No. 25-1391

IN THE
Supreme Court of the United States

BMG RIGHTS MANAGEMENT (US) LLC ET AL.,
Petitioners,

v.

CYRIL E. VETTER ET AL.,
Respondents.

On Petition for Writ of Certiorari To The United States Court of Appeals For The Fifth Circuit

BRIEF OF MOTION PICTURE ASSOCIATION, INC. AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*[1]

Amicus Motion Picture Association, Inc. ("MPA") is a not-for-profit trade association founded in 1922. The MPA serves as the voice and advocate of the film and television industry, advancing the business and art of storytelling, protecting the creative and artistic freedoms of storytellers, and bringing entertainment and inspiration to audiences worldwide. The MPA has a particular interest in the proper interpretation of the Copyright Act, as a fair, balanced, and—particularly relevant here—*predictable* copyright system is essential to its mission and to the ability of its members to finance, produce, and distribute compelling entertainment. It regularly participates as *amicus* in copyright cases of national and international importance.

The MPA's members are Amazon Studios LLC, Netflix Studios, LLC, Paramount Pictures Corporation, Sony Pictures Entertainment Inc., Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment Inc. These entities and their affiliates are the leading producers and distributors in the theatrical, television, and home-entertainment markets in the U.S. and abroad.

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[1] Pursuant to this Court's Rule 37.6, *amicus* states that this brief was not authored in whole or in part by counsel for any party, and that no person or entity other than *amicus* or its counsel made a monetary contribution intended to fund the preparation or submission of this brief. Counsel for all parties were timely notified under Rule 37.2(a) of amicus's intent to file this brief.

It is critically important to the MPA's members that U.S. copyright law be subject to clear, consistent, and enforceable territorial boundaries. Until the erroneous decisions below, the courts uniformly agreed, all recognizing that U.S. copyright law does not apply beyond our nation's borders to govern rights and obligations arising under foreign copyright statutes. The district court and the Fifth Circuit have now broken from that long-settled consensus, casting a pall of uncertainty over existing international copyright arrangements and hindering the negotiation of new rights deals. Nobody benefits from that uncertainty—deals are harder to reach, fewer creative projects get produced, and fewer authors get paid.

The MPA submits this *amicus* brief to highlight the significance of the errors in the decision below and to demonstrate their harmful effects on the film and television industry, both undermining economically productive activity and depriving society of the benefits of the broad dissemination of cultural works.

INTRODUCTION AND SUMMARY OF ARGUMENT

The Fifth Circuit's decision breaks sharply from a long-settled consensus that U.S. copyright law does not apply beyond U.S. borders to govern rights arising under foreign copyright laws. That principle is compelled by the statute's plain language and history, as recognized by every authority that has addressed the subject. As those authorities recognize, the international copyrights in a creative work represent a collection of rights arising under the laws of each of the countries in which the work is disseminated. That settled understanding is one of the bedrock foundations on which film and television rights—more so than other types of creative works—are negotiated and projects are developed. The decision below flatly rejects that foundational principle. According to the Fifth Circuit, when a copyright arises under U.S. law, that copyright constitutes a *single worldwide* right, even as to works disseminated in foreign countries with entirely different copyright rules.

That decision is patently incorrect for the reasons summarized in Part II below and elaborated in the petition for certiorari. But more to the point for present purposes, the decision blurs the previously clear territorial scope of U.S. copyright law, with inevitable negative effects on the enforcement of existing international rights deals and the negotiation of new deals. The rule that termination and renewal reversion leave foreign copyright rights untouched has long formed an essential backdrop for high-stakes negotiations and valuable investments. In the film and television industry in particular, the grantees of rights in a work do much more for the development of the work than simply promoting and disseminating it. Film and television studios routinely invest many millions of dollars to build entire entertainment franchises from acquired works, such as novels, comic books, plays, short stories, articles, or a "spec screenplay" (a screenplay written on the speculation that a studio might later acquire it to serve as the basis for a movie or TV show). Making such investments to develop these works requires a complex rights ecosystem—one built upon significant business and risk expectations.

