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## CONTENT & TECHNOLOGY POLICY REPORT AUGUST 2, 2024



### I. Congressional Updates:

- On July 25, the U.S. House of Representatives [Task Force on Artificial Intelligence](#) held a closed-door briefing on AI and intellectual property. Six panelists spoke at the 90-minute briefing, including Copyright Alliance President and CEO, Keith Kupferschmid. While much of the briefing focused on issues related to protections (or lack thereof) for voice, image, and likeness, there was also considerable discussion on a range of topics, including the impact of other countries' AI laws (especially China), the need for transparency, enforcement actions for infringements generated by AI and how to allocate liability, the relationship between trade secret laws, AI and other IP laws, fair use, and more. During the Q&A portion of the briefing, Kupferschmid emphasized the need to protect individual creators when making any AI copyright-related policies.
- On July 30, *The Verge* reported that the Senate officially passed the Kids Online Safety Act (KOSA) and the Children and Teens' Online Privacy Protection Act (COPPA 2.0). A legislative vehicle that included a combination of KOSA and COPPA 2.0 passed by a vote of 91-3. The three senators who voted no — Ron Wyden (D-OR), Rand Paul (R-KY), and Mike Lee (R-UT) — said they had concerns that KOSA could potentially be used to censor information. However, there are reports that the House Republican leadership won't bring up the bill after returning from August recess. A House GOP leadership aide told *Punchbowl News*, "We've heard concerns across our Conference and the Senate bill cannot be brought up in its current form." This is a big blow to the effort, which is spearheaded by Sens. Richard Blumenthal (D-CT) and Marsha Blackburn (R-TN). And it comes just a

### Headlines and Highlights:

- House AI Task Force Holds IP Briefing
- KOSA Passes Senate
- NO FAKES Introduced
- Senate Commerce Holds AI Legislation Markup
- New U.S. Commerce Department Report Endorses 'open' AI Models
- U.S. Copyright Office Releases Part One of Artificial Intelligence Report, Recommends Federal Digital Replica Law
- OpenAI Endorses AI Legislation
- The EU's AI Act Goes Live

### In the Blogs:

- **CNBC:** [Apple releases first preview of its long-awaited iPhone AI](#)
- **Publishing Perspectives:** [Richard Charkin: In Praise of Collective Licensing](#)
- **WIRED:** [What Project 2025 Means for Big Tech ... and Everyone Else](#)
- **IPWatchdog:** [Chevron, Suprema and the Case of the Disappearing ITC Importation Requirement](#)
- **The Verge:** [AI music startups say copyright violation is just rock and roll](#)

week after Speaker Mike Johnson told *Punchbowl News*, he'd "like to get [KOSA] done." Read more [here](#).

