

.....
(Original Signature of Member)

119TH CONGRESS
2D SESSION

H. R. —

To amend title 17, United States Code, to permit the owner or exclusive licensee of an exclusive right under that title to file a petition to designate a foreign online location as a foreign digital piracy site, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. LOFGREN introduced the following bill; which was referred to the Committee on

A BILL

To amend title 17, United States Code, to permit the owner or exclusive licensee of an exclusive right under that title to file a petition to designate a foreign online location as a foreign digital piracy site, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Deterring Extraterritorial Foreign Exploitation of Networks Damaging Intellectual Property (DEFEND IP) Act of 2026”.

SEC. 2. ORDERS TO DESIGNATE AND DIRECT AGAINST FOREIGN DIGITAL PIRACY SITES.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by inserting after section 502 the following:

“§ 502A. Orders to designate and direct against foreign digital piracy sites

“(a) DEFINITIONS.—In this section:

“(1) BROADBAND PROVIDER.—The term ‘broadband provider’ means a provider of broadband internet access service, as defined in section 8.1(b) of title 47, Code of Federal Regulations (or any successor regulation), that provides such service to not fewer than 50,000 subscribers.

“(2) FOREIGN DIGITAL PIRACY SITE.—The term ‘foreign digital piracy site’ means a foreign online location that has been designated as a foreign digital piracy site by an order of a district court of the United States issued under this section.

“(3) FOREIGN ONLINE LOCATION.—The term ‘foreign online location’ means a website or uniquely identifiable online location that is—

“(A) accessible to the public;

“(B) operated by an individual or entity located outside the United States (or the location of which cannot be determined to be within the United States); and

“(C) identifiable by 1 or more Internet Protocol addresses, fully qualified domains, or other similar online identifiers.

“(4) LIVE EVENT.—The term ‘live event’ means an event that is performed publicly (such as a concert, sporting event, or award show).

“(5) PUBLIC DOMAIN NAME RESOLUTION SERVICES.—The term ‘public domain name resolution services’ means domain name resolution services that are accessible to the general public.

“(6) SERVICE PROVIDER.—The term ‘service provider’—

“(A) means—

“(i) a broadband provider; or

“(ii) a provider of public domain name resolution services that has an annual revenue of more than \$100,000,000; and

“(B) does not include—

“(i) an entity that provides domain name system resolution functions or services exclusively through encrypted DNS protocols;

“(ii) an entity that exclusively provides virtual private network services or similar service that encrypt and route user traffic through intermediary servers; or

“(iii) a premises operator, such as a coffee shop, bookstore, airline, library, university, or other business, that acquires broadband internet access service from an internet service provider to enable patrons to access the internet from the establishment of the operator.

“(7) TRANSMISSION OF A LIVE EVENT.—

“(A) IN GENERAL.—The term ‘transmission of a live event’ means the digital transmission of a live event—

“(i) simultaneously or nearly simultaneously with the live occurrence or public performance of the event; and

“(ii) for a commercial purpose.

“(B) DIGITAL TRANSMISSION.—For purposes of subparagraph (A), the term digital transmission includes transmission by satellite broadcasting.

“(8) VIRTUAL PRIVATE NETWORK.—The term ‘virtual private network’ means a service that establishes an encrypted connection between a device and a remote server that—

“(A) routes the internet traffic of the user of that device through the remote server; and

“(B) masks the internet protocol address of the user described in subparagraph (A).

“(b) JUDICIAL DESIGNATIONS OF FOREIGN DIGITAL PIRACY SITES.—

“(1) IN GENERAL.—The owner or exclusive licensee of an exclusive right described in section 106 that is being or will be injured by material or activity that violates a right or protection afforded under this title may, subject to the requirements under paragraph (2), bring an action in an appropriate district court of the United States to petition the court to issue an order to designate a foreign online location as a foreign digital piracy site.

“(2) REQUIREMENTS.—Subject to paragraph (5), a court shall issue an order requested under paragraph (1)—

“(A) upon the determination by the court that—

“(i) the petitioner is the owner or exclusive licensee of an exclusive right described in section 106;

“(ii) (I) with respect to material or activity at the foreign online location that is the subject of the petition—

“(aa) such material or activity likely violates an exclusive right or protection afforded under this title to the petitioner; and

“(bb) the petitioner is likely to suffer irreparable harm as a result of that material or activity; or

“(II) with respect to the transmission of a live event at the foreign online location that is the subject of the petition—

“(aa) the transmission of a live event will likely violate an exclusive right or protection afforded under this title to the petitioner; and

“(bb) the petitioner will likely suffer irreparable harm as a result of that transmission of a live event;

“(iii) the petitioner has made a reasonable effort to provide the operator of the foreign online location described in this subparagraph with notice of the action brought by the petitioner; and

“(iv) the petitioner has certified that the petitioner cannot, after a reasonable investigation based on publicly available information, determine the operator of the foreign online location described in this subparagraph to be within the United States; and

“(B) upon a showing by the petitioner that the foreign online location described in subparagraph (A)—

“(i) is primarily designed or primarily provided for the purpose of violating an exclusive right or protection afforded under this title;

“(ii) has no commercially significant purpose or use other than committing a violation described in clause (i); or

“(iii) is intentionally marketed by or at the direction of the operator of the foreign online location to promote the use of the foreign online location in committing a violation described in clause (i).

