



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT SEPTEMBER 28, 2018



I. Congressional Updates:

- On Wednesday, October 3rd at 2:30 p.m. the Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights will hold a hearing on “Antitrust Law Enforcement” featuring Assistant Attorney General for Antitrust Makan Delrahim and FTC Chairman Joseph Simons. Read more [here](#).
- On Wednesday, the Senate Committee on Rules and Administration held a hearing on S. 1010, the Register of Copyrights Selection and Accountability Act, legislation that would make the Register of Copyrights a presidentially-appointed, Senate confirmed, position. The hearing featured two witnesses: Keith Kupferschmid, CEO of the Copyright Alliance; and Jonathan Band, Adjunct Professor of Law at Georgetown University and Counsel to the Library Copyright Alliance. Both Chairman Blunt and Ranking Member Klobuchar asked questions that attempted to identify whether S. 1010 would benefit existing legislative and regulatory initiatives. Specifically, Sen. Klobuchar asked Mr. Kupferschmid and Mr. Band if the IT modernization efforts were adequately guarding the Library and Copyright Office from potential foreign hacking. Mr. Kupferschmid used this question as an opportunity to punctuate the different IT needs of the Library and Copyright Office, saying that the Library creates systems to provide greater public access to information while the Copyright Office needs to be able to assure applicants that their copyrighted works are safe from hacks. Sen. Blunt asked how this bill would affect the recently passed Music Modernization Act.

Headlines and Highlights:

- Senate Antitrust Subcommittee to hold hearing next week on “Antitrust Law Enforcement.”
- House passes revised MMA. Legislation heads to President’s desk for signature.
- White House announces intent to appoint MPAA CEO to trade advisory council.
- Senate Rules Committee holds hearing on bill to alter Register selection process.
- U.S, Japan announce intent to negotiate FTA.

In the Blogs:

[Clicktivism is taking over the Canadian copyright debate](#)

Hugh Stephens Blog
September 24 by Hugh Stephens

[Copyright in Motion as Midterms Approach](#)

Illusion of More
September 24 by David Newhoff

[Interview With The President of Brazil’s Industrial Property Institute](#)

IP Watch
September 27 by William New

- On Tuesday, Sens. Orrin Hatch (R-UT) and Patrick Leahy (D-VT), together with Reps. Jerry Nadler (D-NY) and Doug Collins (R-GA), introduced the bicameral American Royalties Too (ART) Act of 2018. The legislation amends the Copyright Act to provide creators of visual art a 5% royalty of the price paid for their art when it is resold at auction. “Artists deserve fair compensation for their work. Unfortunately, under our current laws, artists don’t share in the benefits when their work later increases in value,” said Hatch. “Collectors and auction houses make millions when art is resold. It’s only fair that the artist who created the work in the first place receive a share as well. The ART Act will help remedy this injustice by giving artists the right to a share of the proceeds when the art they create is later resold at auction. It will help ensure artists get a fair shake.” Read more [here](#).
- A spokesman for House Majority Leader Kevin McCarthy (R-CA) confirmed this week that Google CEO Sundar Pichai is expected to appear before the House Judiciary Committee after the November election. Additionally, Pichai will address meet with a broad swath of the Republican conference on Friday to discuss a range of topics, including the company’s management of conservative content on its platforms. More info [here](#).
- On Tuesday, the House of Representatives voted unanimously to send H.R. 1551, the Music Modernization Act, to the President’s desk for his signature. Read more [here](#).
- On Thursday, the House Judiciary Committee held a hearing on H.R. 3945, the Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2017, legislation that would create a Copyright Claims Board within the Copyright Office to provide a simple, quick and less expensive forum for copyright owners to enforce their intellectual property. The hearing featured witnesses from the Copyright Alliance, Professional Photographers of America, Computer and Communications Industry Association, Internet Association and Buck the Cubicle. Supporters of the bill said it was important because it finally provided a remedy for small creators to protect their rights. “As it stands now, small creators who have seen their work used without permission (or just outright stolen) or compensation have had one path for relief; filing a lawsuit in U.S. Federal Court,” said David Trust, CEO of PPA. “For practical purposes, however, that path is no path at all because the cost of federal court puts the option out of reach for small creators.” Watch the entire hearing [here](#).

II. Judicial Updates:

- This week, a Tokyo District Court ordered Mari Mobility to pay \$89,000 to Nintendo in compensation for offering go-kart tours in which people could dress up as Mario and Princess Peach and race around Tokyo. Read more [here](#).

III. Administration Updates:

- On Monday, the White House distanced itself from a report over the weekend that President Trump is considering an executive order that would subject tech giants like Google, Facebook and Twitter to federal investigations for alleged political bias. Deputy White House press secretary Lindsay Walters said that “Although the White House is concerned about the conduct of online platforms and their impact on society, this document is not the result of an official White house policymaking process.” Read more [here](#).
- On Wednesday, President Trump and Prime Minister Shinzo Abe [announced](#) their intention to enter into negotiations for a bilateral trade agreement between the U.S. and Japan. House

Ways and Means Chairman Kevin Brady (R-TX) [applauded](#) the news, saying that Japan is “an important trading partner and a strong ally on economic and security issues.”

IV. International Updates:

- On Sunday, Mark Scott, chief technology correspondent for POLITICO EU, wrote an article titled “The next antitrust standoff—Big Tech’s use of data.” Scott highlights the EU’s recent announcement that they would be investigating Amazon over potential abuse of digital information, and the Federal Trade Commission’s public hearing in early November on big data and competition as signs of a new round of antitrust battles. “Are we OK with a small group of firms using their pseudo-monopolies over digital information to offer us an increasing range of digital goods and services that are often overwhelmingly popular — but which may come at the expense of less competition overall for our online euros, dollars and pounds?,” Scott asks. Read more [here](#).

V. Industry Updates:

- On Monday, Harvard’s Shorenstein Center on Media, Politics and Public Policy and New America, a D.C.-based think tank, published a report titled “Digital Deceit II: A Policy Agenda to Fight Disinformation on the Internet.” The report claims that Big Tech can’t be trusted to police themselves and should be subject to tougher regulation, including around their data accumulation efforts. Read the report [here](#).
- On Tuesday, *Axios* published a breakdown of how the Music Modernization Act—which is expected to be signed by the President this week—was able to pass through Congress and how it will positively impact the music industry. Read more [here](#).
- This week, the White House announced that President Trump intends to appoint Motion Picture Association of America (MPAA) CEO Charles Rivkin to the U.S. Advisory Committee for Trade Policy and Negotiations (ACTPN). The ACTPN is a “statutory non-discretionary trade advisory committee established to provide overall policy advice to the United States Trade Representative” on matters related to the trade policy of the United States. Read more [here](#).
- On Monday, SiriusXM announced it will acquire streaming service Pandora in a \$3.5 billion transaction. The propose deal is expected to close in the first quarter of next year, and would combine SiriusXM’s 36 million subscribers in North America with Pandora’s more than 70 million monthly active users. “Together, we will deliver even more of the best content on radio to our passionate and loyal listeners, and attract new listeners, across our two platforms,” Sirius CEO Jim Meyer said of the deal. Read more [here](#).