- On Wednesday, July 31, the long-anticipated [Nurture Originals, Foster Art, and Keep Entertainment Safe Act of 2024](#), known as the NO FAKES Act, was formally introduced by Senators Chris Coons, Marsha Blackburn, Amy Klobuchar, and Thom Tillis. Initially introduced as a discussion draft in October 2023, this bill aims to protect individuals' voices and likenesses from unauthorized digital replicas created by generative AI. Following extensive discussions and hearings, the NO FAKES Act establishes federal protections, holding parties accountable for producing, hosting, or sharing unauthorized digital replicas. The legislation is endorsed by prominent organizations across the entertainment and technology sectors, including SAG-AFTRA, RIAA, MPA, Recording Academy, OpenAI, IBM, WME, Authors Guild, Walt Disney Company, Warner Music Group, UMG, Sony Music, IFTA, Creative Artists Agency, Vermillio, and the Human Artistry Campaign. The text of the bill is available [here](#). A one-pager is available [here](#). A section-by-section summary of the bill is available [here](#).
- On July 31, the *PREPARED For AI Act*, which aims to establish guardrails to ensure the federal government can harness the potential of artificial intelligence (AI) technology, while safeguarding against potential harms, passed out of the Senate Homeland Security and Governmental Affairs Committee and will move to the full Senate for consideration. "While AI has the capacity to greatly enhance federal services, we must be vigilant about its deployment," said Senator Gary Peters (D-MI). "These new measures will guide agencies in adopting AI technologies responsibly, ensuring that taxpayer-funded systems are not only effective but also trustworthy." Read more [here](#).
- On July 31, the Senate Commerce Committee discussed multiple AI-related bills that focused on a range of issues such as developing AI testbeds, leading in standards development, jumpstarting a public awareness campaign on the risks associated with AI systems, expanding small business access to AI model training tools and more. A summary of discussions between members at the hearing can be found [here](#). Overall, all the bills passed. (1) S. 4178- Future of Artificial Intelligence Innovation Act of 2024: Passed with amendments including contributions from Senators Budd, Cruz, Schatz, and Young. (2) S. 4394- National Science Foundation Artificial Intelligence Education Act of 2024: Passed with modifications from Senators Budd, Cruz, and Peters. (3) S. 2714- CREATE AI Act of 2023: Passed by a roll call vote of 19-7 with amendments from Senator Cruz. (4) S. 4769- Validation and Evaluation for Trustworthy AI Act: Passed with amendments from Senators Cruz and Hickenlooper. (5) S. 3312- AI Research, Innovation, and Accountability Act of 2023: Passed unanimously. (6) S. 3162- TEST AI Act of 2023- Passed with Lujan-Thune's substitute. (7) S. 4487- Small Business AI Training Act: Passed with amendments from Senators Cantwell, Moran, and Cruz. (8) S. 4569- Take It Down Act: Passed with Cruz-Klobuchar's substitute. (9) S. 4596- AI Public Awareness and Education Campaign Act: Passed. (10) S. 3849 – Promoting United States Leadership in Standards Act: Passed by voice vote. A full summary from ACG is available upon request.
- On July 31, *Reuters* reported that the Senate Commerce Committee rejected a bid to bar the Federal Communications Commission (FCC) from requiring broadcast radio and television political advertisements to disclose whether content is generated by AI. The vote was 14-12

along party lines. According to the article, the FCC voted earlier this month to propose the disclosure rules and opened the proposal for public comment through mid-October. Senate Commerce Committee Chair Maria Cantwell said the FCC will not be able to finalize the rules before the November presidential election. Read more [here](#).

## II. Administration Updates

- Last week, *POLITICO* reported that the United States blocked China's request for a World Trade Organization (WTO) dispute settlement panel to decide whether key provisions of President Biden's Inflation Reduction Act (IRA) violate global trade rules. According to *POLITICO*, Beijing can make a second request for a panel, which the United States will not be able to block, at the WTO's next Dispute Settlement Body (DSB) meeting on September 23. It could also request a special DSB meeting earlier, if it prefers not to wait. "In short, it is hypocritical for China to target the U.S. measures in this dispute while failing to address its industrial targeting of clean energy sectors and its use of non-market policies and practices that are detrimental to all Members," the U.S. delegate said. Read more [here](#).
- On July 26, *The Hill* reported that Apple signed on to the Biden Administration's AI safety guidelines that were outlined in the executive order last October. Apple also announced their own suite of AI technology earlier this year — calling it Apple Intelligence which will be released with the next iPhone software update later this year, and is expected to include ChatGPT integration, art creation, and transcription services. Read more [here](#).
- On July 29, *POLITICO* reported that Adham Sahloul has been named special assistant and adviser in the Office of Policy at the U.S. Agency for International Development (USAID). He most recently was special assistant in the White House Liaison Office in the Office of the Secretary of Defense.
- On July 29, *POLITICO* reported that the Biden administration has unveiled new proposals to further restrict American adversaries' access to intelligence services that could be used to fuel foreign militaries. According to the article, the proposed changes released last week, would introduce new limitations on U.S. individuals and entities providing assistance to foreign military intelligence end-users in more than 40 countries of concern. The measures would also tighten the scope of export licenses for certain defense-related services and impose new restrictions on exporting AI-powered facial recognition technology. Public comments for the changes are due September 27.
- On July 29, *Tech Crunch* reported that the U.S. Commerce Department has issued a report in support of "open-weight" generative AI models but recommended that the government develop "new capabilities" to monitor such models for potential risks. Authored by the Commerce Department's National Telecommunications and Information Administration (NTIA), the report said open-weight models broaden generative AI's availability to small companies, researchers, nonprofits and individual developers. "The openness of the largest and most powerful AI systems will affect competition, innovation and risks in these revolutionary tools," Alan Davidson, assistant secretary of Commerce for Communications and Information and NTIA administrator, said in a statement. "NTIA's report recognizes the importance of open AI systems and calls for more active monitoring of risks from the wide

