

Questions from Senator Tillis
for Karyn Temple
Witness for the Senate Committee on the Judiciary
Subcommittee on Intellectual Property Hearing
“Foreign Threats to American Innovation and Economic Leadership”

1. How would you explain, specifically to those not steeped in intellectual property (IP) law, why IP and strong IP rights are so vital to the continued prosperity of our country?

United States policy has recognized the direct correlation between strong IP rights and economic prosperity since its founding. American leadership in IP traces back to Article 1, Section 8 of the U.S. Constitution, which granted Congress the power to “promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.” The constitutional foundation of America’s IP system has led, nearly 250 years later, to sustained growth for U.S. authors and creators that has, in turn, brought robust financial benefits to the overall U.S. economy.

Core copyright industries contribute more than \$2 trillion to the U.S. GDP, accounting for 7.66% of the U.S. economy, and employ more than 11 million workers, representing 5.43% of the total U.S. workforce.¹ Globally, foreign sales of U.S. copyright products outperform other major industries, including chemicals manufacturing, pharmaceuticals, agricultural products, and aerospace products.² In 2023, the enduring value and global appeal of U.S. entertainment earned \$23 billion in audiovisual exports.³ This industry is also one of the few that consistently generates a positive balance of trade with nearly every country in the world. In 2023, the industry’s services trade surplus was \$15.3 billion, or 6% of the total U.S. private-sector trade surplus in services.⁴ And in terms of global competition, America’s copyright industries continue to outpace the economic growth of other leading economies, including China, Germany, Japan, and India.⁵ IP protection and enforcement is the foundation upon which the US copyright industries, including the motion picture, television and streaming industry thrive. Without strong IP protection supporting the growth and development of the copyright industries a central pillar of U.S. economic strength would be lost. .

¹ Jéssica Dutra & Robert Stoner, *Copyright Industries in the U.S. Economy: The 2024 Report*, Int’l. Intell. Prop. All., at 6, 12, 20 (2025), https://www.iipa.org/files/uploads/2025/02/IIPA-Copyright-Industries-in-the-U.S.-Economy-Report-2024_ONLINE_FINAL.pdf.

² *Id.* at 18.

³ Motion Picture Ass’n, *The American Motion Picture And Television Industry: Creating Jobs, Trading Around The World*, at 2 (2023), https://www.motionpictures.org/wp-content/uploads/2025/01/MPA_Economic_contribution_US_infographic.pdf.

⁴ *Id.*

⁵ Dutra & Stoner, *supra* note 1, at 10.

2. As early-stage innovators develop new products for market, to what extent are strong IP protections necessary in raising capital?

For any IP-based product or service, strong IP protections are fundamental. This is true for well-established companies and likely even more so for early-stage innovators.

3. What IP priorities should the U.S. government pursue in ongoing dialogues with China?

Of all IP markets worldwide, China's is consistently identified as one of the most challenging for the distribution of copyrighted content, both due to the rampant pirating of foreign IP and burdensome content regulation standards.⁶ Our nation's IP is a coveted export that is distinctly American in its innovation, yet global in its appeal. The U.S. government should prioritize reducing barriers to entry for U.S. content into Chinese markets to promote maximum global success for our IP, as the film industry alone supports more than 2.5 million American jobs and \$180 billion in wages yearly. This requires ongoing dialogue with China, encouraging robust anti-piracy protections and reiterating the U.S.'s disapproval of foreign barriers to entry, such as higher censorship standards, caps on distribution of foreign media, unclear content review procedures, and restrictions on investments.⁷

4. While China is certainly the leading foreign bad actor posing a threat to U.S. innovation and economic leadership, it's not the only one.

Which countries besides China should U.S. foreign policy focus on and what are the best tools at our disposal to deal with this behavior?

In addition to China, USTR placed seven countries on the 2025 Priority Watch List. These include Argentina, Chile, India, Indonesia, Mexico, Russia, and Venezuela.⁸ Several of these countries have failed to implement legal reforms that adhere to trade agreements with the U.S., hindering market access for U.S. goods and services. Issues and behaviors of concern in these countries include lack of political will to address IP protection, lack of resources, poor enforcement of existing IP laws, insufficient statutory protections, and the outright ignoring of IP rights of private companies. To best deal with these behaviors, the U.S. should apply continued

⁶ See Int'l Intell. Prop. All., 2025 Special 301 Report on Copyright Protection and Enforcement, at 18-35 (Jan. 27, 2025), <https://www.iipa.org/files/uploads/2025/01/Website-Copy-012425.pdf> (written submission in response to United States Trade Representative's request for comments and notice of a public hearing regarding the 2025 special 301 review).