The Fifth Circuit's decision introduces a destabilizing factor into that ecosystem, disrupting existing expectations and creating a new obstacle to future deals between once-natural counterparties to creative and economically beneficial endeavors. When statutory rights are clearly bounded by territorial limits, each party knows what rights exist, to whom they belong, and how to transfer them. But when territorial limits become less clear, the rights themselves become clouded. Parties now are more likely to disagree about who owns what and where, making international rights deals more difficult and costly to reach. Unless clarity is restored, the ultimate result will be the impairment of highly productive economic activity, the shelving of valuable creative works, and the diminution of authors' ability to find partners willing to invest in the development of their works.

The decision below also sets U.S. law on a collision course with foreign courts, forcing stakeholders to operate in a world where courts in the Fifth Circuit and courts in foreign jurisdictions will reach opposite conclusions about the same rights. In this untenable landscape, no one knows what they can lawfully do, meaning that rational actors in the film and television space may decide not to pursue exploitation of certain works, rather than overpay for rights or face a high risk of litigation.

Respondents' admitted strategy throughout this litigation has been to advance a "fringe" theory with the goal of "reach[ing] the Supreme Court." Tim Kappel & Loren Wells, *Returning Music to Its Crea-*

tor, 5 Fla. Ent. & Sports L. Rev. 13, 14 (2026). Having persuaded the Fifth Circuit to endorse that "fringe" theory, with the sweeping consequences just described and further elaborated below, Respondents should not be permitted to back away from the second part of their playbook. This Court should grant review and restore the broad consensus that U.S. copyright termination and reversion laws govern only U.S. copyright rights.

ARGUMENT

I. The Fifth Circuit's Decision Disrupts The Landscape of Copyright Deals and Exploitations

The effects of the decision below are immediate and wide-ranging, with negative impacts on studios, production companies, distributors, authors, heirs, and others dealing in copyright rights anywhere in the world, as well as the public at large. This Court's intervention is urgently needed.

A. The Decision Below Will Have Disruptive Effects On The Film and Television Industry

The Fifth Circuit's decision undermines international movie and television rights deals both by disrupting longstanding understandings that have formed the foundation for fruitful negotiations between authors and rights grantees and by setting the stage for a procedural morass in international and domestic courts.

1. *Disrupted negotiations will lead to fewer economically productive deals, lost opportunities for authors, and the shelving of culture.* Rights deals have

long been negotiated and executed against the once-uncontroversial background understanding that copyright termination under the U.S. Copyright Act affected only the U.S. copyright rights in a work. As the Petition details, that is the rule found in every copyright treatise, in every judicial decision prior to this case, and, most importantly, on the face of the statutory language itself. *See* Pet. 18-23; *see also infra* Part II.A. The same understanding of the effects of copyright renewal reversion has likewise been the longstanding consensus. *See infra* Part II.B.

Little wonder, then, that—prior to the Fifth Circuit's decision—terminating parties invariably recognized that their terminations did not grant them copyright ownership outside of the U.S. Indeed, terminating parties freely acknowledged that principle in their own pleadings in high-profile litigation. *See, e.g.*, Complaint, *Yonay v. Paramount Pictures Corp.*, No. 2:22-cv-3846 (C.D. Cal. June 6, 2022), at ¶ 19 (*Top Gun: Maverick* litigation) (recognizing that termination provisions effectuate "recovery of the U.S. copyright"); *id.* ¶ 20 (acknowledging that "because the Copyright Act has no extraterritorial application, foreign rights … remain with Paramount … notwithstanding [the] Termination Notice"); Complaint, *Thomas v. Twentieth Century Fox Film Corp.*, No. 3:21-cv-2720 (N.D. Cal. Apr. 15, 2021), at ¶¶ 25-26 (*Predator* litigation) (same).

Prior to the test case manufactured by Respondents, the termination rights landscape was thus characterized by stability and settled expectations, with each party coming to the table with leverage for negotiation. That backdrop allowed for productive deals that not only left the parties to such deals better off, but also generated significant economic activity with society-wide benefits. *See MPA Comments Regarding the 2026 National Trade Estimate Report on Foreign Trade Barriers*, Motion Picture Association 2-3 (Oct. 2025) (reporting that, in 2023 alone, the U.S. motion picture, television, and streaming industry generated $22.6 billion in export revenue and that its trade surplus was $15.3 billion—or 6% of the total U.S. private-sector trade surplus in services—with content distribution in over 130 countries).