“(3) OPPORTUNITY TO CONTEST.—The operator of the foreign online location that is the subject of a petition under paragraph (1) may, not later than 20 days after the date on which that petition is filed, appear before the court in which the petition is pending to contest the issuance of the order to designate the foreign online location as a foreign digital piracy site, except that the court may issue an order under this subsection on an ex parte basis at any time after the court determines that the requirements under paragraph (2) are satisfied, subject to the limitation under paragraph (5).

“(4) JUDICIAL DISCRETION.—If the operator of a foreign online location that is the subject of a petition under paragraph (1) does not appear before the court pursuant to paragraph (3), the court may, in the discretion of the court, appoint a master pursuant to rule 53 of the Federal Rules of Civil Procedure to assist in the determination of the court as to whether the requirements of this subsection have been satisfied.

“(5) LIMITATION.—A court may not issue an order to designate, and may rescind an order designating, a foreign online location as a foreign digital piracy site under this subsection if the operator of the foreign online location—

“(A) appears before the court pursuant to paragraph (3);

“(B) submits to the jurisdiction of the court for all claims arising from or related to alleged violative activity at the foreign online location;

“(C) posts a bond sufficient to ensure compliance with any judgment of the court related to alleged violative activity at the foreign online location; and

“(D) complies with any other order of the court to cease the violative activity.

“(6) DESIGNATION ORDER DURATION.—Unless rescinded under paragraph (5), an order to designate a foreign online location as a foreign digital piracy site under this subsection shall expire—

“(A) on the date that is 360 days after the date on which the court issues the order, if no subsequent order is sought under subsection (c) with respect to that foreign online location; or

“(B) upon the expiration of all orders issued under subsection (c) with respect to that foreign online location.

“(c) JUDICIAL ORDERS AGAINST FOREIGN DIGITAL PIRACY SITES.—

“(1) IN GENERAL.—If a district court of the United States issues an order to designate a foreign online location as a foreign digital piracy site under subsection (b), the petitioner that sought the order may petition the same court to issue a subsequent order to direct service providers to take reasonable measures to prevent users in the United States from using the system or network of those service providers to access the foreign digital piracy site.

“(2) REQUIREMENTS FOR PETITION.—A court in which a petition is filed under paragraph (1) shall accept the petition, and consider whether to issue the order requested in the petition in accordance with the factors described in paragraph (3)—

“(A) if the petition identifies all service providers to be subject to the order; and

“(B) upon certification by the petitioner that the petitioner has provided each service provider identified in the petition with—

“(i) a copy of the order issued under subsection (b);

“(ii) a copy of the petition filed under this subsection; and

“(iii) notice informing each such service provider of the right of the service provider to contest the inclusion of the service provider in the petition filed under this subsection, as provided in paragraph (4).

“(3) CONSIDERATIONS.—In determining whether to issue an order under this subsection, a court shall consider—

“(A) whether such an order, either alone or in combination with other such orders obligating action by the same service provider, would significantly burden either the service provider or the operation of the system or network of the service provider;

“(B) the magnitude of the harm likely to be suffered by the petitioner if steps are not taken to prevent or restrain access to the applicable foreign digital piracy site;

“(C) whether implementation of the order—

“(i) would be technically feasible and effective;

“(ii) would not interfere with access to material at other online locations that does not violate an exclusive right or protection afforded under this title; and

“(iii) would disserve the public interest; and

“(D) whether less burdensome and comparably effective means are available to prevent or restrain access to the applicable foreign digital piracy site.

“(4) OPPORTUNITY TO CONTEST.—Not later than 20 days after the date on which a service provider receives the notice required under paragraph (2)(B) with respect to a petition filed under this subsection, the service provider may appear before the court in which the petition was filed and contest the inclusion of the service provider in that petition.