⁷ See *id.*

⁸ Press Release, Off. of the U.S. Trade Rep., USTR Releases 2025 Special 301 Report on Intellectual Property Protection and Enforcement (Apr. 29, 2025), <https://ustr.gov/about/policy-offices/press-office/press-releases/2025/april/ustr-releases-2025-special-301-report-intellectual-property-protection-and-enforcement>.

pressure via the USTR's Special 301⁹ and Notorious Markets List, and through other diplomatic methods¹⁰

5. What are the real-world impacts of foreign IP piracy on everyday Americans?

Sophisticated global digital piracy operations are constantly exploiting gaps in existing enforcement tools to continue stealing valuable copyrighted content and monetizing that content for the benefit of international criminal syndicates. Piracy is not a victimless crime—it has real-world impacts on the U.S. economy, jobs, and every-day consumers. Piracy of filmed entertainment costs the U.S. economy \$29.2 billion and over 230,000 jobs annually¹¹—jobs that support the livelihoods of American families. In addition, piracy services can directly threaten consumers' personal and financial security, including making consumers more susceptible to credit card and identity theft, as well as malware including viruses, malicious ads and pop-ups, and ransomware. These illegal services present themselves as legitimate and often look and feel that way, inducing well-meaning consumers to expose themselves to such dangers.

6. Can you highlight some “best practices” regarding piracy blocking in other countries that could inform a piracy blocking policy here in the U.S.?

From our global site blocking experiences, we can recommend several practices that can help support a balanced site blocking regime. These practices ensure not only that appropriate safeguards are put in place, but also that site blocking measures are effective and proportionate, with greater collaboration among stakeholders:

- *Precise Targeting and Proportionality.* Site blocking should be strictly targeted against pirate websites that are dedicated to making copyright-protected content available illegally and often do so on a commercial scale. Legislators and judicial courts around the world have addressed this issue by defining sites subject to blocking as those that are "structurally infringing" or those that have a "primary purpose" or "primary effect" to infringe or facilitate infringement of copyright. Site blocking injunctions that are strictly targeted against structurally infringing services also safeguard other fundamental rights.
- *Transparency.* Transparency helps ensure the balancing of fundamental rights and increases public awareness of piracy. Appropriate transparency can be achieved by publishing judicial decisions and administrative resolutions and by providing information

⁹ See Off. of the U.S. Trade Rep., Special 301, <https://ustr.gov/issue-areas/intellectual-property/special-301> (last visited June 6, 2025).

¹⁰ See Press Release, Off. of the U.S. Trade Rep., USTR Releases 2024 Review of Notorious Markets for Counterfeiting and Piracy (Jan. 8, 2025), <https://ustr.gov/about/policy-offices/press-office/ustr-archives/2007-2024-press-releases/ustr-releases-2024-review-notorious-markets-counterfeiting-and-piracy>

¹¹ DAVID BLACKBURN ET AL., IMPACTS OF DIGITAL VIDEO PIRACY ON THE U.S. ECONOMY, at ii (2019), https://www.uschamber.com/assets/documents/Digital_Video_Piracy_June_2019.pdf.

about the blocking measures on a public landing page that users see when they try to visit a blocked site. Such public landing pages should provide details of the blocking order issued by the competent authority, explaining the legal grounds on which the orders are based and indicating the procedure to follow to contest the order.

- *Dynamic Site Blocking.* Given how easily pirates can and do evade static site blocking orders by switching domain names and IP addresses very quickly, many countries have adopted what is known as dynamic site blocking,¹² with a streamlined procedure in place so that, as pirates seek to evade site blocks, the blocks can be updated without the need for the overall judicial or administrative proceedings to be reinitiated from the beginning. Under such procedures, it is usually sufficient to notify intermediaries or to request that the competent authorities update their list of domains or IP addresses that should be blocked. Dynamic live blocking injunctions are issued according to specific and streamlined procedures to ensure that pirate services are blocked ‘in real time’ (for example, during the broadcast of the live event).

7. How do Internet intermediaries participate in blocking systems in other countries? Do they only play a role when forced to do so, or do some take voluntary measures or otherwise cooperate with rightsholders to act against piracy?

In most cases internet intermediaries cooperate voluntarily with blocking systems in other countries. In countries that have an established site blocking framework, rightsholders and internet service providers (ISPs) typically have well-established cooperation, based on a regular exchange of information either directly, or government related authority. While ISPs play a key role in executing site blocking orders, the effectiveness of these measures increasingly depends on the cooperation of a broader range of intermediaries that provide essential services to piracy operators. This includes reverse proxy providers, content delivery networks (CDNs), hosting providers, virtual private networks (VPNs) and search engines. Google is a good example; it voluntarily delists websites subject to civil court orders. Other intermediaries cooperate as well. The key point is that in many cases intermediaries are willing to step up in the fight against piracy, once the legal framework is clear.

