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CONTENT & TECHNOLOGY POLICY REPORT MARCH 22, 2024



I. Congressional Updates:

- On Tuesday, March 19, House Small Business Committee Ranking Member Nydia M. Velázquez (D-NY) released a report exploring the impact of the increasing popularity of generative artificial intelligence on America’s small content creators. According to the press release, “GenAI threatens the livelihoods of small creators, given the technology’s ability to generate content faster and cheaper than creative professionals and the use of these creators’ work, without their permission, to train their GenAI competitors... GenAI firms’ unlicensed use of these creators’ work compounds the intensity of this competition and adds layers of unfairness. Small creators not only have their work used without compensation, but also see their work improve the software which could push them out of business.” The report examines a number of policy recommendations to protect small creators such as (1) requiring GenAI firms to disclose unlicensed contents of their training datasets, (2) creating licensing and opt-out schemes for the use of online content in GenAI training, (3) government-made training datasets, and (4) watermarking GenAI outputs. “The increasing popularity of GenAI tools, and their ability to make content more quickly and cheaply than small creators, poses a serious threat to their livelihoods. We can already see AI’s potential to threaten to push America’s small creators out of business,” said Ranking Member Velázquez. “It’s vital that Congress clearly understands the threat these technologies could pose to small businesses and take adequate steps to protect small creators. For a full copy of the report, click [here](#).
- On Tuesday, March 19, Senators Peter Welch (D-VT) and Ben Ray Lujan (D-NM) introduced the *Artificial*

Headlines and Highlights:

- House Small Business Committee Report Outlines Impact of Artificial Intelligence on Small Content Creators
- Artificial Intelligence Consumer Opt-In, Notification Standards, and Ethical Norms for Training (AI CONSENT) Act Introduced
- Protecting Consumers from Deceptive AI Act Introduced
- Copyright Royalty Judges Publish Correcting Amendment to Determination of Royalty Rates and Terms for Making and Distributing Phonorecords (Phonorecords IV)
- YouTube Adds New AI-Generated Content Labeling Tool

In the Blogs:

- **Hugh Stephens Blog:** [DMCA Copyright Infringement? The Perils of Relying on AI](#)
- **IPWatchdog:** [Amid Approval of EU AI Act, Creators Demand Stronger Protections for Rightsholders](#)
- **The Verge:** [Apple’s AI ambitions could include Google or OpenAI](#)

Intelligence Consumer Opt-In, Notification Standards, and Ethical Norms for Training (AI CONSENT) Act. The bill would require online platforms to obtain consumers' express informed consent before using their personal data to train artificial intelligence models. The legislation places enforcement of the law to the Federal Trade Commission (FTC) and also directs them to study the efficacy of data de-identification. "The *AI CONSENT Act* gives a commonsense directive to artificial intelligence innovators: get the express consent of the public before using their private, personal data to train your AI models. The potential of AI is, without question, enormous—but it's a tool that requires guardrails and transparency for the consumer. This legislation will help strengthen consumer protections and give Americans the power to determine how their data is used by online platforms. We cannot allow the public to be caught in the crossfire of a data arms race, which is why these privacy protections are so crucial," said Senator Welch. Learn more about the bill [here](#), read the press release [here](#), and read the full text of the bill [here](#).

- On Thursday, March 21, Reps. Anna Eshoo (D-CA-16) and Neal Dunn (R-FL-02) introduced the *Protecting Consumers from Deceptive AI Act*. The bill aims to direct the development of standards for identifying and labeling AI-generated content and requiring generative AI developers and online platforms to provide disclosures on AI-generated content. Both Reps. Eshoo and Dunn are members of the new House AI Task Force. "The rise of innovation in the world of artificial intelligence is exciting; however, it has potential to do some major harm if left in the wrong hands," said Rep. Dunn. "The *Protecting Consumers from Deceptive AI Act* protects Americans from being duped by deepfakes and other means of deception by setting standards for identifying AI generated content. Establishing this simple safeguard is vital to protecting our children, consumers, and our national security." Original cosponsors include Reps. Don Beyer (D-VA-8) and U.S. Congresswoman Valerie Foushee (D-NC-4). Supports of the bill include the American Society for Collective Rights Licensing (ASCRL), the Authors Guild, and the Society of Composers & Lyricists (SCL). The press release can be found [here](#) and a copy of the legislation can be found [here](#).

II. Administration Updates

- On Wednesday, March 20, the Copyright Royalty Judges published a correcting amendment to the regulations governing terms for making and distributing physical and digital phonorecords to add capitalization to certain defined terms and to correct a term regarding late fees. For details regarding the correcting amendment, click [here](#).

