

CONTENT & TECHNOLOGY POLICY REPORT SEPTEMBER 30, 2022



I. Congressional Updates:

- On Thursday, the House of Representative passed an antitrust package by a vote of 242-184. The first bill in the package, the Merger Filing Fee Modernization Act, would increase the fees businesses pay to federal agencies when a large merger deal requires government review. The second bill in the package, the State Antitrust Enforcement Venue Act, would give state attorneys general more control over which court will hear their antitrust cases. A version of both bills had already cleared the upper chamber, and the White House voiced its support for the House package this week. Read more [here](#).
- On Thursday, September 29, the Subcommittee on Research and Technology of the Committee on Science, Space, and Technology held a hearing to discuss tools, best practices, and challenges in the design, development, testing, and deployment of trustworthy artificial intelligence (AI) systems. The Subcommittee examined efforts in academia, industry, and government to create a culture of responsibility around AI systems, identify and remove harmful bias in AI applications, improve transparency of applications, and mitigate other risks associated with AI. The Subcommittee explored the National Institute of Standards and Technology's (NIST) ongoing efforts to create an artificial intelligence risk management framework. A full summary from ACG can be provided upon request.
- On Thursday, Reps. Ted Lieu, Sheila Jackson Lee, Yvette Clarke, and Jimmy Gomez Introduced the *Facial Recognition Act of 2022* to place strong limits and

Headlines and Highlights:

- U.S. House Advances Bill to Boost Antitrust Efforts
- Register Perlmutter Joins Council for Inclusive Innovation (CI2)
- Former Register of Copyrights and Global Authority on Copyright Law, Marybeth Peters, Passes
- European Union Paves the Way for Collective Bargaining for Solo Self-Employed Workers
- Fight For The Future Sends Letter with some Authors "In Solidarity with Libraries" Expressing Concerns about "Attacks against Libraries"
- Authors Guild responds that Fight for the Future letter is highly misleading

In the Blogs:

- Hugh Stephens Blog: [Bill C-18, the Online News Act: Does it Violate Canada's Trade Agreement Obligations?](#)

prohibitions on law enforcement use of facial recognition technology. The bill aims to regulate law enforcement's use of Facial Recognition Technology (FRT) by placing strong limits on law enforcement's use, provide transparency to individuals harmed by the use of FRT, and ensure annual assessments and reporting on law enforcement's use of the technology. "Protecting the privacy of Americans – especially against a flawed, unregulated, and at times discriminatory technology – is my chief goal with this legislation," said Congressman Lieu. "I'm pleased to work with Representatives Jackson Lee, Clarke and Gomez to introduce this bill to rein in law enforcement's use of facial recognition technology. Our bill is a workable solution that limits law enforcement use of FRT to situations where a warrant is obtained showing probable cause that an individual committed a serious violent felony." [Read the full text of the bill here.](#) [Read a one-pager on the bill here.](#)

II. USCO Updates:

- On Tuesday, the Copyright Office shared the USPTO's announcement of the newly appointed Co-Vice Chairs of the Council on Inclusive Innovation (CI 2), which included Shira Perlmutter, Register of Copyrights and Director of the U.S. Copyright Office. In this role, the government leaders will join Secretary Raimondo and Director Vidal in guiding the Council in developing a national strategy for expanding innovation to build a more inclusive and expansive innovation ecosystem. "I am honored to join the Council for Inclusive Innovation, and excited about contributing to its mission to broaden participation in the innovative and creative economy," said Register of Copyrights and U.S. Copyright Office Director Shira Perlmutter. "As the Copyright Office works to make the copyright system accessible to all, we look forward to collaborating with our colleagues to develop new ways to support and empower individuals in all fields of science and the arts." For additional information on the Council, including the full list of Council members, [see the USPTO's CI² webpage](#).
- On Thursday, the U.S. Copyright Office published its [final rule](#) on remitter payment options and deposit account requirements. The final rule: (1) consolidates all regulations regarding payment options for Copyright Office services; (2) eliminates the requirement for a minimum number of 12 transactions per year for deposit accounts; (3) opts to maintain the current rule that the Office will automatically notify deposit account holders when their accounts fall below a minimum balance of \$450 rather than assessing a service change; and (4) provides that the Office automatically notify deposit account holders if their accounts are made inactive due to inactivity or overdrawn (accounts will be closed 30 days after the date of an inactivation notice if the account continues to remain inactive or maintain insufficient funds).
- On Thursday, the U.S. Copyright Office is releasing the first set of new and updated copyright resources and webpages translated into Spanish. This set of materials includes educational circulars, handouts related to the Music Modernization Act (MMA), and an updated Frequently Asked Questions (FAQ) page, all in Spanish. The release of these important materials in Spanish is timed with the country's celebration of Hispanic Heritage Month and supports the Copyright Office's current strategic plan. According to the press release, this is the first release of translated materials. Further resources, handouts, and webpages are expected to be released in the coming months. For more information and outreach materials, please visit the Copyright Office's [website](#).

