

119TH CONGRESS
1ST SESSION

H. R. 791

To amend title 17, United States Code, to provide for blocking orders relating to specifically identified infringing foreign websites or online services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2025

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

A BILL

To amend title 17, United States Code, to provide for blocking orders relating to specifically identified infringing foreign websites or online services, and for other purposes.

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 “Foreign Anti-Digital
5 Piracy Act or ‘FADPA.’”

1 **SEC. 2. BLOCKING ORDERS RELATING TO SPECIFICALLY**
2 **IDENTIFIED INFRINGING FOREIGN WEBSITES**
3 **OR ONLINE SERVICES.**

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

7 **“§ 502A. Blocking orders relating to specifically iden-**
8 **tified infringing foreign websites or on-**
9 **line services**

10 “(a) PRELIMINARY ORDER.—

11 “(1) PETITION.—A covered person may file a
12 petition in a United States District Court for the
13 issuance of a preliminary order declaring that—

14 “(A) with respect to the transmission of
15 work protected under section 106 through a
16 foreign website or online service—

17 “(i) the transmission of such work
18 likely infringes the exclusive right of the
19 covered person under section 106 to repro-
20 duce, distribute, publicly perform, or pub-
21 licly display such work; and

22 “(ii) the covered person is likely to
23 suffer irreparable harm as a result of such
24 infringement; or

1 “(B) with respect to the imminent trans-
2 mission of a live event on or through a foreign
3 website or online service—

4 “(i) the transmission will likely in-
5 fringe the exclusive right of the covered
6 person under section 106 to reproduce, dis-
7 tribute, publicly perform, or publicly dis-
8 play such work; and

9 “(ii) the covered person will likely suf-
10 fer irreparable harm as a result of such in-
11 fringement.

12 “(2) ISSUANCE.—The court shall issue the
13 order described in paragraph (1) if the court finds
14 the following:

15 “(A) The petitioner includes in the peti-
16 tion, the internet protocol address, a domain
17 name, or other similar online identifier of the
18 foreign website or online service identified in
19 the petition.

20 “(B) The petitioner attempted to serve the
21 operator of the foreign website or online service
22 identified in the petition with notice of the ac-
23 tion and the petition in accordance with Rule 4
24 of the Federal Rules of Civil Procedure.

1 “(C) With respect to each service provider
2 the petitioner has identified through a reason-
3 ably diligent investigation as providing a service
4 with respect to the foreign website or online
5 service identified in the petition, the petitioner
6 provided notice of the infringing activity to—

7 “(i) the agent of service provider des-
8 igned pursuant to section 512(c)(2) to
9 receive notifications of claimed infringe-
10 ment; or

11 “(ii) if the service provider does not
12 have such an agent, in accordance with
13 Rule 4 of the Federal Rules of Civil Proce-
14 dure.

15 “(D) The petitioner certifies in the petition
16 that after conducting a reasonably diligent in-
17 vestigation based on publicly available informa-
18 tion the petitioner—

19 “(i) determines that the operator of
20 the foreign website or online service identi-
21 fied in the petition is physically located
22 outside of the United States; or

23 “(ii) cannot determine that the oper-
24 ator of the foreign website or online service

1 is physically located within the United
2 States.

3 “(E) The foreign website or online service
4 identified in the petition—

5 “(i) is primarily designed or primarily
6 provided for the purpose of infringing
7 copyright;

8 “(ii) has no commercially significant
9 purpose or use other than infringing copy-
10 right; or

11 “(iii) is intentionally marketed by or
12 at the direction of the operator of the for-
13 eign website or online service to promote
14 the use of the website or online service in
15 the infringement of copyright.

16 “(F) Upon penalty of perjury, the Peti-
17 tioner has attested—

18 “(i) to the best of the knowledge of
19 the petitioner, to the accuracy of the assere-
20 tions of the petitioner regarding the for-
21 eign website or online service identified in
22 the petition, or the operator thereof; and

23 “(ii) that the petition was filed with a
24 substantial connection to enforcing the ex-
25 clusive rights of the petition under this

1 title, including to protect economic inter-
2 ests derived from such rights.

3 “(3) NON-ISSUANCE OF PRELIMINARY
4 ORDER.—A court may not issue the order described
5 under paragraph (1) if the court finds that—

6 “(A) the infringement of the petitioner’s
7 exclusive right by the foreign website or online
8 service has ceased entirely; and

9 “(B) there is not a reasonable possibility
10 that such infringing activity will resume.

