

—th Congress
—nd Session

S. _____

To modernize and enhance intellectual property laws, and for other purposes

IN THE SENATE OF THE UNITED STATES

M _____ introduced the following bill, which was read twice and referred to the Committee on the Judiciary

A BILL

To modernize and enhance intellectual property laws, and for other purposes

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

SEC. 1.—SHORT TITLE

This Act may be cited as the "Strengthening Fair Use Act."

SEC. 2.—STRENGTHENING FAIR USE

(a) INCIDENTAL, NONCONSUMPTIVE, OR NONCOMMERCIAL PERSONAL USES. — Section 107 of title 17, United States Code, is amended by inserting after “scholarship,” the following: “or a use that is incidental, nonconsumptive, or both non-commercial and personal;”

(b) INFORMATION LOCATION TOOLS. — Title 17, United States Code, is amended by adding after Section 122:

“§123: LIMITATIONS ON EXCLUSIVE RIGHTS: INFORMATION LOCATION TOOLS.

(a) Notwithstanding the provisions of section 106 (1), it shall not be an infringement of copyright for a service provider to reproduce copyrighted works

from online locations in copies or phonorecords for the purpose of developing and maintaining information location tools, including directories, indexes, references, pointers, or hypertext links, which refer or link users to the [online locations] containing the copyrighted works.

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

(1) “service provider” means a provider of online services or network access, or the operator of facilities therefor.”

(c) REMITTING STATUTORY DAMAGES FOR REASONABLE FAIR USE DEFENSES. — Section 504(c)(2) of title 17, United States Code, is amended by striking the language following “his or her use of the copyrighted work was a fair use under section 107” up to the beginning of paragraph (3).

(d) COSTS AND FEES NOT AWARDED FOR REASONABLE FAIR USE DEFENSES. — Section 505 of title 17, United States Code, is amended by adding at the end of the section the following:

“The court shall not award costs or an attorney's fee to a copyright holder in any case where an infringer believed and had reasonable grounds for believing that his or her use of the copyrighted work was a fair use under section 107 of this title.