The decision below has imperiled the environment of mutual understanding that facilitates such activity. Emboldened by the Fifth Circuit's erroneous ruling, terminating parties have already begun asserting the manifestly incorrect position that, by exercising their termination rights, they regain not only their U.S. copyright rights in a work, but also the foreign rights that all previously understood as remaining with the rights transferee. Studios, for their part, reject terminating parties' reliance on the deeply flawed decision below and continue to maintain that they retain the foreign rights. They will accordingly be unwilling to pay for what they already rightfully own. The same positional mismatch will characterize negotiations involving renewal rights reversions. With entrenched parties unable to see eye to eye on such a basic premise underlying their discussions, many deals that previously would have been relatively straightforward simply will not happen.

That result is detrimental to authors, studios, and the public alike. Authors will effectively lose the "second chance" at profiting from the rights in their work that all agree Congress intended to provide to them via the Copyright Act's termination provisions. Pet. App. 10. The disadvantage to authors is especially acute because the studio previously holding the rights to the work is, more often than not, the most motivated buyer for the rights an author regains through termination.[2] Because the studio has, in many cases, invested millions of dollars in the work and holds the rights to the copyrightable new expression in its derivative franchises, any other buyer would have to steer clear of all of the copyrightable elements created by the studio in the course of its exploitation of the original work—not to mention the studio's trademarks and other rights—and therefore of the vast majority of the work's contemporary value. What is more, any party considering purchasing the highly disputed international rights to a work in reliance on the Fifth Circuit's decision, even as the original studio maintains its continued ownership of those rights, is effectively purchasing a lawsuit—one in which its position would be tenuous at best. Simply put, "[n]obody would pay an author for something he cannot sell," such that renewal and termination interests may ultimately be rendered "worthless." *Fred Fisher Music Co. v. M. Witmark & Sons*, 318 U.S. 643, 657 (1943). That the Fifth Circuit's decision may sound the death knell for many deals between authors and transferee studios thus inevitably leaves authors worse off.

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[2] Indeed, the statutory scheme expressly facilitates bringing the original grantor and grantee back to the negotiating table as the presumptive parties to a new rights deal by providing for an exclusive renegotiation window for the terminated grantee. *See* 17 U.S.C. §§ 203(b)(4), 304(c)(6)(D).

The ultimate effect of this market distortion will be not only a reduction of economically productive activity, but the widespread shelving of culture—contrary to the policies animating the Copyright Act and to the detriment of society as a whole. This Court has repeatedly recognized that copyright law should promote "broad public availability of literature, music, and the other arts" and "stimulate artistic creativity for the general public good." *Twentieth Century Music Corp. v. Aiken*, 422 U.S. 151, 156 (1975); *see also, e.g.*, *Fogerty v. Fantasy, Inc.,* 510 U.S. 517, 524 (1994) ("The primary objective of the Copyright Act is to encourage the production of original literary, artistic, and musical expression for the good of the public."). By undermining dealmaking between authors and the studios that have made, or could make, substantial investments in their works, the Fifth Circuit's decision frustrates those goals.

2. *The decision below is poised to create an international procedural morass of conflicting rulings and asymmetries.* The film and television industry does not operate in a domestic bubble. Worldwide releases require parties to see eye to eye on who owns all of the requisite copyright rights throughout the world. The decision below makes the necessary cohesion increasingly difficult by teeing up conflicts with foreign sovereigns, who will not credit the Fifth Circuit's decision as changing the operation of their own national copyright laws.

The decision below announces new rules (in the Fifth Circuit) for the foreign copyright rights in works of U.S. origin. But for the most part, it will be foreign courts that will be forced to adjudicate claims of foreign infringement, because foreign infringement claims are brought under the laws of the country of infringement, not the country of origin of the work. *See, e.g.*, *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.*, 52 F.4th 1054, 1079 (9th Cir. 2022). And these foreign courts are not bound to follow a U.S. court decision about the operation of foreign copyright rights—much less an outlier decision that departs from all other authority on the subject. As the Patry treatise puts it: "A U.S. court can opine that there are not foreign rights after termination, but that's meaningless in that foreign country, where a foreign court would surely ignore it as a serious breach of comity, and simply incorrect." 7 Patry on Copyright § 25:18 (2026).

