

VIA ELECTRONIC TRANSMISSION

October 27, 2022

The Honorable Kathi Vidal  
Under Secretary of Commerce for Intellectual Property and  
Director of the U.S. Patent and Trademark Office  
U.S. Patent and Trademark Office  
600 Dulany Street  
Alexandria, VA 22314

Ms. Shira Perlmutter  
Register of Copyrights and Director  
U.S. Copyright Office  
101 Independence Ave, S.E.  
Washington, D.C. 20559

Dear Director Vidal and Register Perlmutter,

We write you today as champions of strong intellectual property rights, who take great interest in the research, development, and application of emerging technologies and how these technologies impact our innovation economy. This interest includes considering how best to secure intellectual property rights for emerging technologies and how best to assess what impact these technologies have on intellectual property rights.

The relationship between intellectual property rights and emerging technology, specifically artificial intelligence (AI), has come to the global forefront over the past few years. This has prompted healthy debate and raised novel legal questions as to whether or not AI related inventions are eligible for intellectual property protections. This debate continues and, due to its relevance, is no longer confined solely to the issue of intellectual property rights.

We understand that both of your agencies have taken the position that under existing intellectual property laws AI generated inventions are not eligible for protection. We agree and support your position that this is the correct interpretation and understanding of **current law**. However, we are equally as interested in **what the law should be** in the future. In other words, we are considering what changes, if any, may need to be made to our intellectual property laws in order to incentivize future AI related innovations and creations.

To assist us in this effort, we ask that your agencies jointly establish a national commission on AI. The goal of this commission should be to assess the role of AI across all aspects of our innovation economy and consider what changes to existing law, if any, should be made in order to continue encouraging the robust development of AI and AI generated inventions and creations. In addition to considering changes to existing law, this national commission should also consider what new legal frameworks may be needed in order to appropriately balance the proper scope of protections for AI related innovations and creations. This could include creating new forms of protections, like sui generis rights, or other measures the commission may think appropriate.

The commission should be as diverse as possible in order to ensure the most robust recommendations. Therefore, in constituting this commission, we ask that your offices ensure appropriate, adequate, and equitable representation from all interested stakeholders across government, academia, private sector industries, public advocacy groups, and general thought leaders. We believe such a combination and balance of interests will produce the most constructive recommendations.

This commission should be established by October 17, 2023, and it should seek to complete its work and make its report to Congress by December 31, 2024. Your prompt attention to this matter is greatly appreciated. Please confirm receipt of this letter and let us know by November 28, 2022 that you will establish such a commission. If you have any questions, please do not hesitate to contact us.

Sincerely,



Thom Tillis  
United States Senator



Chris Coons  
United States Senator