8. Some AI companies have suggested that the U.S. should unilaterally and pre-emptively declare that the wholesale ingestion of billions of copyrighted works to train large language models is fair use.

Why is this a bad idea? And just because China does it, does that mean that we should be following China’s example and join them in a race to the bottom?

The debate about whether reproduction of copyrighted works to “train” AI models constitutes copyright infringement, or is permitted by the fair use defense, has become highly polarized, with many participants staking out “all or nothing” positions on this issue. But sweeping

¹² See generally GIANCARLO FROSIO & OLEKSANDR BULAYENKO, STUDY ON DYNAMIC BLOCKING INJUNCTIONS IN THE EUROPEAN UNION: IPR ENFORCEMENT CASE-LAW COLLECTIONS (2021), <https://www.euipo.europa.eu/en/publications/dynamic-blocking-injunctions-in-the-eu>.

generalizations that training is *always*, or is *never*, lawful under the fair use doctrine are neither helpful nor correct. Congress should eschew attempts to reduce the fair use analysis to categorical pronouncements and bright-line rules about AI training and reject any calls to implement AI-specific exceptions to copyright law.

More than three dozen lawsuits raising the issue of whether AI training without the permission of the copyright owner constitutes infringement have been filed over the past two years in the U.S. and in other places around the world. Under the Copyright Act in the U.S. and the case law interpreting it, courts will apply four fair use factors to the facts before them and reach decisions in each case. If courts reach different conclusions in these cases based on the different facts before them, that is an inherent feature of fair use, which is “an equitable rule of reason,” under which “each case raising the question must be decided on its own facts.”¹³ The fair use defense enables courts to consider all the statutory fair use factors and apply them in the context of specific facts. This type of inquiry is the appropriate way to address the many types of potential infringements that may arise under the broad umbrella of “training” a generative AI system in the U.S. As of now, there is no cause to believe the courts and existing law are not up to the task of applying existing copyright law to new technology—as courts have been doing for more than a century—and thus MPA sees no reason for changes to U.S. law to resolve these fair use issues.

The U.S. is a leader in IP protection and enforcement, which has sustained our leadership around the world in the creative industries, including the film and television industry. The U.S. is also a leader in innovation, including AI development, and we need not sacrifice our success and leadership in either of these fields to maintain those positions. In fact, we are leaders in each of those respective fields *because* we set policies that align with American values, including respect for intellectual property rights. Although China has generally positive IP laws on the books, they don’t follow their own laws and widely permit the theft of IP. But we need not, as some have claimed, sink to the level of the most unscrupulous actors to keep pace in the global AI innovation race. U.S. AI policy should encourage the development of AI systems that accord respect for others’ intellectual property rights. This is particularly crucial because other countries often look to the U.S. in setting their own AI policies, and if a U.S.-led “gold standard” for AI innovation does not adequately address the protection of IP, other countries will be sure to look to exploit American’s valuable IP, inflicting harm not only on MPA’s members but on others that comprise the U.S. creative sector. And of course, it is only a short hop from disregard for the intellectual property in creative works to a disregard for the intellectual property of AI technology itself. Indeed, there are already concerns that China may be making unauthorized use of U.S. AI technology to advance its own AI industry.¹⁴

¹³ *Harper & Row, Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 560 (1985) (quoting H. R. Rep. No. 94-1476, at 65 (1976)).

¹⁴ See Stephanie Samsel, *There is a 'wake-up call' for US to be the leader in AI, says White House AI and crypto 'czar'*, Fox News (Jan. 28, 2025), <https://www.foxnews.com/media/wake-up-call-us-leader-ai-says-white-house-ai-crypto-czar>.

9. Could you explain what you see as the major issues preventing industry in the U.S. from reaching consensus on so-called site blocking legislation and share your thoughts on what congress should do?

We believe industry consensus on legislation to provide for judicial blocking of foreign sites dedicated to piracy is achievable in the near-term. Congressional leadership will be necessary, of course, and we applaud the growing bipartisan and bicameral attention to this issue.

