



AMERICAN CONTINENTAL GROUP

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## CONTENT & TECHNOLOGY POLICY REPORT FEBRUARY 9, 2018



### I. Congressional Updates:

- On Monday, the Senate voted 94-0 in favor of Andrei Iancu's nomination to serve as the next Director of the United States Patent and Trademark Office (USPTO). Senate Finance Chairman Orrin Hatch (R-UT) released a [statement](#) applauding the confirmation of Iancu, [as did](#) House Judiciary Chairman Bob Goodlatte (R-VA). Read more [here](#).
- On Wednesday, February 14<sup>th</sup> at 10:00 a.m. the Senate Commerce Committee will hold a nominations hearing for the President's nominees to serve as Federal Trade Commissioners. The nominees include Joseph Simons, to be FTC Chairman and Rohit Chopra, Noah Phillips, and Christine Wilson to serve as FTC Commissioners. Read more [here](#).
- On Tuesday, February 13<sup>th</sup> at 10 a.m., Mick Mulvaney, Director of the Office of Management and Budget (OMB), will appear before the Senate Budget Committee to discuss "The President's FY2019 Budget Request." Read more [here](#).
- This week, Sen. Mark Warner (D-VA), the top-ranking Democrat on the Senate Intelligence Committee, warned that YouTube's recommendation algorithm may be "optimizing for outrageous, salacious and often fraudulent content" after an investigation by *The Guardian* found that the Google-owned platform promoted divisive and conspiratorial videos damaging to the 2016 Clinton campaign. "Companies like YouTube have immense power and influence in shaping the media and content that users see," Warner said. "I've been increasingly concerned that the recommendation engine algorithms

### Headlines and Highlights:

- Senate confirms Andrei Iancu as next USPTO Director.
- Senate Commerce to hold nomination hearing for four FTC nominees.
- Bipartisan group of Senators introduce CLASSICS Act to pay artists for pre-72 digitally transmitted sound recordings.
- Current OSTP staff at around 50, down from 115 in Obama era, POLITICO reports.

### In the Blogs:

[4<sup>th</sup> Circuit Remands \*BMG v. Cox\*, But...](#)

Illusion of More

February 2 by David Newhoff

[Canada and New Zealand: Both Wrestling with Offshore Piracy and Both Seeking an Effective Solution](#)

Hugh Stephens Blog

February 4 by Hugh Stephens

[Inside Views: Analysis Of The Working Group On Enhanced Cooperation On Public Policy Issues Pertaining To The Internet](#)

IP Watch

February 5 by IP Watch

behind platforms like [YouTube](#) are, at best, intrinsically flawed in optimizing for outrageous, salacious and often fraudulent content.” Read more [here](#).

- Senate Minority Leader Chuck Schumer announced this week that Sen. Bob Menendez (D-NJ) would reclaim his position as the top Democrat on the Senate Foreign Relations Committee after federal prosecutors last week dropped corruption charges against him. Sen. Benjamin Cardin (D-MD), who served as interim Ranking Member, will remain on the committee and also serve as the Ranking Member on the Small Business and Entrepreneurship Committee. Read more [here](#).
- On Thursday, a bipartisan group of senators led by U.S. Sens. Chris Coons (D-DE) and John Kennedy (R-LA) introduced the Compensating Legacy Artists for their Songs, Service, & Important Contributions to Society Act (CLASSICS). This legislation would bring pre-1972 sound recordings into the federal system, thus allowing artists and owners of such recordings to be fully compensated when their music is digitally transmitted. Read more [here](#).

## **II. Judicial Updates:**

- This week, music photographer James Fortune filed a copyright infringement lawsuit against Fox News for allegedly using Fortune’s photo of Led Zeppelin founder Jimmy Page without obtaining a license or authorization. Fortune is seeking \$150,000 in damages. Read more [here](#).

## **III. Administration Updates:**

- On Thursday, POLITICO Morning Tech reported new staff updates in the White House Office of Science and Technology Policy (OSTP). They reported that “[m]ore than 20 new people have joined the office since the start of President Trump’s term.” They went on to say that the total size of OSTP is around 50 people, down significantly from the Obama era, when it totaled around 115. Read more [here](#).
- On Wednesday, POLITICO reported that Senate Finance Committee Republicans met with President Trump to discuss trade and the ongoing NAFTA renegotiations and urge the President not to withdraw from the pact. “This is not something to be treated lightly,” said Sen. Cornyn (R-TX) after the meeting, adding that the GOP did not want “all the good economic news that’s been coming out as a result of the regulatory rollback and the tax bill to be negated by economic shock caused by some misstep on NAFTA.” Sen. Scott (R-SC), who had placed a hold on two USTR nominees in response to a lack of communication from USTR, lifted his hold after the meeting, saying he felt his concerns were addressed.

## **IV. International Updates:**

- On Tuesday, the European Commission accepted a request from a number of member countries to assess whether or not Apple’s recent \$400 million acquisition of British music app Shazam will adversely affect competition. Read more [here](#).
- On Wednesday, Canadian Prime Minister Justin Trudeau said in a speech at the University of Chicago that Canada “might very well be better off” not signing up to an updated version of NAFTA rather than accepting a bad deal. “I’ve been very, very clear. We are

going to expect a good deal, a fair deal,” said Trudeau. “We will not be pushed into accepting any old deal and no deal might very well be better for Canada than a bad deal.” Read more [here](#).

## V. Industry Updates:

- On Saturday, February 3<sup>rd</sup>, Kevin Carty, a researcher and reporter for the Open Markets Institute, published an op-ed in the *New York Post* titled “Tech giants are the robber barons of our time” in which he discusses how tech companies can “dominate sectors without actually producing anything in those markets.” Carty uses Apple and Facebook as examples, writing that Apple does not produce music but it nonetheless controls a huge portion of the music industry, while Facebook does not produce news but news organizations are highly dependent on the platform. “And these corporations continue to expand,” Carty writes. “Amazon, for instance, has entered the grocery business—via its buyout of Whole Foods—and just last week announced a new healthcare project.” Read more [here](#).
- On Tuesday, Caryl M. Stern, President and CEO of UNICEF USA, wrote an op-ed on CNN urging Congress to pass the Stop Enabling Sex Traffickers Act (SESTA), legislation that would amend Section 230 of the Communications Decency Act so that it “no longer shields websites from state and civil liability for criminal activities conducted by third parties on their platform.” “Let's work together to harness the opportunities of the digital age while taking the measures to protect children from trafficking and other threats they can encounter online,” Stern writes, adding that passing SESTA “is a step toward building a safer internet and a better future for all children.” Read more [here](#).
- On Friday, February 23<sup>rd</sup> from 10:30 a.m. to 11:30 a.m. the Washington International Trade Association will hold an event titled “The Governor and the Premier on NAFTA: A View from the States and Provinces”, featuring Colorado Governor John Hickenlooper (D) and Premier Kathleen Wynne of Ontario, Canada. According to the press release, the Governor and Premier will “discuss critical aspects” of the NAFTA renegotiation “to their state and province, and the impact on workers, firms, investors and consumers at the local level.” Read more [here](#).