One prominent illustration is U.K. law, which is contrary to the decision below at every turn. First, U.K. decisions consistently adhere to a territorial notion of copyright (the consensus view apart from the decision below), whereby there is, for any given work, a U.K. copyright and a U.S. copyright and a French copyright and so forth, rather than a single master copyright worldwide. *See, e.g.*, *Peer Int'l Corp. v. Termidor Music Publishers Ltd.* [2006] EWHC (Ch) 2883 (discussing status of "English copyright" in songs composed by Cuban nationals, notwithstanding Cuban law that voided disposition as to Cuban copyright in songs); *Chappell & Co. Ltd. v. Redwood Music Ltd.* [1981] R.P.C. 337 (discussing scope of assignment of renewal interest in U.S. work, and differentiating "U.S.A. copyright in the song" from "U.K. copyright" in it).

Second, U.K. law would not give effect to a purported termination of a grant of that U.K. copyright by virtue of the U.S. termination scheme embodied in Section 203 or Section 304. At the outset, subject to estoppel and related principles that may apply on the facts of specific cases, foreign courts are not bound by U.S. precedents, and the rationale of the decision below conflicts both with the termination provisions' textual exclusion of foreign rights and with other courts' territorial conception of copyright. Indeed, U.K. courts limit the U.K.'s since-repealed reversionary right to the U.K. copyright in a work—even without the aid of the clear limiting language that appears in the U.S. termination provisions, *cf.* U.K. Copyright Act 1911 § 5(2)—and confer that right *within the U.K.* equally on domestic and foreign authors and heirs. *See Redwood Music Ltd. v. B. Feldman & Co. Ltd.* [1979] R.P.C. 1. But even if the Fifth Circuit's rationale were sound, U.K. courts would still reject any such termination by operation of U.S. law of the grantee's U.K. copyright. That result is apparent from the case of *Peer International*, wherein U.K. courts refused to give effect to Cuban Law 860 (which otherwise would have voided Peer's copyright grants) as to the *English copyright* in the subject songs; it was found "expropriatory without compensation and on that account such as not to have taken effect so far as concerned English copyright." [2006] EWHC (Ch) 2883, at 54; *see also, e.g.*, *Gloucester Place Music Ltd. v. Le Bon* [2016] EWHC (Ch) 3091 [16]-[17].

Third, U.K. courts would not void a transfer of a U.K. copyright where the renewal interest under U.S. law reverted to an author's heirs because the author did not survive to the vesting of the renewal. That interpretation is premised on the "one copyright" theory to which U.K. courts do not subscribe;

it runs into the same *Peer International* problem as the termination issue; and it is contrary to U.K. courts' understanding of the renewal interest as one that concerns the *U.S.* copyright and not the U.K. copyright in a work. *See, e.g.*, *Chappell & Co. Ltd.* [1981] R.P.C. 337, at 349-50.

So what happens when, say, an author has terminated a grant of copyright rights in a U.S. work to a studio under Section 203 or Section 304, and the studio stops its domestic exploitation of the rights but continues to exploit the rights in the U.K.? By the logic of the decision below, the heir actually recaptured worldwide rights, and the studio's U.K. exploitation is infringing. But if the heir brought an infringement action in the U.K., or the studio sought a declaration of rights there, the U.K. court would reach the opposite conclusion and permit the studio to continue its U.K. exploitation.

And what if the heir conveyed the rights under the terminated grant to a competing studio, which then exploited the rights in the U.K. in line with the decision below? The original studio could bring a successful infringement action against the competing studio in the U.K., notwithstanding that the Fifth Circuit would consider the competing studio to own the rights throughout the world by virtue of the termination interest.

