



AMERICAN CONTINENTAL GROUP

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## CONTENT & TECHNOLOGY POLICY REPORT JUNE 23, 2017



### I. Congressional Updates:

- Senate Finance Committee Chairman Orrin Hatch (R-UT) has issued a request for public comment on tax reform. The Chairman is asking for “tax stakeholders to provide ideas, proposals, and feedback on how to improve the American tax system.” In particular, Hatch is looking for recommendations on tax relief for the middle class through individual income tax reform; lower tax rates on businesses; removing impediments and disincentives for savings and investment; and “updating our international tax system in order to make our nation more competitive in the global economy and preserve our tax base.” Stakeholders may submit comments to the Senate Finance Committee by July 17, 2017. Read more [here](#).
- Michael Platt, Rep. Marsha Blackburn’s (R-TN) chief of staff, has been [nominated](#) to serve as Assistant Secretary of Commerce for Legislative and Intergovernmental Affairs. He previously served as Rep. Blackburn’s Legislative Director, handling intellectual property, trade, and telecommunications issues. He has also worked for the Recording Industry Association of America (RIAA) and for TechNet.
- In an interview with *The Atlantic*, Rep. Ro Khanna, whose district includes much of Silicon Valley, said that the recently-announced Amazon-Whole Foods merger is “a case study for how we think about antitrust policy.” He suggested that the Department of Justice and Federal Trade Commission should review a broad set of factors related to the merger, such as the potential for predatory pricing and the amplification of Amazon’s “online dominance into the physical retail space.” Khanna expressed concern that the merger could reduce wages for

### Headlines and Highlights:

- USTR Lighthizer testifies before Senate Finance on President’s Trade Agenda.
- Elsevier wins copyright lawsuit against SciHub.
- Tesla reportedly in talks to create its own music streaming service.
- Rep. Ro Khanna says Amazon-Whole Foods merger is “case study for how we think about antitrust policy.”

### In the Blogs:

#### [Slants Trademark Decision May Have Other IP Implications](#)

The Illusion of More  
June 21 by David Newhoff

#### [Girl Guides of Canada Oppose Copyright Term Extension! What Next?](#)

Hugh Stephens Blog  
June 19 by Hugh Stephens

#### [Open Access Policy In International Organisations](#)

IP Watch  
June 19 by Elise De Geyter

workers both at Whole Foods and at its suppliers, and also worried that the merger could have a negative impact on local grocers. Overall, Khanna argued that antitrust policy should be reoriented such that it takes into account a wide range of “factors of economic concentration,” such as negative effects on wages, small businesses, and innovation within an industry. When asked whether there is a “group of people in and around D.C. who are rethinking antitrust policy,” Khanna said that Rep. Rick Nolan (D-MN) is interested in starting a monopoly caucus in Congress, and that he has had discussions with Senator Elizabeth Warren (D-MA) and the New America Foundation.

- On June 23, the House Legislative Branch Subcommittee on Appropriations held a [markup](#) on its [bill](#) to make appropriations for fiscal year 2018. The bill would provide the Copyright Office with \$72,011,000, of which not more than \$35,218,000 is derived from collections of fees.
- On Wednesday, U.S. Trade Representative Robert Lighthizer testified at a Senate Finance Committee hearing on the President’s trade policy agenda and budget for the office of the U.S. Trade Representative (USTR). Lighthizer highlighted four of the Administration’s trade priorities. First, the President plans to renegotiate the North American Free Trade Agreement (NAFTA), with negotiating rounds beginning as soon as August 16, 2017. Lighthizer stated that the Administration “intend[s] to move very quickly” on NAFTA renegotiation. On July 17, USTR will publish a detailed summary of negotiating objectives. Second, the Administration seeks to advance a strong enforcement agenda, including holding other countries accountable for trade violations. USTR has a number of potential WTO dispute resolution cases under review now. Third, the President seeks to open markets to U.S. exports. Towards this end, the Administration is currently engaged in conversations with all major trading partners about lowering trade barriers that harm U.S. companies, workers, farmers, and ranchers. Finally, the President aims to lower the nation’s trade deficit. The first three objectives are intended to advance this final, fourth objective. Several senators addressed intellectual property and technology issues during the hearing. For example, Chairman Hatch (R-UT) said that a renegotiated NAFTA should “improve online IP-enforcement to combat digital piracy in Canada and in Mexico,” and Senator Thune (R-SD) urged Lighthizer to appoint senior level officials focused on digital trade at USTR.

## II. Judicial Updates:

- On June 21<sup>st</sup>, science publisher Elsevier won a copyright infringement lawsuit against SciHub, the Library of Genesis (LibGen), and other websites that provide illicit access to research papers and books. The New York District Court awarded Elsevier \$15 million in damages. Maria A. Pallante, President and CEO of the Association of American Publishers—a trade group that Elsevier belongs to—praised the ruling, saying “The court has not mistaken illegal activity for a public good. On the contrary, it has recognized the defendants’ operation for the flagrant and sweeping infringement that is really is and affirmed the critical role of copyright law in furthering scientific research and the public interest.” Read more [here](#).

## III. Administration Updates:

- The USPTO will hold a public meeting on “measuring the impact of voluntary initiatives undertaken to reduce intellectual property infringement, such as copyright piracy and trademark counterfeiting, that occurs online.” In particular, topics covered will include

“methods and metrics for conducting empirical research on the digital economy; evaluating the effectiveness of self-regulatory regimes; case studies of certain private sector initiatives; the role of voluntary undertakings in raising consumer awareness; stemming revenue flows to bad actors; and lessons learned and next steps.” The meeting will be held on July 17 at the USPTO headquarters in Alexandria, Virginia. Read the Federal Register notice [here](#).

- The White House held multiple events with technology industry stakeholders this week as part of its themed ‘Tech Week.’ On Monday, the American Technology Council (ATC) held a summit on modernizing and improving the operations of the federal government, mainly through the use of technology and best practices from the private sector. Attendees included representatives from Microsoft, Amazon, Oracle, Adobe, Qualcomm, SAP, Apple, and Google. Topics of discussion included cloud computing, improving citizen services, data analytics, and immigration. On Tuesday, tech industry stakeholders, such as the Information Technology Industry Council and the Internet & Television Association, discussed tax reform with Gary Cohn and Treasury Secretary Steve Mnuchin. Read more from *Recode* [here](#). On Thursday, the White House held an event focused on emerging technologies, inviting executives from venture capital firms and wireless and drone companies. Companies attending the event included AT&T, T-Mobile, Verizon, General Electric, PrecisionHawk, AirMap, 500 Startups, Revolution, and Lightspeed Venture Partners. Read more [here](#) and [here](#).

#### **IV. International Updates:**

- Werner Baumann, CEO of Bayer, told reporters this week that talks with the EU antitrust authorities regarding the takeover of U.S. company Monsanto “were very good and constructive,” leading many to believe the deal will be finalized by the end of 2017. Baumann also indicated EU regulators would likely launch an in-depth analysis of the transaction, which would create the largest seeds and crop chemicals provider. Read more [here](#).

#### **V. Industry Updates:**

- The Copyright Office has released [redlines](#) comparing the current version of the Compendium of Copyright Office Practices (Third), which was released in December 2014, and the public draft of Compendium (Third), which was released on June 1, 2017. The Office has extended the deadline to provide comments until July 30, 2017. Read more [here](#).
- Recode is reporting this week that carmaker Tesla is in talks with the major music labels about creating its own music streaming service. Music label sources, the report indicates, believe Tesla is interested in offering multiple tiers of service, “starting with a Pandora-like web radio offering.” Read more [here](#).