

119TH CONGRESS
1ST SESSION

S. _____

To create an administrative subpoena process to assist copyright owners in determining which of their copyrighted works have been used in the training of artificial intelligence models.

IN THE SENATE OF THE UNITED STATES

Mr. WELCH (for himself, Mrs. BLACKBURN, Mr. HAWLEY, and Mr. SCHIFF) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To create an administrative subpoena process to assist copyright owners in determining which of their copyrighted works have been used in the training of artificial intelligence models.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Transparency and Re-
5 sponsibility for Artificial Intelligence Networks Act” or
6 the “TRAIN Act”.

1 **SEC. 2. SUBPOENA FOR COPIES OR RECORDS RELATING TO**
2 **ARTIFICIAL INTELLIGENCE MODELS.**

3 (a) IN GENERAL.—Chapter 5 of title 17, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 514. Subpoena for copies or records relating to ar-**
7 **tificial intelligence models**

8 “(a) DEFINITIONS.—In this section:

9 “(1) ARTIFICIAL INTELLIGENCE.—The term
10 ‘artificial intelligence’ has the meaning given the
11 term in section 5002 of the National Artificial Intel-
12 ligence Initiative Act of 2020 (15 U.S.C. 9401).

13 “(2) ARTIFICIAL INTELLIGENCE MODEL.—The
14 term ‘artificial intelligence model’ means a compo-
15 nent of an information system that implements arti-
16 ficial intelligence technology and uses computational,
17 statistical, or machine-learning techniques to
18 produce outputs from a given set of inputs.

19 “(3) DEVELOPER.—The term ‘developer’—

20 “(A) means a person or State or local gov-
21 ernment agency that—

22 “(i) designs, codes, produces, owns, or
23 substantially modifies a generative artifi-
24 cial intelligence model for use by—

25 “(I) the person or State or local
26 government agency; or

1 “(II) a third party; and

2 “(ii) engages in or supervises, includ-
3 ing as a third party training dataset cura-
4 tor—

5 “(I) the curation of the training
6 dataset of the artificial intelligence
7 model; or

8 “(II) the use of the training
9 dataset to train the artificial intel-
10 ligence model; and

11 “(B) does not include a noncommercial end
12 user of a generative artificial intelligence model.

13 “(4) GENERATIVE ARTIFICIAL INTELLIGENCE
14 MODEL.—The term ‘generative artificial intelligence
15 model’—

16 “(A) means an artificial intelligence model
17 that emulates the structure and characteristics
18 of input data in order to generate derived syn-
19 thetic content, which may include images, vid-
20 eos, audio, text, and other digital content; and

21 “(B) includes any subsequent variation on
22 an artificial intelligence model described in sub-
23 paragraph (A), even if created by a third party.

24 “(5) SUBSTANTIALLY MODIFY.—The term ‘sub-
25 stantially modify’, with respect to a generative artifi-

1 cial intelligence model, means to take 1 or more ac-
2 tions leading to a new version of, new release of, or
3 other update to the generative artificial intelligence
4 model that materially changes the functionality or
5 performance of the generative artificial intelligence
6 model, including by retraining or fine tuning the
7 generative artificial intelligence model.

8 “(6) TRAINING MATERIAL.—The term ‘training
9 material’ means individual works or components
10 thereof used for the purpose of training a generative
11 artificial intelligence model, including a combination
12 of text, images, audio, or other categories of expres-
13 sive materials, as well as annotations describing the
14 material.

15 “(b) REQUEST.—

16 “(1) IN GENERAL.—The legal or beneficial
17 owner of an exclusive right under a copyright, or a
18 person authorized to act on the owner’s behalf, may
19 request the clerk of any United States district court
20 to issue a subpoena to a developer for disclosure of
21 copies of, or records sufficient to identify with cer-
22 tainty, the copyrighted works, or any portion there-
23 of, likely owned or controlled by the legal or bene-
24 ficial owner that were used by the developer to train
25 the generative artificial intelligence model, if the

1 legal or beneficial owner or authorized person has a
2 subjective good faith belief that the developer used
3 some or all of 1 or more such copyrighted works to
4 train the generative artificial intelligence model.