The same holds for the renewal interest. Consider the situation where an author granted a studio his worldwide copyright rights in a work of U.S. origin, including the original and renewal terms of copyright, but died before the renewal interest vested, making the transfer of the renewal interest ineffective. *See, e.g., Stewart v. Abend*, 495 U.S. 207, 211, 220-21 (1990). And suppose that the author's heir granted the renewal rights to a competing studio. It is clear that the original studio lacks the U.S. copyright rights in the work, which now belong to the competing studio. But what if the original studio continues to exploit the work—or even just its preexisting derivative works based on it—in the U.K., as it is permitted to do under existing law? According to the decision below, the renewal interest actually comprised both U.S. and foreign copyright rights, and the original studio's U.K. exploitation is infringing (even though the U.K. does not even recognize a renewal term). But if the heir brought an infringement action in the U.K., or the studio sought a declaration of rights there, the U.K. court would conclude the opposite. And if the competing studio exploited the work in the U.K. using the logic of the decision below, the original studio could successfully sue it for infringement in a U.K. court.

And what of the movie theaters and merchandisers caught up in the fray? Will a movie theater in the U.K. risk showing either studio's film, knowing that a U.S. court might consider it infringing to display the original studio's film, while a U.K. court would consider it infringing to display the competing studio's film? Will licensed merchandisers be willing to make or sell toys or posters based on either film there?

As these permutations—which, to be clear, are simply isolated examples—demonstrate, the Fifth Circuit's decision creates conflicts not only among U.S. authorities, but also with foreign sovereigns. And it yields a legal landscape that is fundamentally unworkable—even setting aside that, as discussed below, *see infra* Part II, it is flatly wrong as a matter of law.

What is more, with its focus on domestic authors and heirs, the Fifth Circuit overlooked the devastating impact of its holdings on foreign authors and heirs, who have long been understood to enjoy the same copyright termination and renewal reversion rights in the U.S. as their U.S.-based counterparts. The rule announced by the Fifth Circuit obliterates that once-settled entitlement because, under the court's logic, the U.S. copyright termination regime applies only to works of U.S. origin. *See* Pet. App. 22; *infra* at 19 (discussing Fifth Circuit's view that a copyright is deemed to arise under the law of the country of origin and merely recognized elsewhere). That outcome not only would run afoul of the U.S.'s obligation under the Berne Convention to provide authors from member states with the same rights that the U.S. grants to its own nationals, *see* Pet. 28-29, but it also would undercut those stakeholders' previous rights deals and freeze new deals in their tracks. In short, the decision below leaves in its wake an unsustainable status quo and an inevitable procedural morass.

3. *The decision below threatens to flood domestic courts with litigation.* The chaos described above will not be confined to international courts. Terminating parties faced with adverse rulings abroad may well take to U.S. courts in an effort to circumvent those decisions by crafting novel legal theories to take advantage of the Fifth Circuit's ruling. The procedural morass spawned by the decision below

thus threatens to clog courts both at home and abroad.

B. The Impacts Of The Decision Below Are Immediate And Of Significant Magnitude

As explained, *see supra* Part I.A, as long as the decision below remains on the books, it will have the immediate effect of overshadowing and distorting negotiations industrywide. It will also inevitably have a direct impact on litigation outcomes as races to the courthouse play out across the country and internationally, with terminating parties striving to assert their claims within the Fifth Circuit to take advantage of its outlier rule. *See* Pet. 34-35. The harmful effects of the decision below will thus have broad and immediate sweep.

Nor is statutory termination merely a theoretical remedy invoked in a handful of famous disputes. On the contrary, it is a mechanism used repeatedly and systematically across industries. Numerous termination notices are recorded each year: a recent empirical study reports 13,565 notices corresponding to over 100,000 unique titles from 1978 through June 2021. Christopher Buccafusco et al., *How Big Is Copyright's Second Bite?: An Empirical Assessment of Copyright Reversion*, 75 Duke L.J. 1077, 1107 (2026); *see also* Joshua Yuvaraj et al., *U.S. Copyright Termination Notices 1977–2020: Introducing New Datasets*, 19 J. Empirical Legal Stud. 250, 260 (2022) (reporting similar totals for 1977-2020 period). Notably, that data captures only a fraction of terminations of post-1978 grants under Section 203, which began to take effect in 2013. With the post-1978 termination regime still in its early stages, the number of terminations will continue to grow. *See, e.g.*, Margaret Heidenry, *When the Spec Script Was King*, Vanity Fair (Feb. 8, 2013) (noting that the "boom years" of spec script sales "lasted roughly from 1990 to 2008," portending a wave of upcoming terminations as the 35-year termination period under Section 203 approaches for these works).

