there is a private hope and dream which, fulfilled, can be translated into benefit for everyone and greater strength for our nation." I would like to commend the Conquistadors for going after their dreams, individually and as a team. This commitment to their education and pursuit of their goals is an inspiration to other students, teachers and the rest of the country.

Mr. Speaker, distinguished colleagues, please join me in offering our highest accolades to the students of El Camino Real High School.

ADDRESS OF AMBASSADOR ELIAHU BEN-ELISSAR AT THE NATIONAL CIVIC COMMEMORATION OF THE DAYS OF REMEMBRANCE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, May 5, 1998

Mr. LANTOS. Mr. Speaker, on Tuesday, April 23, Members of Congress joined with representatives of the diplomatic corps, executive and judicial branch officials, and hundreds of Holocaust survivors and their families to commemorate the National Days of Remembrance in the rotunda of the United States Capitol. This moving ceremony featured a stirring address by His Excellency Eliahu Ben-Elissar, Israel's distinguished Ambassador to the United States, who reminded us all of the horrors of the Holocaust and the need to ensure that the suffering of Hitler's victims will never, never be forgotten.

Ambassador Ben-Elissar, a native of Poland, has represented his nation in government and the diplomatic corps for over thirty years. A longtime public servant for his country, he has helped to guide Israel to the outstanding economic, political, and foreign policy accomplishments which have marked its first fifty years as a State. Ambassador Ben-Elissar was a Member of the Knesset for fifteen years, compiling an exemplary record as Chair of the Foreign Affairs and Defense Committee and as a member of Israel's delegations to the United Nations General Assembly and the Madrid Peace Conference in 1991. Prior to this outstanding service he played a significant role in the historic peace agreements with Egypt, first as the Director-General of the Prime Minister's office under Menachem Begin and later as Israel's first Ambassador to Egypt in 1980–81.

Mr. Speaker, I insert Ambassador Ben-Elissar's solemn and dignified remarks for the RECORD, and I urge my colleagues to carefully note the observations of this fine statesman.

AMBASSADOR BEN-ELISSAR'S ADDRESS AT THE ROTUNDA OF THE CAPITOL ON THURSDAY, APRIL 23, 1998

In the late 20s and early 30s of this century no one paid attention to Hitler. In spite of his growing influence over the masses in Germany, no one really cared to take a good look at his ideas and plans described in detail in "Mein Kampf." When the general boycott of the Jews was declared in Germany on April 1, 1933, and subsequently, all Jewish physicians, lawyers, and professionals were prohibited to practice their professions, no one thought it was more than a temporary measure taken by an interim government. No one really reacted when, in 1935, the infamous laws on race and blood were adopted in Nurenberg.

No country in the world declared itself ready, at the Evian Conference on Refugees, in July 1938, to take in a significant number of Jewish refugees from Germany and the recently annexed Austria. The Kristalnacht, in

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress 0 1999

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [i] 1999

Document No. 53

HeinOnline -- 2 William H. Manz, Federal Copyright Law: The Legislative Histories of the Major Enactments of the 105th Congress [ii] 1999