



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT JANUARY 4, 2019



I. Congressional Updates:

- On Thursday, 220 members of the House of Representatives voted to make Rep. Nancy Pelosi (D-CA) the next Speaker of the House for the 116th Congress. Read more [here](#).
- According to reports on Wednesday, Sens. Joni Ernst (R-IA) and Marsha Blackburn (R-TN) will join Sen. Josh Hawley (R-MO) as the newest members of the Senate Judiciary Committee. Republicans gained one Judiciary seat after they increased their Senate majority following the midterms. The other two Committee seats were vacated by the retiring Sens. Flake (R-AZ) and Hatch (R-UT). Read more [here](#).
- In a recent interview with POLITICO, former Ways and Means Chairman Rep. Sandy Levin (D-MI) said that for a renegotiated NAFTA to pass the Democrat-controlled House it will have to address labor issues in Mexico. Specifically, Levin is critical of Mexico's wage suppression as a means to entice American car companies to move operations there. Levin has told USTR Lighthizer that Democratic approval of the deal will hinge on ensuring Mexican workers have livable wages and strong rights. Read more [here](#).
- On Monday, Sen. Elizabeth Warren (D-MA) announced the formation of an exploratory committee for a presidential run in 2020. Warren was perhaps the earliest lawmaker to critique Big Tech's growing influence and she has consistently called for increased antitrust scrutiny of Amazon, Apple, and Google. Read more [here](#).

Headlines and Highlights:

- Nancy Pelosi elected Speaker of the House.
- Sens. Blackburn, Ernst, and Hawley selected as new Republican members of Senate Judiciary Committee.
- Copyright Office issues request for info to inform MLC and DLC member choices.
- USTR releases negotiating objectives for US-Japan FTA.
- Senate confirms new Director of OSTP.

In the Blogs:

[Looking Back at International Copyright Developments in 2018](#)

Hugh Stephens Blog
December 27 by Hugh Stephens

[Are You Having a Public Domain Party This Year?](#)

Illusion of More
December 31 by David Newhoff

[Techdirt Dissembles on FOSTA in Rebuke of Kristof](#)

Illusion of More
December 23 by David Newhoff

- POLITICO reported last week that House Democrats have expressed a desire to bring back the Office of Technology Assessment (OTA), a group of congressional tech advisors that equip legislators with reports and research on tech-related topics. The office was initially open from 1972 to 1995, but was defunded by then-Speaker Newt Gingrich who claimed the office had become too political. Read more [here](#).

II. Judicial Updates:

- Late last week, the U.S. Court of Appeals for the Second Circuit affirmed a lower court ruling that the online music service ReDigi infringed Capitol Records' copyright by allowing users to resell legally purchased iTunes files. The court found that throughout the course of transferring the digital music file, each transfer fixed the file in a new material object, thus creating "new phono-records." Further, the court supported its ruling by citing a 2001 U.S. Copyright Office conclusion that the resale of digital files is infringing. Read more [here](#).

III. Administration Updates:

- On Dec. 21st, the Office of the United States Trade Representative (USTR) released the negotiating objectives for a U.S.-Japan free trade agreement. Under Trade Promotion Authority (TPA), the U.S. can launch negotiations with Japan 30 days after the objectives are published. Read the objectives [here](#).
- On Dec. 28th, the Office of the United States Trade Representative (USTR) published a request for comments and notice of public hearing for its 2019 Special 301 Review. Each year, USTR conducts this review to identify countries that deny adequate and effective protection of IP rights or deny fair and equitable market access to US persons who rely on IP protection. The notice indicates that the USTR will publish the 2019 Special 301 Report on or about April 26th, 2019. More info. [here](#).
- On Wednesday, the Senate confirmed Kelvin Droegemeier as Director of the Office of Science and Technology Policy (OSTP). In the role Droegemeier will act as President Trump's top science advisor. From 2009 until August 2018, Droegemeier was vice-president for research at the University of Oklahoma in Norman. He also served briefly as Oklahoma's secretary of science and technology, and was a member of the National Science Board, which oversees the National Science Foundation, during the administrations of presidents George W. Bush and Barack Obama. Read more [here](#).

IV. International Updates:

- In a news conference on Saturday, December 29th, deputy chief justice Luo Dongchaun announced that beginning on January 1st China's Supreme Court will handle appeals on IP rights cases. Only provincial-level high courts previously handled these cases. Read more [here](#).
- On December 30th, a revision of Japan's copyright law took effect, extending the copyright protection period from 50 years to 70 years after the author's death. The extension was first discussed as part of the Trans-Pacific Partnership (TPP), and policymakers timed the law to coincide with the TPP going into effect, although the law is not conditional to the trade partnership. Read more [here](#).

V. Industry Updates:

- U.S. Copyright Office put out a [request](#) for information to help inform its choice for designating members of the Mechanical Licensing Collective (MLC) and Digital Licensee Coordinator (DLC). Both the MLC and DLC were created via passage of the Music Modernization Act (MMA) last Congress. Interested parties will have until March 21, 2019 submit written proposals, and until April 22 for the public to comment on those submissions and related issues. More info [here](#).
- On Thursday, December 27th, the U.S. Copyright Office published its final rule to update eligibility requirements for its application forms to reflect recent technical updates. Among other changes, the final rule, which is slated to take effect on January 28th, clarifies that the Single Application may be used to register one work that is created and solely owned by one author and is not a work made for hire. It also confirms that this application may be used to register one sound recording and one musical work, literary work, or dramatic work. Read more [here](#).