



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 NOVEMBER 30, 2018



I. Congressional Updates:

- On Wednesday, House Democrats held their internal leadership elections. Rep. Nancy Pelosi (D-CA) earned the nomination for House speaker by a 203-32 vote, with three blank ballots and one member absent. Pelosi must earn over two dozen votes before she faces a floor vote in January. Two elections were decided with unanimous support; Rep. Steny Hoyer (D-CA) was elected to serve as majority leader and Rep. James Clyburn (D-SC) as majority whip. Read more [here](#).
- Rep. Hakeem Jeffries (D-NY) was elected to serve as the Democratic caucus chair, beating challenger Rep. Barbara Lee (D-CA) by a 123-113 vote. Jeffries, a member of the House Judiciary IP Subcommittee, is a strong supporter of copyright and introduced the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2017, legislation that establishes an alternative dispute resolution program for copyright small claims. Read more [here](#).
- Rep. Doug Collins (R-GA) will serve as the Ranking Member to the Judiciary Committee in the 116th Congress, as he successfully edged out challenger Rep. Steve Chabot (R-OH). Rep. Jim Jordan (R-OH) had also previously expressed interest in this post, although he took his name out of the ring on Thursday. Rep. Collins is a member of the House IP Subcommittee and an original cosponsor of the CASE Act of 2017. Read more [here](#).
- In an interview with *Bloomberg* on Tuesday, Sen. Toomey (R-PA), a member of the Senate Finance Committee, said the USMCA deal is “not really as good” as the underlying NAFTA pact. Toomey, however, went

Headlines and Highlights:

- House Democrats hold internal leadership elections.
- Rep. Doug Collins to serve as Judiciary Committee Ranking Member.
- Leaders of Mexico, Canada and the U.S. sign the USMCA.
- Copyright Office publishes final rule on Group Registration of Newsletters and Serials.

In the Blogs:

[Counterfeits, Copyrights, and Digital Dysfunction](#)

Illusion of More

November 24 by David Newhoff

[New Zealand Launches its Copyright Review: Calculating the Economic Benefits will be a Key Issue](#)

Hugh Stephens Blog

November 27 by Huge Stephens

[Civil Society Offers Range Of Advice To WIPO Negotiators On Broadcast Treaty](#)

Intellectual Property Watch

November 27 by Beatrice Marone

on to say that he could support the deal if tweaks were made in the implementing legislation to make it “more pro-trade.” Toomey also urged the President and Congress to consider the legislation in the lame duck session and not in 2019 as he believes Speaker Pelosi could try to block the deal. Watch the entire interview [here](#).

- This week, *ArsTechnica* profiled Senator-elect Josh Hawley (R-MO) and his campaign promise to reign in big technology companies, particularly Google, when elected to Congress. "We need to have a conversation in Missouri, and as a country, about the concentration of economic power," [Hawley told Bloomberg](#) back in March. Hawley also vowed to dig into potentially anticompetitive behavior of tech companies, especially Google's "alleged manipulation of search results to preference websites owned by Google and to demote websites that compete with Google." Read more [here](#).
- On Tuesday, the Senate Commerce Subcommittee on Consumer Protection, Product Safety, Insurance, and Data Security held an oversight hearing of the Federal Trade Commission. The discussion focused on the issues of data security and consumer privacy, with members of the Committee asking the Commission to weigh in on bipartisan privacy legislation currently being discussed by members of the Committee. Watch online [here](#).
- On Friday, the U.S. Copyright Office published a final rule to amend regulations governing the group registration options for newsletters and serials. The final rule seeks to promote efficiency of the registration process by requiring applicants to file an online application rather than a paper application. With respect to group newsletters, the final rule amends the definition of "newsletter," eliminating the requirement that each issue must be a work made for hire and the provision stating that group newsletter claims must be received within three months after publication. With respect to group serials, among other changes, the final rule clarifies that serials governed by the rule generally must be published at intervals of a week or longer, and that the publication dates provided in the application need not match the dates appearing on the issues themselves. Read more [here](#).
- On Monday, the Copyright Royalty Board (CRB) published a final rule setting rates and terms for the making of ephemeral recordings of a sound recording by a business establishment service. The new rates and terms are slated to be in effect from January 1, 2019 through December 31, 2023. More info [here](#).
- On Tuesday, December 4th, at 11:00am, the Senate Committee on Rules and Administration is expected to mark up the "Register of Copyrights Selection and Accountability Act of 2017," (S.1010). This legislation would make the Register a presidentially-appointed, Senate confirmed position. The Register is currently selected unilaterally by the Librarian of Congress.
- On Wednesday, December 5th at 10:00am, the House Judiciary Committee will hold a hearing titled, "Transparency and Accountability: Examining Google and its Data Collection, Use and Filtering Practices." Sundar Pichai, CEO of Google, is scheduled to testify. More info [here](#).

