

## CONTENT & TECHNOLOGY POLICY REPORT

### APRIL 12, 2024



#### I. Congressional Updates:

- On Tuesday, April 9, Senator Maria Cantwell, Chair of the Senate Committee on Commerce, Science and Transportation, and Representative Cathy McMorris Rodgers, Chair of the House Committee on Energy and Commerce, unveiled the *American Privacy Rights Act*. According to the press release, the comprehensive draft legislation sets clear, national data privacy rights and protections for Americans, eliminates the existing patchwork of state comprehensive data privacy laws and establishes robust enforcement mechanisms to hold violators accountable, including a private right of action for individuals. “This bipartisan, bicameral draft legislation is the best opportunity we’ve had in decades to establish a national data privacy and security standard that gives people the right to control their personal information,” said Chairs Cantwell and Rodgers. “This landmark legislation represents the sum of years of good faith efforts in both the House and Senate. It strikes a meaningful balance on issues that are critical to moving comprehensive data privacy legislation through Congress. Americans deserve the right to control their data and we’re hopeful that our colleagues in the House and Senate will join us in getting this legislation signed into law.” The *American Privacy Rights Act* (1) Establishes Foundational Uniform National Data Privacy Rights for Americans, (2) Gives Americans the Ability to Enforce Their Data Privacy Rights, (3) Protects Americans’ Civil Rights, (4) Holds Companies Accountable and Establishes Strong Data Security Obligations, and (5) Focuses on the Business of Data, Not Mainstreet Business. Click [here](#) to read the American Privacy Rights Act discussion draft. Click [here](#) to read the

#### Headlines and Highlights:

- Draft Data Privacy Legislation Announced
- Rep. Adam Schiff Introduces the Generative AI Copyright Disclosure Act
- HJC Holds Third Artificial Intelligence and IP Hearing
- Commerce Department Announces \$6.6 Billion Funding to TSMC
- U.S - EU Issue Joint Statement of the Trade and Technology Council

#### In the Blogs:

- **Hugh Stephens Blog:** [A Cautionary Copyright Tale](#)
- **Morgan Lewis:** [Existing And Proposed Federal AI Regulation In The United States](#)
- **The New York Times:** [How Tech Giants Cut Corners to Harvest Data for A.I.](#)

section-by-section of the discussion draft. Read the full press release [here](#).

- On Tuesday, April 9, Representative Adam Schiff (D-CA) introduced legislation to require transparency from companies regarding their use of copyrighted work to train their generative AI models. The [Generative AI Copyright Disclosure Act](#) would require a notice to be submitted to the Register of Copyrights prior to the release of a new generative AI system with regard to all copyrighted works used in building or altering the training dataset for that system. The bill's requirements would also apply retroactively to previously released generative AI systems. "AI has the disruptive potential of changing our economy, our political system, and our day-to-day lives. We must balance the immense potential of AI with the crucial need for ethical guidelines and protections. My Generative AI Copyright Disclosure Act is a pivotal step in this direction. It champions innovation while safeguarding the rights and contributions of creators, ensuring they are aware when their work contributes to AI training datasets. This is about respecting creativity in the age of AI and marrying technological progress with fairness," said Rep. Schiff. The *Generative AI Copyright Disclosure Act* is supported by the Recording Industry Association of America, Copyright Clearance Center, Directors Guild of America, Authors Guild, National Association of Voice Actors, Concept Art Association, Professional Photographers of America, Screen Actors Guild-American Federation of Television and Radio Artists, Writers Guild of America West, Writers Guild of America East, American Society of Composers, Authors and Publishers, American Society for Collective Rights Licensing, International Alliance of Theatrical Stage Employees, Society of Composers and Lyricists, National Music Publishers Association, Recording Academy, Nashville Songwriters Association International, Songwriters of North America, Black Music Action Coalition, Music Artist Coalition, Human Artistry Campaign, and the American Association of Independent Music. To read the full bill text, click [here](#). To read the full press release, click [here](#). A one-pager on the bill can be provided upon request.
- On Wednesday, April 9, the House Judiciary Committee Intellectual Property Subcommittee held a hearing titled, "Artificial Intelligence and Intellectual Property: Part III – IP Protection for AI-Assisted Inventions and Creative Works." The hearing examined the standards and policy considerations for granting intellectual property (IP) rights to inventions (patents) and creative works (copyrights) made with the help of artificial intelligence (AI). This includes considering whether current or proposed rules on inventorship and authorship need to be changed. The witnesses provided insights into the copyrightability and inventorship of AI-generated works, with differing opinions on whether copyright protection should be extended to works wholly or partially created by AI. Overall, the witnesses expressed reluctance to immediate legislative action. The discussion delved into the challenges of balancing innovation incentives with the protection of human creativity, the implications of AI on patentability and copyright infringement, and the potential impact of AI on various industries, including biotechnology. During the question-and-answer session, committee members probed the witnesses on issues ranging from the fair use doctrine and patent examination processes to international competitiveness and the role of AI in derivative works. While consensus was not reached, the hearing shed light on the complexities surrounding AI and IP law and the need for further deliberation on regulatory frameworks to address this emerging technology. A full summary from ACG can be provided upon request.
- On Wednesday, April 10, 2024, the House Committee on Appropriations held a hearing titled "Fiscal Year 2025 Budget Request for the Department of Education". The sole witness was Mr. Miguel Cardona (Secretary of the Department of Education). The hearing focused on Title

