



June 29, 2026

The Honorable Darrell Issa

The Honorable Hank Johnson

House Judiciary Committee

Subcommittee on Courts, Intellectual Property, Artificial Intelligence, and the Internet

United States House of Representatives

Washington, DC 20510

Dear Chairman Issa and Ranking Member Johnson:

The video game industry has produced some of the world's most iconic and beloved fictional characters, including many realistic-looking ones found in games like *Tomb Raider*, *Call of Duty*, *Red Dead Redemption*, and *The Last of Us*, to name a few. The industry has also pioneered the realistic digital renderings of athletes, with millions of Americans powering up their devices to enjoy video games embodying today's most popular professional sports, such as baseball, basketball, football, and hockey, among others.

More than 212 million Americans play our games today, representing 67 percent of the population and making video games one of the most popular forms of entertainment in the nation. Our industry also has an outsized economic impact: we create and support more than 250,000 jobs across the United States, while contributing \$65.5 billion to U.S. GDP last year. The Entertainment Software Association (ESA) takes seriously its responsibility to protect these valuable works for our member companies as well as the millions of Americans who enjoy playing our games. Given this, we appreciate the committee exploring the potential impact of the NO FAKES Act on intellectual property, as well as the protection and enforcement of IP rights through site blocking.

The NO FAKES Act as currently drafted in both the House and Senate creates a level of uncertainty that poses a real threat to existing games and to the future of video game development in the United States. Importantly, the bill makes no distinction between harmful deepfakes and legitimate digital replicas, such as those in video games. The breadth of its current definition of "digital replica" threatens to engender frivolous lawsuits by those who may, even by coincidence, resemble a game character, especially one of the



thousands of background characters present in video games. While the industry would likely prevail against such claims in court in the end, the time and expense of litigating such suits would be economically devastating.

Additionally, the NO FAKES Act creates liability for certain tools and services that are used to create digital replicas. Our companies have been honing digital technology for many years to create lifelike, interactive, fictional worlds loved by millions. Many of these tools are available to customers to create their own unique game characters. We are concerned that the bill, as drafted, fails to adequately differentiate between tools and services built specifically to enable the creation of harmful digital replicas, and the potential for third-party abuse of innovative, multi-purpose and otherwise legitimate tools capable of creating digital replicas.

There are other problems with the bill as well, and ESA has offered common-sense solutions to narrow this legislation in a way that addresses legitimate harms.

Unfortunately, some proponents of the bill have resisted accommodating our unique concerns. Unlike other stakeholder products, video games are entirely digital creations. While you may have heard there is no serious opposition to the bill, I am writing to register our industry's concerns with the bill as currently written. We would be grateful for your leadership and partnership in revising this legislation so that it does not devastate our industry and the video games that Americans know and love to play.

ESA also appreciates the committee's outreach to diverse stakeholders as you work on crafting site blocking legislation. The protection and enforcement of IP rights is paramount for the video game industry. ESA member companies have global operations and manage massive IP portfolios in countries around the world. Many video game franchises may be familiar to you—such as the *Super Mario* franchise, including the movie (which was one of the highest-grossing animated films of all time), to multiplayer online game platforms such as *Fortnite*, a game that boasts 650 million players around the world. To protect members' valuable intellectual property, ESA maintains a robust global content protection program on their behalf, including making appropriate use of site blocking tools that exist in some overseas markets.

Video games have undergone an evolution in content development, content delivery and user engagement over the years resulting in a variety of experiences and business models. These range from single-player "one-and-done" games to platform experiences like multiplayer live service games to games that thrive with authorized user contributions to the games themselves. This means that in addition to the creation of content, including



the story, characters, and music, video game companies also operate and maintain the game ecosystem, which can lead to a variety of enforcement challenges.

Which is why, as copyright owners who run platforms, our members have been carefully considering the various viewpoints in the ongoing conversation on site-blocking, taking the perspective that a site-blocking process should comport with the Constitution and contain sufficient safeguards. ESA is looking forward to continuing to engage with the Committee to ensure proposals include well-crafted definitions, clear parameters, and judicial review and oversight. We also want to highlight that for the video game industry, mass scale commercial sites that provide American consumers with devices and software to circumvent our IP and security protections represent a major problem. To the extent the Committee moves forward with legislation on site-blocking, we support the process of crafting a site-blocking bill that meets the aforementioned rule-of-law requirements, and we believe that circumvention sites should be included as part of any meaningful effort to stem piracy.

We look forward to working with you and your staff on solutions to the potentially devastating impacts on video games from the NO FAKES Act, as well as site-blocking proposals, with the objective of crafting approaches that target the real bad actors, while being respectful of due process and the legitimate use of digital replicas in video games.

Sincerely,

A handwritten signature in black ink, which appears to read 'Stanley Pierre-Louis'.

Stanley Pierre-Louis

President & CEO

Entertainment Software Association