“(5) ORDER INSTRUCTIONS.—An order issued under this subsection shall—

“(A) specify that the applicable service provider shall begin implementing that order as soon as practicable for that service provider after receipt of the notice described in paragraph (6);

“(B) provide that such order will expire 1 year after the date specified under subparagraph (A), subject to any extension granted under paragraph (9);

“(C) expressly require the applicable petitioner to—

“(i) use reasonable, good-faith efforts to verify on an ongoing basis the accuracy of information provided in the petition regarding the foreign digital piracy site that is the subject of the order, including, as applicable, the domain names and Internet Protocol addresses at which the foreign digital piracy site that is the subject of the order is operating; and

“(ii) if the information underlying the petition has materially changed, provide the court that issued the order and each service provider identified in the order with the information described in clause (i);

“(D) expressly provide that a service provider identified in the order may rely on information provided in the order and any updated information provided by the petitioner with respect to the order under subparagraph (C); and

“(E) expressly provide that a service provider identified in the order has no independent obligation, at the time the order is adopted or at any time thereafter, to investigate or otherwise verify or confirm the accuracy of information provided under subparagraph (C) or (D).

“(6) NOTICE OF ORDER.—The court shall provide notice to the petitioner and each service provider subject to an order issued under this subsection, which shall include—

“(A) the instructions described in paragraph (5);

“(B) the limitation described in paragraph (7);

“(C) the obligations of the service provider under subsection (d); and

“(D) the immunities of the service provider under subsection (e).

“(7) LIMITATION.—An order issued under this subsection may not prescribe, or be construed to prescribe, any specific technical measures to be used or other actions to be taken by a service provider to comply with that order.

“(8) ADDITIONAL IDENTIFICATION.—

“(A) IN GENERAL.—At any time after the issuance of an order under this subsection, the petitioner that sought the order may move to amend the order by identifying 1 or more additional service providers to which the order should apply.

“(B) REQUIREMENTS.—The court shall grant a motion made under subparagraph (A) if the petitioner has demonstrated that the petitioner has provided each service provider identified in that motion with—

“(i) a copy of the order issued under subsection (b);

“(ii) a copy of the order issued under this subsection;

“(iii) a copy of the motion filed under this paragraph; and

“(iv) notice informing the service provider of the right of the service provider to contest the inclusion of the service provider in the motion filed under this paragraph, as provided in subparagraph (C).

“(C) OPPORTUNITY TO CONTEST.—Not later than 20 days after the date on which a service provider receives notice under subparagraph (B) with respect to a motion made under this paragraph, the service provider may appear and contest the inclusion of the service provider in that motion.

“(9) EXTENSION OF ORDER DURATION.—

“(A) IN GENERAL.—At any time before the expiration of an order issued under this subsection, as provided under paragraph (5)(B), the petitioner that sought the order may move to extend the order.

“(B) REQUIREMENTS.—The court shall grant a motion made under subparagraph (A), subject to the requirements under paragraph (2).

“(C) LENGTH OF EXTENSION.—An extension granted under this paragraph shall be for not longer than 1 year beyond the expiration of the order that is in effect, as of the date on which the extension is granted.

“(10) COST.—

“(A) IN GENERAL.—Upon motion by a service provider subject to an order issued under this subsection, the court may order the petitioner that sought the order to pay reasonable costs directly incurred by the service provider to comply with the order.

“(B) CONTENTS.—A motion made under subparagraph (A)—

“(i) shall include a detailed list of each cost described in that subparagraph;

“(ii) may not include costs for capital expenditures, infrastructure, overhead, or attorneys’ fees; and

“(iii) shall be filed not later than 60 days after the date on which the costs sought to be recovered were incurred.

“(d) SERVICE PROVIDER OBLIGATIONS AND COMPLIANCE.—

“(1) IN GENERAL.—A service provider that receives notice under subsection (c)(6) shall take reasonable measures to prevent users in the United States from using the system or network of that service provider to access the foreign digital piracy site that is the subject of the applicable order.

“(2) NOTICE TO SUBSCRIBERS.—A service provider subject to an order issued under subsection (c) may elect to inform the subscribers of the service provider attempting to access the foreign digital piracy site that is the subject of the order that access by the subscribers to the foreign digital piracy site has been denied pursuant to a judicial order to direct that denial of access.

“(3) ALLOWANCES.—A service provider subject to an order issued under subsection (c) shall not be deemed to be in violation of that order if the service provider temporarily suspends compliance by the service provider with that order when reasonably necessary—

“(A) to correct or investigate potential interference with access to material at other online locations that does not violate an exclusive right or protection afforded under this title;

“(B) to maintain the integrity or quality of the network or operations of the service provider;

“(C) to upgrade or maintain the operations or network of the service provider, including any mechanism used to implement that order; or

“(D) to prevent or respond to an actual or potential security threat to the operations or network of the service provider.

“(e) SERVICE PROVIDER IMMUNITIES.—

“(1) IMMUNITY FROM LIABILITY FOR GOOD FAITH ACTIONS AND FOR RELIANCE.—

“(A) IN GENERAL.—A service provider subject to an order issued under subsection (c) shall be immune from liability for any injury alleged by an entity described in subparagraph (B) to have occurred as a result of a measure or other action taken in good faith (or in good faith not taken) by the service provider—

“(i) to implement the order; or

“(ii) based on information provided to the service provider under subsection (c).