Questions for the Record

Sen. Adam Schiff (CA)

Karyn A. Temple – Senior Executive Vice President and Global General Counsel for the Motion Picture Association

1. As you raised in your testimony, the U.S. is behind many other major countries in terms of combatting pirated content, much of which comes through foreign entities, impacting American rightsholders. EU member states like Italy, Portugal, and Germany and other countries like Australia, India, and Singapore have all voiced support for no-fault injunction systems to target the most blatantly infringing sites while ensuring due-process protections and free expression.
 - a. What is the direct impact of foreign piracy on the creators and crews behind our most beloved films and shows?

Sophisticated global digital piracy operations are constantly exploiting gaps in existing enforcement tools to continue stealing valuable copyrighted content and monetizing that content for the benefit of international criminal syndicates. Piracy is not a victimless crime—it has real-world impacts on the U.S. economy, jobs, and every-day consumers. Piracy of filmed entertainment costs the U.S. economy \$29.2 billion and over 230,000 jobs annually¹—jobs that support the livelihoods of American families.

- b. How does foreign piracy impact their livelihoods and the livelihoods of local economies beyond the scope of what’s traditionally thought of as “the entertainment industry”?

MPA is proud that the American motion picture, television, and streaming industry is a major employer of U.S. workers that supported 2.3 million jobs and \$229 billion in total wages in 2023.² Nearly 312,000 jobs were in the core business of producing, marketing, and manufacturing of motion pictures and television shows.³ Another nearly 544,000 jobs were engaged in the distribution of motion pictures and television shows to consumers, including people employed at movie theaters, video retail and rental operations, television broadcasters, cable companies, and online video services.⁴ The industry also supports indirect jobs in the hundreds of thousands across 122,000 businesses, most of which are small companies that do business with the industry such as caterers, dry cleaners, florists, hardware and lumber suppliers, and retailers.⁵ This all just a portion of the more than 11.6 million jobs supported by the combined core copyright industries in

¹ See DAVID BLACKBURN ET AL., IMPACTS OF DIGITAL VIDEO PIRACY ON THE U.S. ECONOMY, at ii (2019), https://www.uschamber.com/assets/documents/Digital_Video_Piracy_June_2019.pdf.

² See Motion Picture Ass’n, *The American Motion Picture And Television Industry: Creating Jobs, Trading Around The World* (2023), https://www.motionpictures.org/wp-content/uploads/2025/01/MPA_Economic_contribution_US_infographic.pdf.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

this country.⁶ Piracy has a domino effect on every industry that directly and indirectly supports the motion picture industry. When films and television shows are pirated, revenue that would otherwise be used to recoup the investments made in those works and that would be invested in future works is lost. This reduced investment means less job opportunities for cast and crew, fewer contracts with local businesses like caterers, florists, etc. that indirectly support film and television production, and lost opportunities for economic boon to local economies.

- c. How have other countries, in the EU for example, tackled this problem head on and what does the U.S. need to do to protect our intellectual property and the jobs supported by our IP system?

More than fifty countries around the world, including leading democracies such as Australia, Canada, the UK, Sweden and France, have adopted mechanisms to block access to digital pirate sites, and Congress can take similar action to meaningfully protect America's creative economy and consumers.

Online piracy is a complex issue that requires a multipronged solution. In addition to government prioritization of enforcement and cooperation from intermediaries, we should learn from the experiences of our global partners and implement tactics that have proven effective in other jurisdictions. As methods for distributing pirated content continue to evolve, so too must our collective response. It is imperative that new enforcement methods and technologies are developed to address the evolving piracy landscape and that other stakeholders in the internet ecosystem take a more active role in ensuring that their services are not used to facilitate these criminal organizations' activities.

MPA's experience with no-fault injunctive relief, which includes site blocking, since the early 2010s has led us to the firm conclusion that it is the most effective remedy available to combat piracy by websites based in jurisdictions where direct enforcement action is not possible. Those countries that have implemented no-fault injunctions to disable access to structurally infringing websites have demonstrated through clear evidence and multiple years of data that this remedy is effective in reducing visits to blocked piracy sites and causes users to change their behavior and migrate to legal video services. It is now time for Congress to consider providing express authority for a no-fault injunctive-relief regime that will give rights holders what more than a decade of experience around the globe has shown is an effective tool to address piracy.

⁶ See J  ssica Dutra & Robert Stoner, *Copyright Industries in the U.S. Economy: The 2024 Report*, Int'l. Intell. Prop. All., at 1 (2025), https://www.iipa.org/files/uploads/2025/02/IIPA-Copyright-Industries-in-the-U.S.-Economy-Report-2024_ONLINE_FINAL.pdf. In addition to the motion picture/television/streaming industry, core copyright industries include music, book publishing, software, videogames, photography, visual arts, and news publishing.