



Perspectives from FSF Scholars
March 3, 2025
Vol. 20, No. 12

Bill Carefully Targets Foreign Piracy Websites With Judicial Blocking Orders

by

Seth L. Cooper *

I. Introduction and Summary

On January 28, the [Foreign Anti-Digital Piracy Act](#) (Act) was introduced in the U.S. House of Representatives. The bill targets the problem of foreign online piracy websites that inflict billions in losses on American copyright owners each year and evade legal accountability. The Act provides American copyright owners with a carefully drawn legal procedure to seek tailored court orders to block access to piracy websites operating overseas. If a law similar to the proposed Act is adopted, it could curb mass online infringement of Americans' copyrights by foreign bad actors.

Importantly, the Foreign Anti-Digital Piracy Act is thoughtfully drafted to afford due process of law to foreign website operators and to broadband or other online service providers that may be implicated by blocking orders. It is also crafted to protect free speech by focusing on websites dedicated to facilitating piracy and no other real purpose. It does not apply to U.S. websites or any online speech forum. The Act includes periodic judicial review for blocking order renewals. All such orders must be posted to the Internet for transparency.

Like any proposed bill, public input and the legislative process potentially may yield constructive suggestions for sharpening or improving its provisions. Congress now should give the bill a fair hearing so it can address any legitimate concerns.

II. Foreign Website Piracy Causes Serious Harm to the U.S. Economy and Copyright Owners

Each year, American copyright owners suffer severe financial losses and destroyed economic opportunities at the hands of foreign online copyright piracy operations. The Office of the U.S. Trade Representative repeatedly has [observed](#) that commercial-scale copyright piracy causes “significant financial losses for U.S. right[s] holders and legitimate businesses” and that it “undermine[s] critical U.S. comparative advantages in innovation and creativity to the detriment of American workers.” A June 2019 [study](#) by the Global Intellectual Property Center found online piracy costs the U.S. economy \$29.2 billion in lost revenue each year. The study also found that illegal streaming and file-sharing operations cost about 250,000 American jobs yearly.

Foreign websites that host and distribute high volumes of unlawfully copied content receive tens or even hundreds of millions of visitors each year. According to a 2024 [report](#) by MUSO and Kearney, in 2023 there were 141 billion global Internet user visits to video piracy sites, a 12% increase compared to 2019. MUSO and Kearney estimated that online video piracy drained the North American media sector of \$20 billion in revenue in 2024. They projected global media revenue losses due to piracy growing 11% annually and reaching \$125 billion by 2028.

Black market Internet Protocol television (IPTV) operators, without authorization, stream vast libraries of copyrighted content, including live sports and premium channels, to Internet users across the world. Those illicit IPTV services charge their subscribers for access to pirated content and also generate revenues from online ads displayed on their websites. The global copyright piracy ecosystem includes foreign criminal “cyberlocker” websites that store content for popular foreign piracy streaming and linking websites. Also, “stream-ripping” websites based overseas allow users to make infringing downloadable digital file copies of videos and recorded music streams that are unlawfully ripped from legitimate commercial sites.

The most highly trafficked foreign piracy sites are usually well-known to U.S. copyright owners and federal government officials. For example, the U.S. Office of the Trade Representative has [identified](#) IPTV, “cyberlocker,” and stream-ripping sites operating in countries such as China, Russia, Ukraine, and Vietnam. Foreign copyright pirates are enabled by so-called “bulletproof” Internet service providers that host pirated content offshore. The shady “bulletproof” providers typically refuse to respond to copyright owner requests to take down infringing content. Further enabling overseas online piracy operations are foreign governments that willfully ignore such activities or decline to take effective action against copyright violators within their borders.

III. Existing Anti-Piracy Measures Fall Short in Stopping Traffic From Foreign Websites

In recent years, Congress and the Executive Branch have undertaken efforts to better protect Americans’ copyrighted works from mass online piracy. Those efforts include diplomatic engagement with foreign nations and upgrading unlawful commercial streaming of copyrighted content as a felony offense under federal law. But such efforts are limited in reach and effect.

Foreign countries that have rocky relations with the U.S. often have little motivation to cooperate with federal law enforcement and instead turn a blind eye to, or passively permit, piracy websites to operate in their nations. Also, federal criminal prosecutions for infringing copyrights, or streaming copyrighted content are futile when shadowy digital pirates reside and operate outside the reaches of the American legal system. Indeed, beefing up criminal and civil penalties for infringement would not curb the problem of copyright piracy taking place on foreign websites because those operations are designed to defy and evade traditional criminal and civil legal processes. Additional measures are needed to more effectively combat foreign copyright piracy.