availability of model weights for the largest AI models. Government has a key role to play in supporting AI development while building capacity to understand and address new risks.” Read more [here](#).

- On August 1, *POLITICO* reported that the Justice Department is investigating the acquisition of the Israeli AI start-up Run:ai by semiconductor company Nvidia on antitrust grounds. The companies [announced the deal](#) in late April without disclosing a price, though [TechCrunch reported](#) \$700 million. Run:ai’s technology enables virtualization of GPUs, which allows customers to do more with fewer chips. This has raised warning flags with regulators as it has aroused suspicions that Nvidia may have acquired their technology so that it would not be able to curb its main revenue generator. “Nvidia wins on merit, as reflected in our benchmark results and value to customers. We compete based on decades of investment and innovation, scrupulously adhering to all laws, making Nvidia openly available in every cloud and on-prem for every enterprise, and ensuring that customers can choose whatever solution is best for them,” Nvidia spokesperson Mylene Mangalindan said. “We’ll continue to support aspiring innovators in every industry and market and are happy to provide any information regulators need.” This is the second DOJ investigation into Nvidia, which although separate is related. According to *POLITICO*, the DOJ has been asking questions about Nvidia’s sales practices including whether it conditions access to its chips on purchases of other products or commitments to not buy from competitors. Read more [here](#).
- The White House’s Office of Digital Strategy [announced](#) that it will hold a first-ever White House Creator Economy Conference (WHCEC) on August 14, 2024. According to the press release, the conference will “convene a group of digital creators and industry professionals to discuss the most pressing issues within the creator economy today — including privacy, fair pay, AI, mental health, and more.” The conference will also allow members of the Administration to learn from creators and industry professionals and gain insight on how various issues are impacting their lives to inform policy decisions. The event is by invitation only, and those interested in attending and/or submitting questions for the conference can do so [here](#).
- A [Notice of Public Roundtable](#) was posted in the Federal Register announcing that the United States Patent and Trademark Office (USPTO) will hold a roundtable on August 5, titled *Protecting NIL, Persona, and Reputation in the Age of Artificial Intelligence*. The roundtable will seek public input on whether existing laws protecting an individual's reputation and existing laws prohibiting unauthorized use of an individual's name, image, voice, likeness, or other indicia of identity are sufficient given the development and proliferation of AI technology. According to the notice, the roundtable will consist of an in-person session and a separate virtual session. Individuals who wish to participate as a speaker at either session must submit a request to [NILroundtable@uspto.gov](mailto:NILroundtable@uspto.gov) by July 31, 2024. Supplementary information and a link to register to watch the livestream can be found [here](#).

### III. USCO Updates:

- On July 31, the U.S. Copyright Office released [Part 1](#) of its report on the legal and policy issues related to copyright and artificial intelligence, specifically addressing the topic of digital replicas. This section of the report “responds to the proliferation of videos, images, or audio recordings that have been digitally created or manipulated to realistically but falsely depict an individual.” According to the Office, considering the gaps in existing legal protections, it “recommends that Congress enact a new federal law that protects all individuals from the knowing distribution of unauthorized digital replicas.” In addition, the Office shared its recommendations on the details that should be included in drafting such a law. For more information about the Copyright Office’s AI Initiative, please visit its [website](#).