5 “(2) SUBPOENA LIMITED TO REQUESTER’S OWN
6 COPYRIGHTED WORK.—Nothing in paragraph (1)
7 shall be construed to authorize a legal or beneficial
8 owner of an exclusive right under a copyright, or a
9 person authorized to act on the owner’s behalf, to
10 request a subpoena for disclosure of copies of, or
11 records sufficient to identify with certainty, copy-
12 righted works likely owned or controlled by any per-
13 son other than the legal or beneficial owner.

14 “(c) CONTENTS OF REQUEST.—A request under sub-
15 section (b) may be made by filing with the clerk—

16 “(1) a proposed subpoena; and

17 “(2) a sworn declaration to the effect that—

18 “(A) the legal or beneficial owner or au-
19 thorized person has a subjective good faith be-
20 lief that the developer used some or all of 1 or
21 more of the copyrighted works owned or con-
22 trolled by the legal or beneficial owner to train
23 the generative artificial intelligence model;

24 “(B) the purpose for which the subpoena is
25 sought is to obtain copies of the training mate-

1 rial, or records sufficient to identify with cer-
2 tainty the training material, used to train the
3 generative artificial intelligence model in order
4 to determine whether the developer has used
5 copyrighted works owned or controlled by the
6 legal or beneficial owner in connection with the
7 generative artificial intelligence model; and

8 “(C) the copies or records will only be used
9 for the purpose of protecting the rights of the
10 legal or beneficial owner.

11 “(d) CONTENTS OF SUBPOENA.—A subpoena issued
12 pursuant to a request under subsection (b) shall authorize
13 and order the developer receiving the subpoena to expedi-
14 tiously disclose to the legal or beneficial owner or author-
15 ized person all records described in that subsection.

16 “(e) BASIS FOR GRANTING SUBPOENA.—If a pro-
17 posed subpoena described in subsection (c)(1) is in proper
18 form, and the accompanying declaration described in sub-
19 section (c)(2) is properly executed, the clerk shall expedi-
20 tiously issue and sign the proposed subpoena and return
21 it to the requester for delivery to the developer.

22 “(f) ACTIONS OF DEVELOPER RECEIVING SUB-
23 POENA.—Upon receipt of a subpoena issued under sub-
24 section (e), a developer shall expeditiously disclose to the

1 legal or beneficial owner or authorized person the copies
2 or records requested by the subpoena.

3 “(g) DUTY OF CONFIDENTIALITY.—A legal or bene-
4 ficial owner or authorized person who receives copies or
5 records from a developer under this section may not dis-
6 close the copies or records to any other person without
7 proper authorization or consent.

8 “(h) RULES APPLICABLE TO SUBPOENA.—Unless
9 otherwise provided by this section or by applicable rules
10 of the court, the procedure for issuance and delivery of
11 a subpoena issued under subsection (e), and the remedies
12 for noncompliance with the subpoena, shall be governed
13 to the greatest extent practicable by the provisions of the
14 Federal Rules of Civil Procedure governing the issuance,
15 service, and enforcement of a subpoena duces tecum.

16 “(i) REBUTTABLE PRESUMPTION.—If a developer
17 fails to comply with a subpoena issued under subsection
18 (e), that failure shall provide a rebuttable presumption
19 that the developer made copies of the copyrighted work.

20 “(j) SANCTIONS FOR BAD FAITH SUBPOENA RE-
21 QUEST.—

22 “(1) MOTION.—If the legal or beneficial owner
23 of an exclusive right under a copyright, or a person
24 authorized to act on the owner’s behalf, requests a
25 subpoena under subsection (b) in bad faith, the

1 court that issued the subpoena, upon motion of the
2 recipient of the subpoena, may impose sanctions on
3 the legal or beneficial owner or authorized person.

4 “(2) IMPLEMENTATION.—Rule 11(c) of the
5 Federal Rules of Civil Procedure shall apply to sanc-
6 tions imposed under this subsection in the same
7 manner as that rule applies to sanctions imposed for
8 a violation of rule 11(b) of those Rules.

9 “(k) EFFECTIVE DATE.—This section shall take ef-
10 fect on the date of enactment of this section.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 The table of sections for chapter 5 of title 17, United
13 States Code, is amended by adding at the end the fol-
14 lowing:

“514. Subpoena for copies or records relating to artificial intelligence models.”.