11 “(4) CONTESTING THE PRELIMINARY ORDER.—
12 Not later than 30 days after a petition described
13 under paragraph (1) is filed, the operator of the for-
14 eign website or online service identified in such peti-
15 tion may appear and contest the issuance of the
16 order concerned.

17 “(5) APPOINTMENT OF MASTER TO ASSIST
18 COURT.—

19 “(A) APPOINTMENT.—If the operator of a
20 foreign website or online service identified in a
21 petition filed under paragraph (1) does not ap-
22 pear and contest the issuance of the preliminary
23 order pursuant to paragraph (4), the Court
24 may, in its discretion, appoint a master pursu-
25 ant to Rule 53 of the Federal Rules of Civil

1 Procedure to assist in determining whether the
2 criteria in paragraph (2) have been satisfied for
3 the purpose of issuing such order.

4 “(B) AUTHORITIES.—The master may
5 gather and review publicly available information
6 relating to whether the criteria in paragraph
7 (2) have been satisfied.

8 “(C) NO EFFECT ON PROCEEDINGS.—The
9 appointment of a master shall not unduly delay
10 the proceedings or impose excessive costs on the
11 court or the petitioner.

12 “(6) TIME FOR ISSUING PETITION.—The court
13 shall determine whether to issue an order on the
14 basis of a petition filed under paragraph (1), or deny
15 such order—

16 “(A) following the timely filing of an oppo-
17 sition and a 14-day period for reply;

18 “(B) after the period for filing an opposi-
19 tion has expired; or

20 “(C) in the case that the petitioner is al-
21 leging that irreparable harm will likely occur as
22 a result of the imminent transmission of a live
23 event or ongoing unauthorized transmission of
24 a live event is occurring, on an expedited basis

1 that effectively addresses the imminent or con-
2 tinuing harm identified in the petition.

3 “(7) IMMINENT TRANSMISSION OF A LIVE
4 EVENT.—In the case that the petitioner is alleging
5 that irreparable harm will likely occur as a result of
6 the imminent transmission of a live event by a for-
7 eign website or online service or ongoing unauthor-
8 ized transmission of a live event is occurring by a
9 foreign website or online service, the court may issue
10 an order under this subsection on an ex parte basis
11 with respect the transmission.

12 “(b) BLOCKING ORDERS TO PREVENT ACCESS TO
13 FOREIGN WEBSITE OR ONLINE SERVICE.—

14 “(1) IN GENERAL.—

15 “(A) MOTION.—At any time after a court
16 has issued an order pursuant to subsection (a),
17 the petitioner may move for an order directing
18 each service provider that received notice of the
19 order under subsection (a) to take reasonable
20 and technically feasible measures to prevent
21 users of the service provided by the service pro-
22 vider from accessing the foreign website or on-
23 line service identified in the order.

1 “(B) NOTICE.—The petitioner shall serve
2 both the applicable order and motion on each
3 such service provider.

4 “(C) OTHER COURTS.—If the court that
5 issues the order pursuant to subsection (a) does
6 not have jurisdiction over a service provider, the
7 petitioner may institute a miscellaneous action
8 and file the motion described under subpara-
9 graph (A) with any court of the United States
10 that has jurisdiction over such service provider.

11 “(2) ISSUANCE OF ORDER.—

12 “(A) COURT DETERMINATION BEFORE
13 GRANTING ORDER.—The court may not issue
14 an order under paragraph (1) unless the court
15 determines that implementation of the order
16 will not—

17 “(i) interfere with user access to non-
18 infringing material on another website or
19 online service;

20 “(ii) significantly burden the service
21 provider, including the operation of the
22 system or network of the service provider;
23 or

24 “(iii) disserve the public interest.

1 “(B) TERMS AND CONDITIONS OF
2 ORDER.—Any order under subsection (b)(1)
3 shall—

4 “(i) require the service provider to
5 comply with the order—

6 “(I) with respect to an order that
7 does not relate to the imminent public
8 performance of a live event—

9 “(aa) not later than 15 days
10 after the order is issued; or

11 “(bb) not later than 20 days
12 after the order is issued if the
13 court finds good cause has been
14 shown for such an extension; and

15 “(II) with respect to an order
16 that relates to the imminent public
17 performance of a live event, by a date
18 after the order is issued—

19 “(aa) that takes into ac-
20 count—

21 “(AA) the imminent
22 nature of the infringement;

