


# Copyright: A Foundation for App Makers






Intellectual property (IP) is the creation of the mind: inventions, literary and artistic works, symbols, names, and images; any truly original creation can benefit from IP protection. Nations around the world enforce and protect the rights of inventors and creators to control access to and the use of their works. IP laws protect software like mobile apps as literary works and, in your district, companies large and small rely heavily on IP protections. Strong IP protections like copyright safeguard the creativity and innovation of ACT | The App Association members—and with the global revolution of artificial intelligence (AI), copyright has never been more open to interpretation. As the \$6.3 trillion app ecosystem continues to expand, our members’ ability to create jobs and develop innovative software products and services depends on clear and enforceable copyright protections globally.

## App Developers and Copyright

Solving problems with software almost always involves licensing the software others have written too, and today developers often rely on generative artificial intelligence (AI) assistants to help write code and create other kinds of content. As both licensee and licensor, app makers generally seek a balanced approach to copyright policy and law, enabling flexible use of copyrighted work as well as the ability to take the necessary measures to discover and prevent piracy. Unfortunately, app makers experience significant loss of revenue each year from piracy and counterfeits, with estimates as high as [\\$46 billion annually](#). Piracy threatens not only a developer’s ability to innovate, invest, and hire but also end-user confidence when consumers become victims of illegal distributors who pose as legitimate sellers. Counterfeit apps can lead to customer data loss, interruption of service, device malfunction, and risk to data privacy and security.

## To Support Copyright Protections for App Developers We Urge Congress to:

- **Maintain Strong IP Protection:** The Digital Millennium Copyright Act (DMCA), which supports a balanced digital marketplace of products and services that protects both creators and users. The protections in the DMCA that prohibit hacking and allow creators to protect their works online with technological protection measures have enabled exponential growth in technological innovation. Congress should oppose measures that would diminish the strength of copyright protections for software and content creators.
- **With Generative AI, Look Before You Leap:** The 119th Congress is likely to consider a variety of proposals to address emerging copyright issues around generative AI. In the 118th Congress, Members introduced bills including the NO FAKES Act (H.R. 9551 / S. 4875, 118th) and the No AI FRAUD Act (H.R. 6943, 118th). In general, these measures are designed to protect content creators by establishing a federal right of publicity against the use of their likeness, voice, or other attributes without their consent, including where generative AI is involved. Although the creation of such a federal right is not inherently unworkable, measures like this must appropriately account for the treatment of First Amendment rights, secondary liability for AI providers, and other reasonable exceptions.



Provisions like these would be necessary to help avoid shutting down the beneficial use of generative AI for software and content development through unnecessarily broad forms of liability. The COPIED Act (S. 4674, 118th), which would empower the National Institute of Standards and Technology (NIST) to support the development of transparency guidelines and standards for content provenance information, watermarking and synthetic content detection, was also introduced in the 118th Congress. The bill would help bring along the standards development process as it aims to produce a standard content holders could rely on to protect and enforce their works against certain text and data mining procedures taken by AI systems. While the concept of the COPIED Act holds promise for content creators, this bill is unworkable if evident NIST funding issues are not adequately addressed and if important exemptions to the bill, including where AI training on a work may be evaluated by a court for “fair use,” are not addressed.

***Don't Let Big Tech Drive the AI Copyright Train:*** The app ecosystem is an example of successful and sustained innovation built on existing laws. Small and large businesses in every congressional district are creating exciting products and services that provide critical solutions and opportunities in every sector of today's economy. It is imperative that their interests be represented in discussions around intellectual property and technology issues. Larger technology companies will fight for their own interests, which do not always align with small businesses in your districts. Any law dealing with AI and copyright must specifically address the interests of small copyright holders and users.