III. USCO Updates:

- The U.S. Copyright Office sent an invitation for the public to register for the upcoming online webinar, "Copyright Essentials: Copyright Myths Explained" on March 27, 2024, at 1:00 p.m. eastern time. The office will plan to discuss what is and is not true when it comes to copyright, copyright basics, functions of the Copyright Office, and additional educational resources. Speakers will include Jessica Chinnadurai and Laura Kaiser from the Office of Public Information and Education. Those interested can register to attend [here](#).
- In February, the U.S. Copyright Office published a [notice of proposed rulemaking](#) (NPRM) proposing to create a new group registration option for two-dimensional artwork. The new

option, which will be known as “GR2D,” would allow applicants to register up to ten pictorial or graphic works which are created by the same author/copyright claimant published within a 30-day time period. The proposed filing fee for this new option is \$85. Comments are due to the Copyright Office by April 1.

- In January, the US Copyright Office issued a notification of inquiry seeking public comments regarding its periodic review of the designations of the mechanical licensing collective and digital licensee coordinator. Initial submissions from the existing designees must be received on April 1, 2024. Initial public comments must be received on May 29, 2024. Reply public comments must be received on June 28, 2024. Reply submissions from the existing designees must be received on July 29, 2024. More details are available on the rulemaking's webpage [here](#).

IV. Industry Updates:

- On Monday, March 18, *The Verge* reported that YouTube has added a new AI-generated content labeling tool. The platform announced a way for creators to self-label when their videos contain AI-generated material. Creators are required to disclose “altered or synthetic” content that seems realistic such as making a real person say or do something they didn’t; altering footage of real events and places; or showing a “realistic-looking scene” that didn’t actually happen. Some examples YouTube offers are showing a fake tornado moving toward a real town or using deepfake voices to have a real person narrate a video. While this tool is currently based on the honor system, YouTube spokesperson Jack Malon previously told *The Verge* that the company was “investing in the tools” to detect AI-generated content, though AI detection software is historically highly inaccurate. Read more [here](#).
- On Wednesday, March 20, a group of rock musicians, who had previously signed contracts with record labels now under the ownership of Universal Music Group (UMG) during the 1970s and 80s, announced they reached a settlement in a lawsuit against UMG concerning their efforts to reclaim their copyrights. The lawsuit originated from a provision in U.S. copyright law that grants artists the right to terminate their copyright-transfer agreements and reclaim their rights after several decades under specific circumstances. The musicians accused UMG of rejecting their termination notices and continuing to sell their music without their consent, while UMG contended that the songs were “works made for hire” and thus exempt from the termination right. Read more [here](#).
- On Wednesday, March 20, *Wired* reported that a group of researchers backed by the French government have released what is thought to be the largest AI training dataset composed entirely of text that is in the public domain (Common Corpus), and the nonprofit Fairly Trained announced that it has awarded its first certification for a large language model built without copyright infringement. “There’s no fundamental reason why someone couldn’t train an LLM fairly,” says Ed Newton-Rex, CEO of Fairly Trained. He founded the nonprofit in January 2024 after quitting his executive role at Stability AI because he disagreed with its policy of scraping content without permission. According to the article, Fairly Trained offers a certification to companies willing to prove that they’ve trained their AI models on data that they own, have licensed, or that is in the public domain. The first recipient of a Fairly Trained certificate is an LLM called KL3M developed by Chicago-based legal tech consultancy startup 273 Ventures. The company’s cofounder, Jillian Bommarito, says the

decision to train KL3M in this way stemmed from the company’s “risk-averse” clients like law firms. “They’re concerned about the provenance, and they need to know that output is not based on tainted data,” she says. “We’re not relying on fair use.” The clients were interested in using generative AI for tasks like summarizing legal documents and drafting contracts but didn’t want to get dragged into lawsuits about intellectual property as OpenAI, Stability AI, and others have been. Read more [here](#).

- On Thursday, the United Nations approved a resolution on artificial intelligence safety. Proposed by the United States and co-sponsored by 123 other countries, the resolution includes a “comprehensive vision” for nations’ deployment and use of AI technology and how countries should respond to its benefits and challenges. According to *The Hill* the resolution offers guidance to countries on the international use of AI, including its risks, privacy protection and the prevention of misuse, bias and discrimination, National Security Advisor Jake Sullivan said. Developed with the help of “civil society and private sector experts,” he said the resolution touches upon the priorities of developing countries, including how AI can advance sustainable development. Read more [here](#).