### IV. Industry Updates:

- On July 28, *Digital Music News* reported that major labels in France have obtained permission to add more sites to an ever-expanding block list. Initially reported by French news outlet *L’Inform*e, “SCPP [Civil Society of Phonogram Producers] established in a sufficiently convincing manner that the disputed sites, which are aimed at a French-speaking public, allow internet users, via the aforementioned access paths, to download or continuously access protected works via hyperlinks without obtaining authorization from rights holders.” The court agreed that ISP blocking is warranted in this context since hyperlinking amounts to copyright infringement. Read more [here](#).
- On July 29, *Sportico* reported that several new legal disputes in sports have highlighted the growing importance of intellectual property in protecting brands and creative works. As *Sportico* has detailed, Lamar Jackson and Troy Aikman are battling over trademark ownership of the No. 8, while the University of Alabama and LIV Golf have disputes over a logo. Two other IP disputes have emerged this month. First, the U.S. Olympic & Paralympic Committee sued Prime Hydration, a sports and energy drink company over their use of USOPC’s trademarks for “Olympic,” “Olympian,” “Team USA” and “Going for Gold,” in connection with the promotion and sale of beverages. Second, Kobalt Music Publishing American (KMPA) and other companies that own or have licensed interests in hit songs, have sued 14 NBA teams in the Southern District of New York for copyright infringement, alleging they have exploited copyrights by “synchronizing” the songs with videos intended to promote the teams’ brands and allegedly failed to obtain consent. Read more [here](#).
- On July 29, the European Union Intellectual Property Office (EUIPO) released the third edition of its report that studies legislative measures regarding IP enforcement. The report details fictional enforcement scenarios for combatting criminal copyright infringement and the applicable jurisdictional laws and remedies to address criminal copyright liabilities, including for online copyright piracy, IPTV copyright piracy, and cyber-squatting fraud. Read the full report [here](#).
- On July 30, *The Verge* reported that Microsoft has called on multiple members of Congress to regulate the use of AI-generated deepfakes. Microsoft vice chair and president Brad Smith, in a recent blog post, stated, “While the tech sector and non-profit groups have taken recent steps to address this problem, it has become apparent that our laws will also need to evolve to combat

deepfake fraud. One of the most important things the U.S. can do is pass a comprehensive deepfake fraud statute to prevent cybercriminals from using this technology to steal from everyday Americans.” Read the full blog post [here](#) and more from *The Verge* [here](#).

- On Tuesday, July 30, OpenAI announced their endorsement/support for three AI-related bills currently in Congress. The first bill is the *Future of AI Innovation Act* which is sponsored by Senators Cantwell, Hickenlooper, and Blackburn. The bill authorizes the U.S. AI Safety Institute at the National Institute of Standards and Technology (NIST) to promote the development of voluntary standards, and creates testbeds with national labs to accelerate groundbreaking AI innovation for the benefit of future economic growth and national security. Read the [Press Release](#): and the [Bill Text](#). The second bill is the *CREATE AI Act* which is sponsored by Senators Heinrich, Young, Booker, and Rounds and Representatives: Eshoo, McCaul, Beyer, and Obernolte. The bill authorizes the construction of the National Artificial Intelligence Research Resource (NAIRR), a cloud computing resource that will democratize development and use of artificial intelligence (AI). Read the [Senate Press Release](#) and the [House Press Release](#) as well as the official [Bill Text](#). The third bill is the *NSF AI Act* which is sponsored by Senators Cantwell and Moran. The bill would expand scholarship and professional development opportunities to study artificial intelligence and quantum with support from the National Science Foundation (NSF). Read the [Press Release](#) and [Bill Text](#).
- On July 31, the Mechanical Licensing Collective (MLC) published a press release touting the support they have received from certain rightsholders and songwriter advocacy, publisher and industry organizations who filed comments in connection with the first periodic review of the designation of the MLC and Digital Licensee Coordinator (DLC) by the Register of Copyrights. Specifically, the press release stated that the MLC received support from the Artist Rights Alliance (ARA), Black Music Action Coalition (BMAC), Music Artists Coalition (MAC), Nashville Songwriters Association International (NSAI), the Recording Academy, Songwriters of North America (SONA) and the 100 Percenters. The Register of Copyrights began the periodic review of The MLC and the DLC this January by publishing a notice in the Federal Register. According to the press release, now that the public comment period has concluded, the Register will review all submissions and publish its decision on whether to continue the designations of The MLC and DLC in the Federal Register. For more information click [here](#).
- On July 31, *Law360* reported that in a legal battle led by authors such as Sarah Silverman and Ta-Nehisi Coates, a federal judge in California dismissed an unfair competition claim against OpenAI, leaving only a direct copyright infringement allegation. The authors contend that OpenAI used their copyrighted works without permission to train ChatGPT, which generates text outputs and summaries of their writings. Judge Araceli Martínez-Olguín ruled that the California Unfair Competition Law claim was preempted by the Copyright Act since it did not contain a right distinct from those protected under the Act. The judge noted, "The UCL claim, based on the copying of plaintiffs' infringed works, falls squarely within the ambit of the Copyright Act." Read more [here](#).
- At the end of July, the Copyright Claims Board (CCB) had issued 28 final determinations. Claimants prevailed approximately 67% of the time and the average damage amount awarded by the CCB across all final determinations was \$3,293. Nineteen percent of the final determinations issued by the CCB were for cases brought through the “smaller claims” process.