- On Friday, the U.S. Copyright Office announced the passing of former Register of Copyrights Marybeth Peters. The USCO released a statement saying, “Having served the Copyright Office for more than four decades in numerous capacities, including as the Office’s head, she was a global authority on copyright law and a well-known and well-loved presence in the world of copyright. Her passing marks the loss of an influential force in the development of copyright law and an unparalleled source of expertise. Throughout her long tenure as the Register of Copyrights, Peters was sought after by Congress, as well as by scholars and copyright industries, for her vision and analysis.” Current Register of Copyrights Shira Perlmutter also released a statement saying, “Marybeth Peters leaves an unparalleled legacy as a champion for creativity and an inspiring leader. Her broad and deep knowledge of copyright was matched only by her warmth and generosity in sharing it with all of us.”

III. Judicial Updates

- On Thursday, U.S. District Judge Gregory Woods in Manhattan dismissed two antitrust lawsuits accusing Amazon, Hachette Book Group, HarperCollins Publishers, Macmillan Publishing Group, Penguin Random House, and Simon & Schuster of illegally conspiring to fix U.S. prices of electronic and traditional books. Read more [here](#).

IV. Administration Updates:

- On Monday, President Biden made [brief remarks](#) regarding the White House Competition Council meeting. In particular, he spoke about the airline, meat processing, and internet service industries. The press release comes as the Biden Administration announced a [major executive order](#) with 72 new cross agency initiatives. The Order aims to “promote competition in the American economy, which will lower prices for families, increase wages for workers, and promote innovation and even faster economic growth.” The main goal is to reduce consolidation and increase competition in all industries. The Order also encourages antitrust agencies to focus enforcement efforts on problems in key markets and coordinates other agencies’ ongoing response to corporate consolidation. It emphasizes the role of the FTC and the Department of Justice (DOJ) in enforcing antitrust laws and challenging past “bad mergers”.
- Led by Sen. Elizabeth Warren (D-MA), a group of lawmakers are asking the Federal Trade Commission (FTC) to reject Amazon’s proposed acquisition of iRobot. "Rather than compete in a fair marketplace on its own merits, Amazon is following a familiar anticompetitive playbook: leveraging its massive market share and access to capital to buy or suppress popular products," wrote Warren, along with Representatives Mondaire Jones (D-NY), Mark Pocan (D-WI), Jesus G. "Chuy" Garcia (D-IL), Pramila Jayapal (D-WA) and Katie Porter (D-CA). Read the entire letter [here](#).

V. International Updates:

- Earlier this week, the EU Commission published guidelines on the application of the EU competition law that removes legal barriers to collective bargaining for solo self-employed workers. The published guidelines can be found [here](#). The Commission clarifies that solo self-employed workers that work side by side employees can negotiate agreements or can be integrated in existing collective agreements. Read more [here](#).
- On Thursday, Ambassador Katherine Tai met with Britain's new trade minister, Kemi Badenoch, to discuss addressing challenges posed by China. The meeting's main goal was to highlight the opportunity to continue working with Britain across multiple platforms to address the shared challenges posed by China. According to her office, Ambassador Tai also conveyed U.S. support for the Belfast/Good Friday Agreement and for the United Kingdom and European Union to resolve differences on the Northern Ireland Protocol. Read more [here](#).

VI. Industry Updates:

- On Thursday, a group of more than 300 authors published a letter criticizing lawsuits from major publishing companies over the lending of digital books. According to *Reuters*, the authors [said](#) in the open letter, organized by digital-rights advocacy group Fight for the Future, that publishers and their trade groups are "undermining the traditional rights of libraries to own and preserve books, intimidating libraries with lawsuits, and smearing librarians." The Association of American Publishers (AAP) is involved in a closely watched copyright dispute with the Internet Archive over its lending of individual copies of scanned books from what the Archive characterizes as a digital library. AAP general counsel Terrence Hart said in a statement responding to the authors' letter that it was "not in dispute" that authors and publishers support libraries, and "not at issue in the infringement case against the Internet Archive, which is not a library." The Authors Guild and others [said](#) in a statement Thursday that some authors who had signed the letter to express support for public libraries felt "misled" about its purpose. Read more [here](#).