



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT OCTOBER 26, 2018



I. Congressional Updates:

- On Tuesday, Sen. Rob Portman (R-OH), a member of the Senate Finance Committee, gave a speech at the Heritage Foundation on U.S. trade policy. In his speech, Portman highlighted the importance of the Section 301 case against China for alleged IP theft. “Republican and Democratic administrations alike have tried to deal with China on the trade issue to try to get their attention and, frankly, China continues to violate and circumvent our trade laws in so many respects,” Portman said. “I hope the administration’s latest action will get their attention but I hope we can resolve it.” Portman also discussed his desire to quickly complete a free trade deal with the United Kingdom post-Brexit. Read the speech [here](#).
- On Thursday, Sen. Mark Warner (D-VA) sent a letter to the Chairman of the Federal Trade Commission (FTC) expressing concern about a [Buzzfeed News investigation](#) that discovered a massive ad fraud scheme on Android devices. “It seems that across a number of its products Google may have engaged in willful blindness, all while profiting from this fraudulent activity,” Warner wrote, urging the FTC to look into the matter. Read the letter [here](#).

II. Judicial Updates:

- Last Friday, the 11th U.S. Circuit Court of Appeals ruled that annotations to Georgia’s legal code are “inherently public domain material” and cannot be copyrighted, reversing a lower court ruling. The dispute started when a nonprofit—Public.Resource.Org Inc.—began distributing online copies of the Official Code of Georgia Annotated, leading the state of Georgia to sue, arguing

Headlines and Highlights:

- Copyright Office issues final rule adopting exemptions to the statutory prohibition on circumvention of technological measures that control access to copyrighted works.
- Sen. Warner sends letter to FTC urging them to investigate Android ad fraud scheme.
- FTC holds panel on “Competition Policy and Copyright Law.”
- 11th U.S. Circuit Court of Appeals rules annotations to legal code not copyrightable.

In the Blogs:

[FairPlay Canada, the CRTC and OpenMedia: Who Got the “Big Win” on Pirate Site-Blocking](#)

Hugh Stephens Blog
October 23 by Hugh Stephens

[Brammer Appeals Unsound Ruling in Otherwise Simple Copyright Case](#)

Illusion of More
October 25 by David Newhoff

[Walt Whitman Championed Democracy and Fought for Copyright](#)

Illusion of More
October 24 by David Newhoff

the annotations and guidance added by a third-party are protected under copyright. Read more [here](#).

III. Administration Updates:

- On Tuesday, October 23rd, the Federal Trade Commission held the fourth session of its “Hearings on Competition and Consumer Protection in the 21st Century.” From 1:30 p.m. to 3:15 p.m. there was a panel on “Competition Policy and Copyright Law” featuring a number of academics as well as Eric Cady from the Independent Film and Television Alliance and Copyright Alliance CEO Keith Kupferschmid. Eric Cady’s remarks focused on the corrosive effects copyright infringement have on the independent film and television industry. Rampant online copyright infringement is due, in part, to the lack of accountability and responsibility that internet platforms have with respect to preventing illicit streaming of content, Cady said. He went on to say that, as a matter of public policy, the U.S. government has prioritized the growth of online platforms at the expense of content creators. One of the core industries Copyright Alliance CEO Keith Kupferschmid discussed is the U.S. software industry, which he said is the most powerful in the world due, in large part, to the strong copyright system in place. Any diminishment of copyright, Kupferschmid warned, either through broad fair use applications or denial of protection, would harm this industry and, in turn, the general public. Lastly, Kupferschmid argued for the importance of the CASE Act, saying it would give small creators some faith in the system again. Watch the hearing [here](#).

IV. International Updates:

- Margrethe Vestager, the European Commissioner for Competition, gave an interview this week to *GZERO World with Ian Bremmer* in which she discussed her work to maintain a competitive European Union marketplace, particularly in the technology space. When asked why consumers should care about a more competitive marketplace, Vestager warned that services that may seem free are quite the opposite. “If you do a Google search, you pay for the service with your data. You are the product, and sometimes I think that you get a bad deal. You pay too much compared to what you receive.” Watch the entire interview [here](#).

V. Industry Updates:

- This week, Business Roundtable (BRT)—an association of chief executive officers of America’s leading companies—announced the hiring of Paul DeLaney, a former international trade counsel at the Senate Finance Committee, as vice president. “Paul joins Business Roundtable at a very important time for our organization and for U.S. international trade relations,” Business Roundtable President and CEO Joshua Bolten said in a statement announcing the hire. “Paul’s extensive knowledge and professional experience in both the public and private sectors will bring significant value to our trade policy and advocacy efforts. Read more [here](#).”
- The Librarian of Congress, upon the recommendation of the Acting Register of Copyrights, has published a final rule in the *Federal Register* adopting exemptions to the statutory prohibition on circumvention of technological measures that control access to copyrighted works. Publication of the final rule marks the completion of the seventh triennial rulemaking proceeding under 17 U.S.C. 1201. As in prior section 1201 proceedings, the Copyright Office administered the rulemaking through an extensive public process. For

this seventh triennial proceeding, the Office implemented a new streamlining process enabling members of the public to seek renewal of existing exemptions to which there was no meaningful opposition. The Acting Register ultimately recommended re-adoption of all exemptions granted in the 2015 rulemaking. The Office then invited public input on proposed new or expanded exemptions through three rounds of written comments and seven days of public hearings in Washington, D.C., and Los Angeles. As required by statute, the Office also consulted with the National Telecommunications and Information Administration of the Department of Commerce. Based on this record, the Acting Register recommended the granting of several additional exemptions, as discussed in her formal Recommendation to the Librarian. The Librarian adopted the Acting Register's Recommendation in full. The final rule, the Acting Register's Recommendation, the record materials in this proceeding, and general information about the section 1201 rulemaking process, are available on the Copyright Office [website](#).

- The U.S. Copyright Office is building a new registration system to meet the demands of the digital age. As the Office develops a new technological infrastructure for this system, it is considering several legal and policy changes to improve user experience, increase Office efficiency, and decrease processing times. The Office is seeking public comment to inform its decisions on how to improve the regulations and practices related to the registration of copyright claims. Read more [here](#).