Fifty-two percent of final determinations are adoptions of proposed default determinations. The average time it took for the CCB to issue a final determination from the time a claim was first filed was approximately 14 months. The average time it took for the CCB to issue a final determination from the time a case was first filed through a standard CCB proceeding was roughly 15 months, while a case filed through the “smaller claims” process averaged approximately 10 months. More information can be found [here](#).

- On August 1, *Tech Crunch* reported that the European Union’s AI Act is officially on the books. The clock has now started for multiple compliance deadlines, with most becoming fully applicable by the middle of 2026. Of note, *Bloomberg Law* pointed out in a recent article that beginning in August 2025, the act will require companies providing “general-purpose AI models” in the EU to make public a “sufficiently detailed” summary disclosing the content used to train the AI of which there is currently no equivalent federal requirement in the US. Read more [here](#) and [here](#).
- On August 1, *WIRED* published an article summarizing some of the policy points relating to technology and antitrust in Project 2025. Project 2025 is a policy proposal influenced by the Heritage Foundation that aims to reduce regulations in sectors like AI and cryptocurrency, raising concerns about its impact on technology and the environment. The initiative promises to roll back efforts to ensure AI safety and supports bitcoin mining. One of the proposals suggests abolishing the Federal Reserve which would allow banks to back their money using cryptocurrencies. The proposal could also shrink the role of the National Labor Relations Board (NLRB) as it could help suppress the nascent unionization efforts within the tech sector, says Darrell West, a senior fellow at the Brookings Institution’s Center for Technology Innovation. “Tech, of course, relies a lot on independent contractors,” says West. “They have a lot of jobs that don’t offer benefits... And this document seems to reward those types of business.” The proposal also suggests that a second Trump administration could abolish the Federal Trade Commission (FTC), which currently has the power to enforce antitrust laws. Although former President Trump has attempted to distance himself from the plan, the Heritage Foundation continues to prepare for potential implementation under a future Republican administration. Read more [here](#).
- To mark World Photography Day in August, the Copyright Alliance—along with 20 co-hosts—is holding a webinar titled [Photographers’ Rights: Navigating Copyright Realities](#) on Thursday, August 8 at 2 p.m. ET. During the event, photographers will learn how their works are protected by copyright, get practical tips for enforcing their rights against online infringement, and learn about the hot-topic copyright issues affecting photographers today, including the profound impact of AI on their creative craft. Due to the large volume of registrations already received for this event, the Copyright Alliance has decided to livestream the Zoom Webinar on Facebook Live as well. If you are unable to access the Zoom event the day of, due to it being at full capacity, please go to their [Facebook event page](#) to watch it live.