23 “(BB) the capabilities
24 of the service provider; and

1 “(CC) what is tech-
2 nically feasible for the serv-
3 ice provider; and

4 “(bb) that is not later than
5 7 days after the order is issued;
6 and

7 “(ii) expire with respect to a service
8 provider—

9 “(I) except as provided in sub-
10 clauses (II) and (III), 12 months after
11 the service provider is served under
12 subsection (b)(1), unless the expira-
13 tion date is extended by the issuing
14 court pursuant to paragraph (6);

15 “(II) if the order relates to the
16 public performance of one live event,
17 48 hours after the conclusion of the
18 public performance of the live event;
19 or

20 “(III) if the order relates to the
21 public performance of more than one
22 live event, 48 hours after the conclu-
23 sion of the public performance of the
24 final live event covered in the order.

1 “(C) LIMITATION.—An order issued under
2 this subsection may not—

3 “(i) prescribe any specific technical
4 measures to be used or other actions to be
5 taken by a service provider to comply with
6 such order; or

7 “(ii) require a service provider to take
8 an action that would prevent a user of the
9 service provided by the service provider
10 from using a virtual private network.

11 “(3) AMENDING ORDER TO ADD ADDITIONAL
12 SERVICE PROVIDERS.—

13 “(A) MOTION.—At any time after the
14 issuance of an order under this subsection, the
15 petitioner may move to amend the order to
16 apply to one or more additional service pro-
17 viders—

18 “(i) over which the court has jurisdic-
19 tion; and

20 “(ii) that the petitioner has identified
21 through a reasonably diligent investigation
22 as providing a service with respect to the
23 foreign website or online service identified
24 in the petition, the petitioner provided no-
25 tice of the infringing activity to—

1 “(I) the agent of service provider
2 designated pursuant to section
3 512(c)(2) to receive notifications of
4 claimed infringement; or

5 “(II) if the service provider does
6 not have such an agent, in accordance
7 with Rule 4 of the Federal Rules of
8 Civil Procedure.

9 “(B) CONTENTS OF MOTION.—The motion
10 to amend shall—

11 “(i) explain why each service provider
12 named in the motion was not included in
13 the order initially; and

14 “(ii) be served on each service pro-
15 vider named in the motion.

16 “(C) OPPOSITION TO MOTION.—Any serv-
17 ice provider served with a motion to amend
18 under subparagraph (B) may appear and op-
19 pose the motion not later than 20 days after
20 the date on which such service provider was
21 served such motion.

22 “(D) REVIEW OF MOTION.—The Court
23 may not amend the order to apply to an addi-
24 tional service provider unless the court makes

1 the determination described under paragraph
2 (2)(A) with respect to such service provider.

3 “(E) EXPIRATION OF ORDER.—The order
4 shall expire with respect to any additional serv-
5 ice providers included in the order pursuant to
6 this paragraph on which the order expires for
7 the last service provider described under para-
8 graph (2) is served pursuant to subsection
9 (b)(1).

10 “(4) AMENDING ORDER TO ADD ADDITIONAL
11 DOMAIN NAMES OR INTERNET PROTOCOL ADDRESS-
12 ES.—Unless otherwise determined by a court when
13 granting the order, a court may, upon motion by the
14 petitioner, amend such order to include additional
15 domain names or internet protocol addresses if it de-
16 termines that the foreign website or online service
17 that is the subject of the order—

18 “(A) remains accessible or has been recon-
19 stituted at a different domain name or internet
20 protocol address than those included in the peti-
21 tion filed under subsection (a), rendering the
22 initial order ineffective; or

23 “(B) has engaged in circumvention tech-
24 niques that render the initial order ineffective.

25 “(5) IMPLEMENTATION OF THE ORDER.—

1 “(A) REVIEW.—In determining whether a
2 service provider has complied with an order
3 under this subsection, the court shall limit its
4 review to determining whether the measures
5 used, or actions taken or not taken by the serv-
6 ice provider to implement such order were un-
7 reasonable or taken in bad faith to avoid com-
8 plying with the order.

9 “(B) MODIFICATION.—If a service pro-
10 vider, in the course of implementing an order
11 issued under this subsection, prevents a user of
12 the service provided by the service provider
13 from accessing a website or online service other
14 than the foreign website or online service identi-
15 fied in the order, the operator of such other
16 website or online service may file a motion with
17 the court to modify the order so the user may
18 access the other website or online service.