IV. Judicial Site-Blocking: A Solution to the Problem of Foreign Copyright Piracy Websites

There is another way to meaningfully address the recalcitrant problem of mass-scale copyright piracy by foreign websites that ought to be pursued: Congress can establish a carefully tailored legal process for federal courts to issue orders requiring U.S. broadband providers or other online service providers to block Internet user access to foreign websites and online services that are dedicated entirely or overwhelmingly to copyright piracy.

The [Foreign Anti-Digital Piracy Act \(H.R. 791\)](#), which was introduced by Rep. Zoe Lofgren (D-CA), would provide copyright owners a reasonable opportunity to obtain necessary protection against imminent harm from foreign piracy websites by obtaining site-blocking orders in federal court.

If a statute like the proposed legislation is enacted, copyright owners who allege that they are suffering or likely to suffer irreparable harm from infringements by foreign websites or online services could seek a judicial order in U.S. District Court that would require third-party broadband service providers (with over 100,000 subscribers) and public domain name resolution services (with over \$100,000 million annual revenues) to prevent access to foreign websites or online services.

Courts would be empowered to grant a blocking order to an American copyright owner if certain procedural and substantive legal requirements are satisfied. Procedural requirements include a court finding that the foreign website is specifically identified by a URL, IP address, or other specific identifier, that reasonable attempts were made to provide legal service of process on the foreign website operator, and that opportunity to appear before the court and contest a blocking order was given. Substantive requirements include a court making a finding that the foreign website or online service at issue is primarily designed for infringing copyrights, lacks any significant commercial purpose other than infringing copyrights, or is intentionally marketed to promote the use of the website or service for infringing copyrights.

Also, there are other safeguards in the bill. Before entering a site-blocking order, a court must determine that the order would not interfere with user access to non-infringing material on other websites or online services, significantly burden the third-party broadband or service operators, or “disserve the public interest.” For transparency purposes, the Act would require blocking orders entered by courts to be posted to the Internet, enabling the public to ascertain pertinent information about the copyright owners, foreign websites or online services that are being blocked, dates and durations, and fact findings of the court for each order.

Under the Act, the interests of third-party broadband and other online service providers are respected by virtue of further safeguards. Those third parties are allowed to contest the entry of blocking orders or to request modifications to allow user access to foreign websites subject to the orders. The Act prevents courts from prescribing the technical measures regarding how third parties are to implement blocking orders, ensuring that broadband and other online service providers retain freedom regarding how to disable access to foreign piracy websites without interfering with their network management. And the Act expressly provides that blocking orders may not prohibit Internet users from using virtual private networks (VPNs) to access the Internet.

V. The Act Is Consistent With Constitutional Due Process and Free Speech Protections

Given the vital role of the Internet for modern-day freedom of speech and public access to knowledge and information, it is also vital that any judicial-site blocking bill be consonant with constitutional principles and that it contains safeguards for targeted and transparent application. As I wrote in an [FSF Blog post](#) from April 2024:

[D]ue process and free speech are essential starting points for any judicial site-blocking legislation worth considering. Such a bill must be tightly focused on websites that are entirely or overwhelmingly dedicated to trafficking commercial copyrighted content, not viewpoints expressed on such sites. It must authorize only a private civil cause of action and not be a potential tool for government censorship of lawful speech. Additionally, a worthy judicial site-blocking bill would avoid imposing any undue burdens or costs on compliant broadband ISPs. Also, there must be a legislative process that provides transparency on the content of bills and amendments, committee hearings, and opportunities for public input.

Upon close reading, the [Foreign Anti-Digital Piracy Act \(H.R. 791\)](#) appears to have been thoughtfully drafted to satisfy constitutional and policy imperatives. Importantly, the Act comports with due process of law. Among its provisions, the Act requires copyright owners to have made reasonable attempts to provide foreign website owners with legal service of process under Civil Rule 4 of the Federal Rules of Civil Procedure. It ensures foreign websites have the opportunity to appear and defend themselves. The Act also requires notice of service on third-party broadband and other online services, ensuring third parties have the opportunity to object to a blocking order or seek to modify its scope.

Notably, the Act is not a criminal law measure. Blocking orders issued under the Act are civil law remedies, but they do not result in civil fines or financial judgments. The blocking orders are no-fault, meaning that their entry by a court could not be used as evidence of wrongdoing against broadband or other online service providers in any future criminal or civil trial for infringement.

Additionally, blocking orders generally are limited to 12 months and subject to review for renewal or modification upon request. The Act provides that broadband or other online service providers can obtain a court order requiring that petitioning copyright owners pay for their reasonable costs and expenses directly incurred with implementing and complying with the order. These safeguards make it decidedly difficult and unlikely that the Act could be abused or misused to harm innocent parties or impair access to lawful content on the Internet.