1 and 9 regulations, cancelation of student loans debt, charter schools and the protection of civil rights and freedom of speech in college. One highlight was that Rep. Chuck Fleischmann (R-TN-03) mentioned the success of affordability programs, for example the 40% cost decrease of college materials. He asked for studies to be conducted by the Department of Education to ensure that these programs are sustainable. A full summary from ACG can be provided upon request.

- On Wednesday, April 10, Representatives Maxwell Frost (D-FL), Dan Kildee (D-MI), Greg Casar (D-TX), and Alexandria Ocasio-Cortez (D-NY), announced the introduction of new legislation to create federal grant programs to support the work of emerging artists – the *CREATE Art Act*. According to the press release, the legislation would establish four new grant programs for artists to be able to tap into to cover a wide variety of costs from instruments and studio time to marketing and travel costs for emerging creatives dedicating their lives to their craft. “Artists contribute value to our community’s culture and economy but are asked to assume the risk and expense. The same way we assist small businesses in getting off the ground, we should be supporting emerging artists. The CREATE Art Act would help usher in a new era of support and equity across countless creative industries and the local economies they empower,” said Congressman Frost. Read the full press release [here](#).
- On Thursday, April 11, the House Committee on Energy and Commerce Subcommittee on Communications and Technology held a hearing titled “Where Are We Now: Section 230 of the Communications Decency Act of 1996.” The discussion centered on Section 230 of the Communications Decency Act, which shields online platforms from liability for content shared by third-party users. There were worries about the authority this grants to social media companies, including examples of censorship, removing users from platforms, and content moderation practices. Additionally, the widespread occurrence of unlawful activities on specific platforms was pointed out, indicating a need for more effective methods to make platforms responsible. Witnesses discussed the advantages of revising Section 230, such as minimizing widespread harassment and how to increase algorithmic transparency. A full summary from ACG can be provided upon request.
- Next Tuesday, on April 16, the House Appropriations Committee Legislative Branch Subcommittee will hold a hearing titled, “Budget Hearing – Fiscal Year 2025 Request for the Library of Congress and the Architect of the Capitol.” Witnesses include Mr. Joseph DiPietro, Acting Architect of the Capitol, Dr. Carla Hayden, Librarian of Congress, Mr. Robert R. Newlen, Interim Director, Congressional Research Service, Library of Congress, and Ms. Shira Perlmutter, Register of Copyrights and Director, U.S. Copyright Office, Library of Congress. The full hearing notice can be found [here](#).