Forthcoming terminations are especially salient to current negotiations because it is commonplace in the film and television industry for adaptations to take place decades after the underlying work was created or adaptation rights were first granted. The 2024 film adaptation of *Wicked*, for example, was released 21 years after the 2003 Broadway musical and 29 years after the 1995 novel. *See Everything You Need To Know About 'Wicked' Ahead of the Universal Pictures Movie*, NBC Universal (Nov. 14, 2024), https://perma.cc/S6YC-JN7J. A studio considering a major investment will thus consider not only who owns the rights today, but also whether the rights will be terminable soon and the financial impact of any such termination. The legal issues muddied by the decision below thus play a significant role in today's negotiations over works for which termination windows may be approaching or are already open, given that deals must account for worldwide theatrical, streaming, sequels, remakes, merchandising, soundtrack, stage/film cross-rights, and decades of downstream exploitation. The post-*Vetter* mismatch of views over who can exploit a property globally so significantly disrupts the negotiations that deals may simply not occur.

II. The Fifth Circuit's Decision Is Wrong And Contrary To All Authority

Under the rule embraced by the decision below, both the Copyright Act's copyright termination provisions and the copyright renewal reversion regime under the 1909 Copyright Act apply beyond this nation's borders to govern foreign copyright rights. Both aspects of the Fifth Circuit's decision are not only disruptive for the reasons just described, but are also based on manifestly incorrect reasoning.

A. U.S. Copyright Termination Does Not Apply Internationally

The Fifth Circuit's ruling on the scope of termination rights erred at every turn. Among numerous other flaws in its reasoning, the court misconstrued the plain language of the Copyright Act based on an ill-conceived reconceptualization of the nature of a copyright, then bolstered that erroneous view with a facile invocation of statutory purpose.

Statutory text. The statute's plain language could not be clearer: "Termination of a grant under this subsection affects only those rights covered by the grant that arise under this title [Title 17, Copyrights], and in no way affects rights arising under any other Federal, State, or foreign laws." 17 U.S.C. § 304(c)(6)(E). Thus, copyright termination terminates the original grantee's U.S. copyright rights in the subject work,[3] but leaves intact those grants of copyright rights that arise under the laws of jurisdictions outside the U.S.

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[3] Subject to a carve-out for preexisting derivative works. 17 U.S.C. § 304(c)(6)(A).

The first clause explains that copyright termination does not extinguish an entire grant, but rather only those constituent rights that arise under U.S. copyright law. Since U.S. copyright law does "not have any extraterritorial operation," *Impression Prods., Inc. v. Lexmark Int'l, Inc.*, 581 U.S. 360, 379 (2017) (quotations omitted), it necessarily follows that the rights that "arise under" Title 17—such as the rights of reproduction, distribution, performance, and display, 17 U.S.C. § 106—are rights to exclusively exploit a work *in the U.S.*

The second clause reinforces the first, eliminating any doubt that copyright termination does not extend to any rights other than federal copyright rights that may be found in the same grant. It expressly states that copyright termination "in no way affects" rights under other federal laws (e.g., U.S. trademark rights); rights under state laws (e.g., standard contractual rights; common-law trademark rights); and rights under foreign laws (e.g., foreign copyright rights), even if such rights were conveyed in the same instrument as the grant of federal copyright rights that is subject to termination. Section 304(c)(6)(E) thus presents the paradigmatic example of statutory interpretation that not only "begins with the statutory text" but also, by virtue of the unambiguous meaning of that text, "ends there as well." *Nat'l Ass'n of Mfrs. v. Dep't of Def.*, 583 U.S. 109, 127 (2018) (quotations omitted). Indeed, the statutory language is so clear that every other court to address the issue has recognized that a terminating party recaptures only domestic rights. *See Siegel v. Warner Bros. Ent. Inc.,* 542 F. Supp. 2d 1098, 1140 (C.D. Cal. 2008) ("the statutory text [of Section