19 “(C) TEMPORARY SUSPENSION OF IMPLE-
20 MENTATION.—A service provider subject to an
21 order issued under this subsection shall not be
22 in violation of such order if the service tempo-
23 rarily removes any measures put in place to
24 prevent access to a foreign website or online
25 service—

1 “(i) when reasonably necessary to cor-
2 rect or investigate whether the implemen-
3 tation of the order by the service provider
4 is preventing access to a website or online
5 service other than the foreign online
6 website or online service identified in the
7 order; or

8 “(ii) to maintain the integrity or qual-
9 ity of the network or operations of the
10 service provider.

11 “(D) COST.—Upon a motion by a service
12 provider served with an order issued under sub-
13 section (c) that includes a detailed list of rea-
14 sonable marginal costs and expenses (except for
15 capital expenditures, costs and expenses in-
16 curred with respect to infrastructure, and attor-
17 ney fees) directly incurred by the service pro-
18 vider to implement and comply with the order,
19 the court that issued such order may require
20 the petitioner to pay such costs and expenses.

21 “(6) EXTENSION OF ORDER.—

22 “(A) IN GENERAL.—At any time prior to
23 the expiration of an order not related to the
24 public performance of a live event issued under
25 this subsection, or any extension thereof, the

1 petitioner may move to extend such order for
2 an additional period not exceeding 12 months.

3 “(B) GRANT.—The court shall grant the
4 motion under subparagraph (A) if the court
5 finds that during the period of such order—

6 “(i) the operator of the foreign
7 website or online service has not ceased
8 transmitting such work that is the subject
9 of the motion;

10 “(ii) the transmission of such work
11 likely infringes the exclusive of right of the
12 covered person under section 106 to repro-
13 duce, distribute, publicly perform, or pub-
14 licly display such work; and

15 “(iii) the petitioner is likely to suffer
16 irreparable harm as a result of such in-
17 fringement.

18 “(7) TRANSPARENCY OF ORDERS.—

19 “(A) AVAILABILITY THROUGH PUBLICLY
20 ACCESSIBLE WEBSITE.—With respect to an
21 order issued under this subsection by a court,
22 the court that issued such order shall make
23 available through a publicly accessible website
24 and without undue delay after the issuance of
25 the order (or any amendment to such order)—

1 “(i) the order;

2 “(ii) the name of the petitioner;

3 “(iii) each foreign website or online
4 service identified in the order, including
5 the domain names and internet protocol
6 addresses of each such website or online
7 service;

8 “(iv) the date on which the order was
9 issued;

10 “(v) the duration of the order, includ-
11 ing the expiration date; and

12 “(vi) a summary of the findings of the
13 court under subsection (a)(2) with respect
14 to the order.

15 “(B) LIMITATION.—If the court deter-
16 mines that disclosure of certain information
17 would render the order ineffective, pose a sig-
18 nificant risk to national security, personal safe-
19 ty, or an ongoing law enforcement investigation,
20 the court may order that such information be
21 redacted from the publicly available documents.

22 “(8) SERVICE PROVIDER IMMUNITY.—

23 “(A) IN GENERAL.—In the case that the
24 court that issues an order under this section de-
25 termines in accordance with paragraph (5)(A)

1 that a service provider that is in compliance
2 with such order, the service provider may not be
3 held liable for the following:

4 “(i) Any injury alleged by a foreign
5 website or online service, or the users of
6 such website or online service, to have oc-
7 curred as a result of measures or other ac-
8 tions taken to implement such order with
9 respect to such website or online service.

10 “(ii) Any injury alleged by a foreign
11 website or online service, or the users of
12 such website or online service, to have oc-
13 curred as a result of measures or other ac-
14 tions taken or not taken in good faith by
15 such service provider to implement such
16 order with respect to such website or on-
17 line service based on information provided
18 to such service provider under this sub-
19 section.

20 “(iii) Any injury alleged by an oper-
21 ator of a foreign website or online service
22 identified in the order resulting from ac-
23 tions taken or not taken in good faith by
24 such service provider to implement such
25 order, regardless of any subsequent deter-

1 mination that such specific website or serv-
2 ice was inaccurately identified in such
3 order and does not meet the criteria de-
4 scribed in subsection (a)(2).

5 “(iv) With respect to the foreign
6 website or online service that is the subject
7 of such order, a claim of copyright in-
8 fringement against such service provider
9 initiated on or after the date of enactment
10 of FADPA by the copyright owner that ob-
11 tained such order, to the extent such claim
12 is based on the role of such service pro-
13 vider in providing access to such website or
14 online service before the date of the enact-
15 ment of FADPA.