VI. The Act Is Protective of Free Speech Interests

Very importantly, the Act also contains safeguards protective of free speech rights and interests. It should be remembered that the Act does not apply to domestic websites or site operators within U.S. jurisdiction. Instead, it is targeted to *foreign* websites that primarily infringe copyrights and serve no other use. As such, the Act is not directed at lawful speech content or particular viewpoints. Nor does it favor or disfavor particular speakers based on their viewpoints. It also requires courts to deny blocking orders that would interfere with user access to non-infringing material on other websites or online services or disserve the public interest, including the public interest in accessing information. Procedural requirements for reviewing blocking orders before renewal of blocking terms and public posting of all blocking orders constitute additional safeguards to legitimate public interests in access to knowledge and information on the Internet.

Moreover, there is no constitutional First Amendment free speech right to knowingly acquire or access unlawful copyright-infringing content. Foreign copyright piracy is an attack on private property rights of Americans. Engaging in piracy and acquiring infringing content are not protected expressive speech activities. Also, there is no “fair use” of copyrighted content at stake in the context of no-fault site-blocking orders of foreign piracy websites that do not respond to ordinary legal processes. “Fair use” is an affirmative defense applicable to the context of infringement claims and they require a defendant to appear in court and raise such a defense.

VII. Conclusion: Congress Should Give Judicial Site-Blocking Legislation a Hearing

The [Foreign Anti-Digital Piracy Act \(H.R. 791\)](#) carefully targets the problem of foreign online piracy websites that inflict billions in losses on American copyright owners each year. If passed into law, the Act – or a similar judicial site-blocking bill – could curb mass infringement by overseas bad actors. Legislation of this sort undoubtedly will receive close public scrutiny, but a close reading of the bill suggests that the Act is reasonably drafted and adheres to due process and free speech principles. Of course, the legislative process and public input potentially will yield constructive suggestions for sharpening or improving provisions in the bill as it now stands. In order for that to happen, Congress will need to give the Act the public hearing that it deserves and move forward.

* Seth L. Cooper is Director of Policy Studies and a Senior Fellow of the Free State Foundation, a free market-oriented think tank in Rockville, MD. The views expressed in this *Perspectives* do not necessarily reflect the views of others on the staff of the Free State Foundation or those affiliated with it.

Further Readings

Seth L. Cooper, “[Copyright Office Report Confirms Copyrightability of AI-Generated Works](#),” *Perspectives from FSF Scholars*, Vol. 20, No. 9 (February 19, 2025).

Seth L. Cooper, “[AI-Generated Copies of Creative Works Can Infringe Copyrights](#),” *Perspectives from FSF Scholars*, Vol. 19, No. 42 (November 22, 2024).

Seth L. Cooper, “[It Sounds Like Generative AI Music Services Are Infringing Copyrights](#),” *Perspectives from FSF Scholars*, Vol. 19, No. 24 (July 22, 2024).

Seth L. Cooper, “[American Copyright Owners Deserve Royalties When Radio Stations Use Their Property](#),” *FSF Blog* (July 5, 2024).

Seth L. Cooper, “[World IP Day 2024: Time to Step Things Up Against Online Copyright Piracy](#),” *FSF Blog* (April 26, 2024).

Seth L. Cooper, “[Music Revenue Report Should Spur Congress to Secure Copyrights Fully](#),” *FSF Blog* (March 27, 2024).

Seth L. Cooper, “[Congress and the Administration Should Move Against Online Copyright Piracy](#),” *Perspectives from FSF Scholars*, Vol 19, No. 5 (February 9, 2024).

Seth L. Cooper, “[The ‘No AI Fraud Act’ Would Secure IP Rights Consistent With the First Amendment](#),” *Perspectives from FSF Scholars*, Vol 19, No. 3 (January 26, 2024).

Seth L. Cooper, “[Copyright Case Affirming Human Creativity Sets the Stage for AI Issues](#),” *Perspectives from FSF Scholars*, Vol. 18, No. 49 (November 2, 2023).

Seth L. Cooper, “[Supreme Court Should Clarify the Law on Direct Infringement of Copyrighted Works](#),” *Perspectives from FSF Scholars*, Vol. 18, No. 38 (September 20, 2023).

Seth L. Cooper, “[Internet Archive to Face the Music for Mass Copyright Infringement](#),” *Perspectives from FSF Scholars*, Vol. 18, No. 36 (September 7, 2023).

Seth L. Cooper, “[Supreme Court’s Andy Warhol ‘Fair Use’ Decision Favors Judicial Modesty and Copyrights in Derivative Works](#),” *Perspectives from FSF Scholars*, Vol. 18, No. 23 (June 12, 2023).

Seth L. Cooper, “[Copyright Owners Should Be Protected From Digital First Sale Schemes](#),” *Perspectives from FSF Scholars*, Vol. 17, No. 54 (October 27, 2022).