118TH CONGRESS
2D 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.

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IN THE SENATE OF THE UNITED STATES

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Mr. WELCH introduced the following bill; which was read twice and referred to the Committee on _____

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# 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) GENERATIVE ARTIFICIAL INTELLIGENCE

20 MODEL.—The term 'generative artificial intelligence

21 model' means an artificial intelligence model that

22 emulates the structure and characteristics of input

23 data in order to generate derived synthetic content,

24 which may include images, videos, audio, text, and

25 other digital content.

3

1      "(4) MODEL DEVELOPER OR DEPLOYER.—The

2   term 'model developer or deployer' means a person

3   that develops or deploys a generative artificial intel-

4   ligence model.

5      "(b) REQUEST.—The legal or beneficial owner of an

6   exclusive right under a copyright, or a person authorized

7   to act on the owner's behalf, may request the clerk of any

8   United States district court to issue a subpoena to a model

9   developer or deployer for disclosure of copies of, or records

10  sufficient to identify with certainty, the copyrighted works,

11  or any portion thereof, likely owned or controlled by the

12  legal or beneficial owner that were used by the model de-

13  veloper or deployer to train the generative artificial intel-

14  ligence model, if the legal or beneficial owner or authorized

15  person has a subjective good faith belief that the model

16  developer or deployer used some or all of 1 or more such

17  copyrighted works to train the generative artificial intel-

18  ligence model.

19     "(c) CONTENTS OF REQUEST.—A request under sub-

20  section (b) may be made by filing with the clerk—

21         "(1) a proposed subpoena; and

22         "(2) a sworn declaration to the effect that—

23             "(A) the legal or beneficial owner or au-

24         thorized person has a subjective good faith be-

25         lief that the model developer or deployer used

1 some or all of 1 or more of the copyrighted

2 works owned or controlled by the legal or bene-

3 ficial owner to train the generative artificial in-

4 telligence model;

5 "(B) the purpose for which the subpoena is

6 sought is to obtain copies of the training mate-

7 rial, or records sufficient to identify with cer-

8 tainty the training material, used to train the

9 generative artificial intelligence model in order

10 to determine whether the model developer or

11 deployer has used copyrighted works owned or

12 controlled by the legal or beneficial owner in

13 connection with the generative artificial intel-

14 ligence model; and

15 "(C) the copies or records will only be used

16 for the purpose of protecting the rights of the

17 legal or beneficial owner.

18 "(d) CONTENTS OF SUBPOENA.—A subpoena issued

19 pursuant to a request under subsection (b) shall authorize

20 and order the model developer or deployer receiving the

21 subpoena to expeditiously disclose to the legal or beneficial

22 owner or authorized person all records described in that

23 subsection.

24 "(e) BASIS FOR GRANTING SUBPOENA.—If a pro-

25 posed subpoena described in subsection (c)(1) is in proper

1 form, and the accompanying declaration described in sub-
2 section (c)(2) is properly executed, the clerk shall expedi-
3 tiously issue and sign the proposed subpoena and return
4 it to the requester for delivery to the model developer or
5 deployer.

6     "(f) ACTIONS OF MODEL DEVELOPER OR DEPLOYER
7 RECEIVING SUBPOENA.—Upon receipt of a subpoena
8 issued under subsection (e), a model developer or deployer
9 shall expeditiously disclose to the legal or beneficial owner
10 or authorized person the copies or records requested by
11 the subpoena.

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

20     "(h) REBUTTABLE PRESUMPTION.—If a model devel-
21 oper or deployer fails to comply with a subpoena issued
22 under subsection (e), that failure shall provide a rebutta-
23 ble presumption that the model developer or deployer
24 made copies of the copyrighted work.

6

1    ''(i) EFFECTIVE DATE.—This section shall take ef-

2 fect on the date of enactment of this section.''.

3    (b) TECHNICAL AND CONFORMING AMENDMENT.—

4 The table of sections for chapter 5 of title 17, United

5 States Code, is amended by adding at the end the fol-

6 lowing:

"514. Subpoena for copies or records relating to artificial intelligence models.''.