304(c)(6)(E)] could not be any clearer on this subject"), *rev'd in part on other grounds sub nom. Larson v. Warner Bros. Ent., Inc.*, 504 F. App'x 586 (9th Cir. 2013); *Clancy v. Jack Ryan Enters., Ltd.*, 2021 WL 488683, at *46 (D. Md. Feb. 10, 2021); *Fred Ahlert Music Corp. v. Warner/Chappell Music, Inc.*, 155 F.3d 17, 20 (2d Cir. 1998).

The Fifth Circuit missed that straightforward conclusion because it gravely misconstrued the statutory text. Writing the foreign-laws exclusion out of the statute altogether, the court asserted that there was "no explicit geographical limitation in section 304(c)(6)(E) that restricts the exploitation of [Respondent's] rights to uses within the United States." Pet. App. 9. The court reached that startling conclusion by conceptualizing copyright as a single worldwide copyright interest granted under the law of the country of origin and recognized abroad pursuant to treaty obligations. *Id.* at 22. Viewed through that faulty lens, the statute's limitation of the effect of termination to rights "that arise under this title" was no limitation at all: instead, it encompassed "all of [Respondent's] rights—including his copyright to the extent that it extends internationally." *Id.* at 9.

The Fifth Circuit's construction flouts the well-settled principle that *U.S.* copyright rights arise under *U.S.* copyright law, while *foreign* copyright rights arise under *foreign* laws. *See, e.g.*, Jane C. Ginsburg, *International Copyright: From a "Bundle" of National Copyright Laws to a Supranational Code?*, 47 J. Copyright Soc'y U.S.A. 265, 266 (2000) ("[A]t present we have a system of interlocking *national* copyrights, woven together by the principle of national treatment."); U.S. Copyright Office, Circular 38A: International Copyright Relations of the United States (Jan. 2025) ("There is no such thing as an 'international copyright' that will automatically protect an author's writings throughout the world. Protection against unauthorized use in a particular country depends on the national laws of that country."). In other words, each country determines whether, and on what terms, a copyright arises within its borders. That is why, for example, a work generated autonomously by artificial intelligence in the U.S. may receive copyright protection in the U.K. even though U.S. courts have held that such a work would be ineligible for copyright protection in the U.S. *Compare* U.K. Copyright, Designs and Patents Act 1988, c.48, § 9(3) (recognizing copyright for "computer-generated" work); *with Thaler v. Perlmutter*, 130 F.4th 1039, 1041 (D.C. Cir. 2025) (holding that copyright requires human authorship). The Fifth Circuit's reasoning failed to recognize the territorial nature of copyright, instead mistakenly treating the country of origin as controlling. That error was so glaring that the Patry treatise was promptly updated to reject it:

> Congress can no more grant rights in France than France can grant rights in the U.S. In this respect the court of appeals is dead wrong in denying there are multiple and separate copyright interests in each country, rather than a single overarching international copyright that each country is required to honor.

7 Patry on Copyright § 25:18.

Statutory purpose. The Fifth Circuit compounded its misreading of the statute's text with a misplaced reliance on its broad purpose. In the Fifth Circuit's view, the termination provisions' objectives of "safeguard[ing] against an unremunerative transfer" and "correct[ing] for … unequal bargaining power" reaffirmed its designation of Respondent as the "sole owner … throughout the world" of the recaptured copyright interest. Pet. App. 13-14 (citing H.R. Rep. No. 94-1476, at 124 (1976)). Even accepting for the sake of argument the Fifth Circuit's simplistic assessment of the statute's purpose and the effect of its holding, this Court has admonished that "it is quite mistaken to assume . . . that whatever might appear to further the statute's primary objective must be the law." *Henson v. Santander Consumer USA Inc.*, 582 U.S. 79, 89 (2017) (cleaned up). But as explained, *see supra* at 7-8, the real-world effect of the Fifth Circuit's rule will be to harm authors by jeopardizing the very deals that would have provided them with remuneration. Statutory purpose thus cannot bear the weight placed on it by the Fifth Circuit.