II. Judicial Updates:

- Late last week, a group of record labels and music publishers filed a [complaint](#) against iBus Media, the parent company of PokerNews, accusing PokerNews of distributing podcasts

through its site and app, using significant portions of their tracks. The complaint lists hundreds of podcasts where the infringing tracks allegedly appear, and claims that this has resulted in “substantial” and “irreparable harm.” The music companies are demanding \$150,000 in damages per infringed work. Read more [here](#).

III. Administration Updates:

- Today the Leaders of Mexico, Canada, and the U.S. signed the USMCA on the margins of G20 Summit in Argentina. According to TPA, USTR will have to provide to Congress a list of changes to U.S. law required to comply with USMCA within 60 days (January 29, 2019). These changes are reflected in the implementing legislation and statement of administrative action (SAA). Read the full text [here](#).
- On Tuesday, December 6th, the FTC will hold its eighth hearing in the “Competition and Consumer Protection in the 21st Century” series. The day’s panels will examine concerns that acquisitions and holdings of non-controlling ownership interests in competing companies may have anticompetitive effects. FTC Commissioner Noah Joshua Phillips and Commissioner Robert J. Jackson Jr. of the Securities Exchange Commission will provide opening remarks. Read more [here](#).

IV. International Updates:

- On Monday, Kevin Chan, Facebook’s head of public policy in Canada, and Jason Kee, Google’s public policy and government relations counsel, testified before the Canadian House of Commons Industry, Science and Technology Committee regarding its statutory review of the Copyright Act. Both Kee and Chan urged Canada to avoid moving towards a copyright system like the EU’s Copyright Directive, which they claim would be a challenge to “platforms of scale” and would reduce the ability for “artists and rights holders to reach large audiences.” Read more [here](#).
- Last Friday, November 23rd, New Zealand launched its review of the Copyright Act of 1994. The Ministry of Business, Innovation and Employment released an Issues Paper, which offers proposed objectives for New Zealand’s copyright regime and potential issues with the way the copyright regime is working. The exploratory document also invites the public to provide feedback on the matter prior to Friday, April 5, 2019. Read more [here](#).
- Germany’s antitrust authority has launched an investigation into whether Amazon is exploiting its market dominance in its relations with third-party retailers who use its website as a marketplace. Germany’s Federal Cartel Office President, Andres Mundt, issued a statement on Thursday expressing concerns about Amazon’s “double role” as the biggest trader and the biggest marketplace might mean that “there is a potential to impede other traders on the platform.” Read more [here](#).

V. Industry Updates:

- On Monday, December 1st, Senator John Kennedy (R-LA) is expected to announce whether he plans to run for Governor of Louisiana. Sen. Kennedy is a member of the Senate Judiciary Committee and was an original cosponsor of the Music Modernization Act, a legislative package passed this year that made major reforms to music licensing laws. Read more [here](#).

- Kate Patchen, who most recently served as chief of the Department of Justice’s antitrust division in San Francisco, has joined Facebook as associate counsel of litigation. Read more [here](#).