“(B) ENTITIES.—With respect to a service provider described in subparagraph (A), an entity described in this subparagraph means—

“(i) a user of the system or network of the service provider;

“(ii) the petitioner that sought the order issued under subsection (c) that identifies the service provider;

“(iii) the operator, or a user, of the foreign digital piracy site that is the subject of the applicable order; or

“(iv) any other third party or governmental authority.

“(2) IMMUNITY FROM LIABILITY FOR INJURY ALLEGED BY A FOREIGN DIGITAL PIRACY SITE.—A service provider subject to an order issued under subsection (c) shall be immune from liability for any injury alleged by a

foreign digital piracy site that is the subject of the order, notwithstanding any subsequent determination that the foreign digital piracy site was inaccurately identified in the order or does not meet the requirements under subsection (b).

“(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to limit the authority of a court issuing an order under subsection (c) to compel compliance with the order.

“(f) JUDICIAL REVIEW OF COMPLIANCE.—

“(1) IN GENERAL.—A measure taken or not taken by a service provider subject to an order issued under subsection (c) shall be subject to review by the court that issued the order.

“(2) CONSIDERATIONS.—A court that issues an order under subsection (c) with respect to a service provider may not determine that the service provider has failed to satisfy the obligations of the service provider under that order based on the failure of the service provider to conduct an affirmative investigation regarding the accuracy of information regarding the foreign digital piracy site that is the subject of the order, including, as applicable, the domain names and Internet Protocol addresses of that foreign digital piracy site and any updated information provided under subsection (c)(5)(C).

“(3) MOVE TO MODIFY.—If a service provider subject to an order issued under subsection (c), when implementing the order, prevents a user from accessing an online location other than the foreign digital piracy site that is the subject of the order, the operator of that other online location may move to modify or rescind that order so as to enable access to the other online location.

“(g) JUDICIAL AMENDMENT OF ORDERS.—A court, upon motion by the petitioner for an order under subsection (b) or (c), and after a determination by the court that such petitioner has demonstrated that a foreign online location previously designated in an action brought under this section to be a foreign digital piracy site is accessible or

has been reconstituted at a different domain name or Internet Protocol address, or has engaged in circumvention techniques that render the initial order ineffective, may—

“(1) amend the order issued under subsection (b) or (c) accordingly; and

“(2) provide notice of the amended order under paragraph (1) in accordance with the requirements under subsection (c)(6).

“(h) PUBLIC AVAILABILITY AND ACCESSIBILITY OF ORDERS.—

“(1) IN GENERAL.—A court shall notify the Register of Copyrights regarding any order that the court issues, amends, or rescinds under subsection (b) or (c).

“(2) AVAILABILITY ON WEBSITE.—The Register of Copyrights shall make each notification provided under paragraph (1) publicly available on the website of the Copyright Office.

“(i) RULES OF CONSTRUCTION.—Nothing in this section may be construed to affect—

“(1) the applicability or interpretation of any other provision of law or principle of equity, including—

“(A) the requirements of section 512 or any other provision of this title;

“(B) principles of secondary liability; or

“(C) section 1651 of title 28; or

“(2) the limitation on the liability of a service provider under section 512.

“(j) EFFECTIVE DATE.—This section shall take effect on the date that is 180 days after the date of enactment of the _____ Act of 2026.”.

(b) CONFORMING AMENDMENTS.—Section 502 of title 17, United States Code, is amended—

(1) in the section heading, by inserting “**and orders**” after “**Injunctions**”;

(2) in subsection (a)—

(A) by striking “may, subject to” and inserting the following: “may—

“(1) subject to”;

(B) in paragraph (1), as so designated, by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(2) subject to the provisions of section 502A, issue an order directing a service provider, as defined in that section, to take reasonable measures to prevent a foreign digital piracy site, as defined in that section, from using the system or network of that service provider to make that foreign digital piracy site available to users in the United States.”; and

(3) in subsection (b)—

(A) in the first sentence—

(i) by inserting “or order” after “such injunction”; and

(ii) by inserting “or subject to the order” before the semicolon; and

(B) in the second sentence—

(i) by inserting “or issuing the order” after “granting the injunction”; and

(ii) by inserting “or order” after “of the injunction”.

(c) TECHNICAL AMENDMENTS.—The table of sections for chapter 5 of title 17, United States Code, is amended—

(1) by striking the item relating to section 502 and inserting the following:

“502. Remedies for infringement: Injunctions and orders.”; and

(2) by inserting after the item relating to section 502, as amended by paragraph (1) of this subsection, the following:

“502A. Orders to designate and direct against foreign digital piracy sites.”.