Indeed, the legislative history, to the extent it sheds light on statutory purpose, cuts *against* the Fifth Circuit's analysis. The Register of Copyrights explained in a report to Congress that the statute "makes clear that termination *affects only those rights arising under the U.S. copyright statute* and has *no effect*, for example, *on foreign rights that may be covered by the same contract*." Supplementary Report of the Register of Copyrights on the General Revision of the U.S. Copyright Law: 1965 Revision Bill, 89th Cong., 1st Sess., at 75 (H. Judiciary Comm. Print 1965) (emphasis added). And the same report directly contradicts the Fifth Circuit's characterization of the statute's purpose, clarifying that the termination provisions were not intended solely to benefit authors and their heirs, but instead sought to effectuate a "compromise" that "would be of practical benefit to authors and their families without being unfair to publishers, film producers, and other users." *Id.* at 72. The legislative history thus confirms that the limited scope of copyright termination—including its exclusion of non-copyright rights and foreign rights—is part of a careful legislative design.

B. The U.S. Renewal Copyright Interest That Reverts When An Author Predeceases Vesting Encompasses Only U.S. Copyright Rights

The Fifth Circuit's reasoning with respect to the reversion of renewal copyright interests was equally flawed. *See* Pet. 16. According to the decision below, when a U.S. renewal copyright interest under the 1909 Copyright Act reverts to an author's heirs because the author predeceased the renewal period, that interest encompasses domestic and foreign copyright rights alike. Pet. App. 27-28. Much like the court's ruling on termination, that holding runs afoul of all other authority and again defies the territorial nature of copyright.

Just like the U.S. copyright termination interest, the U.S. renewal copyright interest under the 1909 Act is tied to the *domestic* rights in a work, not foreign rights. No other country shared the copyright renewal structure in place in the U.S. under the 1909 Act, and its idiosyncratic rules do not divest grantees of *foreign rights* by operation of *U.S. law*. When a grant of the U.S. renewal interest fails because the author did not survive to vesting, the U.S. copyright rights in the work revert to the author's heirs, but the transfer of any foreign rights that were part of the same grant is unaffected. This is because the original grant was for the *entire* term of copyright, which, in the rest of the world, is a single term, not bifurcated like the U.S. term under the 1909 Act. The domestic nature of such reversion is a natural corollary of the fact that U.S. copyright law lacks extraterritorial application. *See* 5 David Nimmer & Melville B. Nimmer, *Nimmer on Copyright* § 17.10[B][2] (2026) ("Given that copyright laws exert no extraterritorial impact, it is no more appropriate to apply the renewal aspect of U.S. copyright law in other jurisdictions than it is to apply any other aspect of U.S. law abroad"; accordingly, when an "author does not survive until renewal vesting … the publisher ceases to own any rights in the United States upon commencement of the renewal term," but U.S. renewal law does not divest the grantee of its foreign rights).

The Fifth Circuit brushed aside this logic and refused to credit the Nimmer treatise largely because "the renewal provision makes no mention of geographical limitations" and the contrary position was "consistent" with the statutory purpose of affording "the author a second chance to obtain fair remuneration for his creative efforts and to provide the author's family a 'new estate' if the author died before the renewal period arrived." Pet. App. 27 (quoting *Abend*, 495 U.S. at 220). That rationale does not withstand even minimal scrutiny. The court failed to grapple with the U.S.-specific nature of the underlying renewal structure described above and effected an unwarranted overextension of *Abend* by again overlooking the principle that "no legislation pursues its purposes at all costs," such that "it frustrates rather than effectuates legislative intent simplistically to assume that *whatever* furthers the statute's primary objective must be the law." *Rodriguez v. United States*, 480 U.S. 522, 525-26 (1987) (per curiam).

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The Fifth Circuit's decision is thus not only profoundly destabilizing in a manner that cannot await further percolation, but it is also wrong twice over. This Court's intervention is urgently warranted.

CONCLUSION

For the foregoing reasons and those set forth in the Petition, the Court should grant certiorari.

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July 16, 2026