



AMERICAN CONTINENTAL GROUP

1800 M Street NW | 5th Floor | Washington D.C. 20036
Tel: (202) 327-8100 | Fax: (202) 327-8101

CONTENT & TECHNOLOGY POLICY REPORT JULY 13, 2018



I. Congressional Updates:

- On Wednesday, Democratic members of the House Ways and Means Committee sent a letter to Chairman Kevin Brady (R-TX) asking him to hold a hearing on the administration's recent trade actions. "[W]ith the proliferation and escalation of tariffs, the U.S. economy and the global economy are on edge," the members wrote. "We cannot pretend that this is business as usual." Read more [here](#).
- On Tuesday, July 17th at 10 a.m. the House Judiciary Committee is set to hold a hearing titled "Facebook, Google and Twitter: Examining the Content Filtering Practices of Social Media Giants." While the witness list has not been finalized, reports indicate that executives from Facebook, Twitter and Google will attend. Read more [here](#).
- On Wednesday, July 18th at 9:15 a.m. the House Energy and Commerce Subcommittee on Digital Commerce and Consumer Protection will hold a hearing on "Oversight of the Federal Trade Commission 2018." Read more [here](#).
- On Wednesday, the House Small Business Committee held a hearing entitled "Innovation Nation: How Small Businesses in the Digital Technology Industry Use Intellectual Property". The panel of witnesses included Mr. Frank Cullen, Vice President of U.S. Policy, The Global Innovation Policy Center, U.S. Chamber of Commerce; Mr. Morgan Reed, President, The App Association; Mr. Christopher Mohr Vice President for Intellectual Property and General Counsel, Software & Information Industry Association; and Mr. Chris Israel, Executive Director, Alliance for U.S. Startups &

Headlines and Highlights:

- House Ways and Means Democrats send letter to Chairman Brady asking for hearings on recent trade actions.
- Democratic Federal Trade Commissioner Rohit Chopra hires Lina Khan, a critic of growing market power of U.S. tech companies.
- European Parliament rejects draft reforms to change EU copyright laws.
- House Judiciary to hold hearing on content filtering with Google, Facebook and Twitter executives.

In the Blogs:

[New Paper Takes on the Myth of Free](#)

Illusion of More

July 12 by David Newhoff

[Inside Dale Chihuly's Studio "The Boathouse"](#)

Hugh Stephens Blog

July 10 by Hugh Stephens

[CA Supreme Court in Hassell Reveals Sec. 230 is a Catch-22](#)

Illusion of More

July 5 by David Newhoff

Inventors for Jobs. Chairman Chabot opened the hearing by acknowledging the vital role intellectual property (IP) plays in promoting the innovation of products. However, he noted that the process of obtaining IP protections can be extensive and difficult to navigate, particularly for small businesses. Watch the entire hearing [here](#).

II. Judicial Updates:

- On Thursday, in *Raytheon Co. v. Indigo Sys. Corp.*, the Federal Circuit upheld a denial of Raytheon's motion for judgment as a matter of law. The district court found that Indigo did not misappropriate two Raytheon trade secrets related to producing infrared cameras. Raytheon claimed that Indigo acquired the trade secrets through hiring former Raytheon employees. On appeal, the parties disputed both the scope of the trade secrets and whether Indigo had misappropriated them. The Federal Circuit found that Raytheon's trade secrets covered only its specific processes, explaining that a plaintiff's "burden of defining its trade secret with specificity" required distinguishing the subject matter covered by the trade secret from "information clearly in the public domain." It said Raytheon could not broaden the scope of the trade secrets on appeal after presenting evidence at trial concerning only its specific processes, particularly given evidence that the general techniques were commonly known. The Federal Circuit also found that substantial evidence supported the conclusion that Indigo employees independently developed its techniques, which were "significantly different than those of Raytheon." (*IPO Daily News*)

III. Administration Updates:

- On Monday, POLITICO reported that Democratic Federal Trade Commissioner Rohit Chopra is hiring Lina Khan, a fierce critic of the growing market power of U.S. tech companies and the author of a landmark paper making an antitrust case against Amazon. Read more [here](#).
- On Monday, President Trump nominated federal appeals court judge Brett Kavanaugh to be the next U.S. Supreme Court justice. If confirmed, Kavanaugh, 53, would fill the seat of retiring Justice Anthony Kennedy. During his time on the U.S. Court of Appeals for the D.C. Circuit, Kavanaugh weighed in on several important intellectual property cases. He wrote the 2015 decision in *Indep. Producers Grp. v. Librarian of Congress*, affirming the royalty board's decision on cable re-transmissions payments for sporting events and in *Recording Indus. Ass'n of Am., Inc. v. Librarian of Cong.*, Kavanaugh wrote a 2010 decision that upheld the copyright board's royalty rates for ringtones and a penalty for late payments, saying the board adequately explained the reasoning behind both rates. Read more [here](#).

IV. International Updates:

- On Monday, Boris Johnson resigned as the U.K.'s Foreign Secretary, citing a disagreement with the Prime Minister over the U.K.'s Brexit strategy. Johnson's resignation came hours after Brexit Secretary David Davis resigned due to a similar disagreement with the Prime Minister's plan. Read more [here](#).
- Late last week, the European Parliament narrowly voted to reject draft reforms to the European Union's copyright laws. The changes would have given news publishers and other media fairer fees from internet giants such as Google and Wikipedia. A particularly

contentious aspect of the proposed changes was a requirement for internet platforms to use content filters to ensure material uploaded to their sites was not breaching copyright rules. Anders Lassen, president of the European Grouping of Societies of Authors and Composers which backed the reforms, said the vote was a missed opportunity. “This vote was never about censorship or freedom of speech. It was only about updating the copyright rules to the 21st century and ensuring that creators get a fair remuneration when their works are used in the digital space,” he said. Read more [here](#).

V. Industry Updates:

- On Wednesday, YouTube announced it will launch Copyright Match, a tool that will identify videos that are stolen and reposted by someone else. The tool will let the original creator take the rip-offs down. “We know how frustrating it is when your content is uploaded to other channels without your permission and how time consuming it can be to manually search for these re-uploads,” said Fabio Magagna, who oversees the Copyright Match tool as product manager at YouTube. “We currently provide a number of ways for copyright owners to protect their work, but we’ve heard from creators that we should do more and we agree.” Read more [here](#).
- On Tuesday *Deadline* reported on [a copyright infringement suit brought against OPRAH WINFREY’s OWN television channel by SHANNAN LYNETTE WYNN and Pastor LESTER EUGENE BARRIE](#), who claim that OWN’s show *Greenleaf* copied their treatment for a never-produced show called *Justice & Glory*. (*IPO Daily News*)