16 “(B) INADMISSIBILITY.—The issuance of
17 an order under this subsection that identifies a
18 service provider, or a finding that a service pro-
19 vider has complied with an order issued under
20 this subsection, may not be admitted into evi-
21 dence to support an allegation that such service
22 provider has engaged in infringement of copy-
23 right in any action brought by any party in
24 United States District Court.

1 “(C) RULE OF CONSTRUCTION.—Nothing
2 in this paragraph may be construed as limiting
3 the authority of the court to—

4 “(i) determine whether a service pro-
5 vider is in compliance with an order issued
6 pursuant to this subsection; or

7 “(ii) to compel compliance with such
8 order.

9 “(c) RELATIONSHIP TO SECTION 512(A) IMMUN-
10 NITY.—A service provider identified in an order under this
11 section may not lose liability protection under section
12 512(a) on the basis of such identification.

13 “(d) RULE OF CONSTRUCTION.—Except as explicitly
14 provided in this section, nothing in this section may be
15 construed as affecting the interpretation or application of
16 any provision of section 512;

17 “(e) DEFINITIONS.—In this section:

18 “(1) COVERED PERSON.—The term ‘covered
19 person’ means a copyright owner or an exclusive li-
20 censee of a copyright owner.

21 “(2) BROADBAND PROVIDER.—The term
22 ‘broadband provider’ means a provider of broadband
23 internet access service, as defined in section 8.1(b)
24 of title 47, Code of Federal Regulations (or any suc-
25 cessor regulation)—

1 “(A) that provides such service to 100,000
2 or more subscribers; and

3 “(B) is subject to or consents to the juris-
4 diction of the court.

5 “(3) FOREIGN WEBSITE OR ONLINE SERVICE.—
6 The term ‘foreign website or online service’ means a
7 website or online service operated by a foreign per-
8 son.

9 “(4) FOREIGN PERSON.—The term ‘foreign per-
10 son’ means an individual—

11 “(A) physically located outside of the
12 United States; or

13 “(B) whose physical location cannot be de-
14 termined to be within the United States.

15 “(5) LIVE EVENT.—The term ‘live event’ means
16 an event that is performed publicly (such as a con-
17 cert, sporting event, or award show)

18 “(6) PUBLIC DOMAIN NAME RESOLUTION SERV-
19 ICES.—The term ‘public domain name resolution
20 services’ means domain name resolution services
21 that are accessible to the general public.

22 “(7) SERVICE PROVIDER.—The term ‘service
23 provider’—

24 “(A) means—

25 “(i) a broadband provider, and

1 “(ii) a provider of public domain
2 name resolution services that has an an-
3 nual revenue of over \$100 million; and

4 “(B) does not include—

5 “(i) service providers that provide do-
6 main name system resolution functions or
7 services exclusively through encrypted
8 DNS protocols; or

9 “(ii) service providers that exclusively
10 provide virtual private network (VPN)
11 services, or similar services that encrypt
12 and route user traffic through inter-
13 mediary servers; or

14 “(iii) an operator of a premises, such
15 as a coffee shop, bookstore, airline, private
16 end-user network, library, or university,
17 that acquires broadband internet access
18 service from a provider or entity described
19 under subparagraph (A) to enable patrons
20 of the premises to access broadband inter-
21 net service from the premises.

22 “(8) TRANSMISSION OF A LIVE EVENT.—The
23 term ‘transmission of a live event’ means the digital
24 transmission of a live event—

1 “(A) simultaneously or nearly simulta-
2 neously with the live occurrence or public per-
3 formance of the event; and

4 “(B) for a commercial purpose.

5 “(i) ‘digital transmission’ includes,
6 but is not limited to, transmission by sat-
7 ellite broadcasting.

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

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

14 “(B) masks the internet protocol address
15 of such user.

16 “(10) WEBSITE OR ONLINE SERVICE.—The
17 term ‘website or online service’ means a website or
18 uniquely identifiable online location that is—

19 “(A) accessible to the public within the
20 United States; and

21 “(B) identifiable by a single internet pro-
22 tocol address, a domain name, or other similar
23 online identifier.”.

24 (b) EFFECTIVE DATE.—This Act, and the amend-
25 ment made by subsection (a), shall take effect on the date

1 that is six months after the date of the enactment of this
2 Act.

○