## II. Administration Updates

- Last week on April 5, the Office of the United States Trade Representative (USTR) released [summaries of texts](#) proposed by the U.S. on labor, environment, and agriculture from the U.S.-Taiwan 21st Century Trade Initiative Negotiations. According to the press release, the summaries detail the negotiating proposals from the U.S. side and include updated proposals made during the course of negotiations. Read the summaries [here](#).

- On Monday, April 8, the Biden-Harris Administration announced that the U.S. Department of Commerce and TSMC Arizona Corporation (TSMC Arizona), a subsidiary of Taiwan Semiconductor Manufacturing Company Limited (TSMC), signed a non-binding preliminary memorandum of terms (PMT) to provide up to \$6.6 billion in direct funding under the *CHIPS and Science Act*. This proposed funding would support TSMC’s investment of more than \$65 billion in three greenfield leading-edge fabs in Phoenix, Arizona, which will manufacture the world’s most advanced semiconductors. “One of the key goals of President Biden’s *CHIPS and Science Act* was to bring the most advanced chip manufacturing in the world to the U.S., and with this announcement and TSMC’s increased investment in their Arizona campus, we are working to achieve that goal,” said U.S. Secretary of Commerce Gina Raimondo. “The leading-edge semiconductors that will be made here in Arizona are foundational to the technology that will define global economic and national security in the 21st century, including AI and high-performance computing. Thanks to President Biden’s leadership and TSMC’s continued investments in U.S. semiconductor manufacturing, this proposed funding would help make our supply chains more secure and create thousands of good-quality construction and manufacturing jobs for Arizonans.” Read the full press release [here](#).
- On Wednesday, April 10, the USPTO published additional guidance in the Federal Register for practitioners and the public to inform them of the important issues that patent and trademark professionals, innovators, and entrepreneurs must navigate while using artificial intelligence (AI) in matters before the USPTO. According to the press release, the guidance reminds individuals involved in proceedings before the USPTO of the pertinent rules and policies, helps inform those same individuals of the risks associated with the use of AI, and provides suggestions to mitigate those risks. “Today’s notice is part of our work shaping AI policy and encourages the safe and responsible use of AI to benefit the IP and innovation ecosystem,” said Kathi Vidal, Under Secretary of Commerce for Intellectual Property and Director of the USPTO. “The requirements in existing USPTO rules serve to protect the integrity of our proceedings and to avoid delay and unnecessary cost, and they apply regardless of how a submission is generated. We will continue to listen to stakeholders on this policy and on all our measures to use AI responsibly and safely to democratize and scale U.S. innovation, creativity, and entrepreneurship.” The full text of the guidance is available in the [Federal Register](#) and on the USPTO’s [Artificial Intelligence webpage](#).

### III. USCO Updates:

- In January, the US Copyright Office issued a notification of inquiry seeking public comments regarding its periodic review of the designations of the mechanical licensing collective and digital licensee coordinator. Initial submissions from the existing designees must be received on April 1, 2024. Initial public comments must be received on May 29, 2024. Reply public comments must be received on June 28, 2024. Reply submissions from the existing designees must be received on July 29, 2024. More details are available on the rulemaking's webpage [here](#).

### IV. Industry Updates:

- The sixth ministerial meeting of the Trade and Technology Council (“TTC”) took place in Leuven, Belgium, on April 4 and 5. It was co-chaired by European Commission Executive Vice President Margrethe Vestager, European Commission Executive Vice President Valdis Dombrovskis, United States Secretary of State Antony Blinken, United States Secretary of Commerce Gina Raimondo, and United States Trade Representative Katherine Tai, joined by European Commissioner Thierry Breton, and hosted by the Belgian Presidency of the Council of the European Union. USTR issued a joint statement which included key outcomes of the Sixth TTC Ministerial Meeting which included (1) Advancing Transatlantic Leadership on Critical and Emerging Technologies Artificial Intelligence, (2) Promoting Sustainability and New Opportunities for Trade and Investment, (3) Trade, Security, and Economic Prosperity, and (4) Defending Human Rights and Values in a Changing Geopolitical Digital Environment. Read more [here](#).