



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT DECEMBER 8, 2017



I. Congressional Updates:

- On Wednesday, December 13th at 2:30 pm the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights will hold a hearing titled “The Consumer Welfare Standard in Antitrust: Outdated or a Harbor in Sea of Doubt?” Read more [here](#).
- On Tuesday, December 12th at 2:00 pm the House Foreign Affairs Subcommittee on Terrorism, Nonproliferation, and Trade will hold a hearing titled “The Future of the North American Free Trade Agreement.” The witnesses will be John Negroponte, Former Deputy Secretary of State and former Director of National Intelligence; Daniel Allford, president of ARC Specialties; Eric Farnsworth, vice president of the Council of the Americas; and Celeste Drake from the American Federation of Labor and Congress of Industrial Organizations. Read more [here](#).
- Rep. John Conyers (D-MI) announced on Tuesday that he is retiring from Congress, effective immediately. Rep. Jerrold Nadler (D-NY) has been serving as Acting Ranking Member of the House Judiciary Committee since Conyers stepped down from the Ranking Democratic position last week. Rep. Zoe Lofgren (D-CA) has already [announced](#) her intention to run for the Ranking Member position, and we anticipate that there will be a House Democratic Steering vote followed by a full House Democratic Caucus vote for the “permanent” position later this month. Read more [here](#).
- On Thursday morning, Phil Bredesen, Democrat of Tennessee, announced his intention to challenge Rep. Marsha Blackburn (R-TN-7) for the open Senate seat in

Headlines and Highlights:

- ACTION for Trade and Creative Rights Caucus to hold hill briefing on promoting creativity in NAFTA.
- Rep. Conyers resigns from Congress, Reps. Lofgren and Nadler announce intention to run for “permanent” House Judiciary ranking member slot.
- European Commission recommends moving to Phase 2 of Brexit negotiations, citing “sufficient progress.”

In the Blogs:

[Google’s End Run on the Canadian Supreme Court’s De-Indexing Order: Strengthening Arguments for Site Blocking](#)

Hugh Stephens Blog
December 4 by Hugh Stephens

[On Cake, Creativity, & Religion in America](#)

The Illusion of More
December 5 by David Newhoff

[Maria Schneider Outlines Net Neutrality Boondoggle](#)

Illusion of More
December 1 by Illusion of More

the state. Bredesen is the former Governor of Tennessee, serving from 2003 to 2011, and is the last Democrat to win a statewide election in Tennessee. Read more [here](#).

- Senator Al Franken (D-MN) announced on Thursday that he will resign in the “coming weeks” following allegations of sexual harassment. Franken serves as ranking member on the Senate Judiciary Committee’s Subcommittee on Privacy, Technology and the Law. Initials [reports](#) indicate that Minnesota Governor Mark Dayton (D) will appoint Minnesota Lieutenant Governor Tina Smith to fulfill the remainder of Franken’s term. Read more [here](#).

II. Judicial Updates:

- On Thursday, Oracle asked the U.S. Court of Appeals for the Federal Circuit to resurrect its copyright case alleging Google “improperly used Oracle’s Java development platform to create the Android operating system.” Google has countered Oracle’s accusation by claiming that their use of Java code is protected under fair use. Read more [here](#).
- Lego announced on Thursday that a Chinese court has ruled in its favor, finding that two Chinese companies infringed Lego’s copyright by selling blocks similar to those in the Lego Friends line. Read more [here](#).

III. Administration Updates:

- Sen. Chuck Grassley (R-IA), a senior member of the Senate Finance Committee who has met with USTR Lighthizer and Commerce Sec. Ross in recent weeks, told *POLITICO* Morning Trade this week that he sees no sign of President Trump abandoning his tough negotiating stance on the North American Free Trade Agreement (NAFTA).

IV. International Updates:

- Canada’s chief NAFTA negotiator Steve Verheul said on Monday that Canada is “struggling” to develop outcomes that the United States will be able to characterize as a “win.” He said that Canada has been doing its “due diligence in thinking about” a potential U.S. withdrawal from NAFTA, including working on sector-specific “contingency” plans. Verheul also said that were the U.S. to give notice that it intends to withdraw from NAFTA, Canada would work with U.S. industry in an attempt to prevent that outcome. Read more [here](#).
- The Australian government has [introduced](#) new copyright safe harbor legislation that grants safe harbor protection to entities such as educational institutions and libraries, but not to internet companies like Google and Facebook. Read more [here](#). Separately, on Monday Australia’s Competition and Consumer Commission announced that it would probe whether platforms like Google and Facebook “are exercising market power in commercial dealings to the detriment of consumers, media content creators and advertisers.” Read more [here](#).
- The European Commission recommended to the European Council on Friday that “sufficient progress” has been made in Brexit talks to allow negotiations to proceed to Phase 2, covering trade and the UK’s future relationship with the EU. Read more [here](#).

V. Industry Updates:

- YouTube plans to launch a paid music service next spring, according to *Bloomberg*. The paper reports that Warner Music Group “has already signed on,” and talks are ongoing with Sony Music Entertainment, Universal Music Group, and Merlin. Read more [here](#).
- A *CNBC* investigation has found that “pirated video streams of televised National Football League games are widespread on Facebook and on Google’s YouTube service.” *CNBC* notes that the pirated streams “were made easier to find thanks to the search software of both companies,” and even though the companies frequently shut down the illicit streams, “a determined online viewer willing to jump from one feed to another can watch long portions of games that otherwise would be unavailable in their region or require a subscription.” Read more [here](#).
- Google has blocked access to its YouTube service on Amazon’s Echo Show and Fire TV products, citing a “lack of reciprocity” from Amazon, which “doesn’t carry Google products like Chromecast and Google Home, [and] doesn’t make Prime Video available for Google Cast users.” In response, Amazon said that “Google is setting a disappointing precedent by selectively blocking customer access to an open website.” Read more [here](#).
- On Tuesday, December 19th at 12:00 pm ACTION for Trade, in partnership with the Creative Rights Caucus, will host a lunch briefing titled “How a Modernized NAFTA Can Promote Creativity and Innovation.” RSVP to the event [here](#).
- The eCO Registration System will be offline for maintenance from 9:00PM ET on Friday, December 15 through 6:45PM ET on Sunday, December 17.