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CONTENT & TECHNOLOGY POLICY REPORT JANUARY 26, 2024



I. Congressional Updates:

- On January 23, a group of Senators, in a letter, called on Majority Leader Chuck Schumer to create an independent agency to regulate major technology companies. Senators Bennet, Graham, Warren, and Welch argued that the current moment “requires a new federal agency to protect consumers, promote competition, and defend the public interest... When confronted with the emergence of complex, risk-prone industries, Congress has often elected to create regulatory bodies to address the challenges facing the American people,” they continued. “The same approach is necessary here.” Read more [here](#).
- On Wednesday, January 24, 2024, the Senate Rules & Administration Committee held a hearing titled, “The Use of Artificial Intelligence at the Library of Congress, Government Publishing Office, and Smithsonian Institution.” Witnesses included [The Honorable Dr. Carla Hayden](#), Librarian of Congress at the Library of Congress; [The Honorable Hugh Nathaniel Halpern](#), Director at the U.S. Government Publishing Office; and [Ms. Meroë Park](#), Deputy Secretary and Chief Operating Officer at the Smithsonian Institution. Senators used the hearing as an opportunity to learn more about AI usage and priorities at the three agencies. Overall, the general sentiment among the witnesses was that AI has the potential to be beneficial but comes with risks, and managing those risks is key during the early stages of development and implementation. A link to the hearing page and full recording can be found [here](#).
- On Thursday, the Chair and Ranking Member of the Senate Judiciary Committee IP Subcommittee, along with 12 other

Headlines and Highlights:

- Senators Push Schumer for Big Tech Watchdog Agency
- Senate Rules & Administration Hearing on AI
- Senators Urge Biden Administration to Reject TRIPS Waiver
- HJC IP Field Hearing Announced
- President Biden Nominates Nelson Cunningham for Deputy U.S. Trade Representative
- U.S. Copyright Office Announces Instructions for Audit Notices Under the Music Modernization Act
- Biden Administration, Tech Giants Partner for AI Research Program

In the Blogs:

- **Hugh Stephens Blog:** [We all Remember the Iconic Photo of the Last Spike, but Who was the Photographer?](#)
- **The New York Times:** [The Sleepy Copyright Office in the Middle of a High-Stakes Clash Over A.I.](#)

Senators, sent a letter to President Biden urging him to reject the proposal before the World Trade Organization (WTO) that would waive intellectual property protections for COVID-19 diagnostics and therapeutics. Specifically, the Senatorial letter argues that waiving protections afforded by the WTO Agreement on Trade-Related Aspects of IP Rights (TRIPS) could have unintended consequences for the development of new treatments for dangerous diseases while doing little to improve access to medicine. In addition to Senate Judiciary Committee IP Subcommittee Chair Coons (D-DE) and IP Ranking Member Tillis (R-NC), the letter is signed by Senators Carper (D-DE), Crapo (R-ID), Hirono (D-HI), Barrasso, M.D. (R-WY), Sinema (I-AZ), Blackburn (R-TN), ester (D-MT), Scott (R-SC), Cantwell (D-WA), Lankford (R-OK), Warner (D-VA), and Cornyn (R-TX). The full letter can be found [here](#).

- Next week on February 2, the House Judiciary Committee IP Subcommittee is holding a field hearing in Los Angeles titled, “Artificial Intelligence and Intellectual Property: Part II – Identity in the Age of AI.” Witnesses listed include Lainey Wilson – 2024 GRAMMY Nominee; 2023 CMA Entertainer of the Year; 2023 ACM Female Artist of the Year, Harvey Mason Jr. – President and CEO, The Recording Academy, Christopher Mohr – President, Software and Information Industry Association (SIIA), and Jennifer Rothman – Nicholas F. Gallicchio Professor of Law, University of Pennsylvania Law School.

II. Administration Updates

- On January 23, USTR Announced that President Biden nominated Nelson Cunningham as Deputy United States Trade Representative. USTR Katherine Tai welcomed the nomination, remarking that, “Nelson Cunningham knows that trade policy operates at the intersection of domestic economic and foreign policy...I look forward to working with him as USTR continues to advance an inclusive, worker-centered trade agenda that benefits all Americans.” Read more [here](#).
- On Thursday, the Federal Trade Commission (FTC) issued compulsory orders to five companies requiring them to provide information regarding recent investments and partnerships involving generative AI companies and major cloud service providers. Issued under Section 6(b) of the Federal Trade Commission Act the five companies the FTC targeted are Alphabet, Amazon, Anthropic, Microsoft Corp., and OpenAI. According to the press release, the FTC plans to use the responses to further study the competitive landscape of the generative AI industry. Chair Khan stated, “Our study will shed light on whether investments and partnerships pursued by dominant companies risk distorting innovation and undermining fair competition.” More information is available [here](#).
- On Thursday, the FTC’s Office of Technology hosted an FTC Tech Summit with the goal of facilitating a dialogue amid a dynamic innovation landscape. The summit included panelists from across academic, industry, civil society organizations, and government agencies and focused on the state of technology and real-world impacts of AI on consumers and competition. Of note, the second panel focused on how the methods of data collection and model development in the AI space have implications for competition and consumer protection, especially in the creative industry. The panelists spoke about how creatives are concerned about their work being used to create a model that will then compete with them in the labor market. A full list of panelists and speakers can be found [here](#).

III. USCO Updates:

- On January 24, the US Copyright Office announced a new webpage devoted to audit notices under the Music Modernization Act (MMA). The new webpage provides instructions on how to submit MMA audit notices to the Office and will host copies of audit notices received by the Office. Read more [here](#).
- On January 26, *Complete Music Update* reported that the US Copyright Office is looking into possible AI licensing models, including a compulsory license. The General Counsel of the US Copyright Office, Suzy Wilson, has said that they are considering possible licensing models that would allow copyright owners and creators to be compensated if their work is used to train a generative AI model. According to the article, Wilson said that identifying workable and fair licensing models was one of the major issues that the Copyright Office is looking to address via its AI consultation. She added: "We are aware there is some licensing going on in the [AI] space and we've asked people to inform us about that". Read more [here](#).
- On January 3, the US Copyright Office published a notice of proposed rulemaking in the Federal Register to update its regulations by adding a new registration option for frequently updated news websites. According to the press release, the proposed rule will enable online news publishers to register a group of updates to a news website as a collective work. The accompanying deposit will be composed of identifying material representing sufficient portions of the works rather than the complete contents of the website. The notice of proposed rulemaking and instructions on how to submit a comment are available [here](#). Written comments must be received no later than 11:59 p.m. eastern time on February 20th, 2024.
- The US Copyright Office announced upcoming deadlines in response to the October 19 notice of proposed rulemaking in the ninth triennial proceeding under section 1201 of Title 17. Based on the renewal petitions received and the lack of sufficient opposition, the Office intends to recommend readoption of all but one existing exemption. In addition, the notice outlines seven newly proposed classes of exemption and initiates three rounds of public comment. Comments from those who proposed new exemptions support adoption of a proposed exemption, as well as those that neither support nor oppose an exemption, are due December 22, 2023. Comments in opposition are due February 20, 2024. Reply comments from supporters of a proposed exemption and parties who neither support nor oppose an exemption are due March 19, 2024. Additional background information about section 1201 is available [here](#).

IV. Industry Updates:

- On January 24, *The Hill* reported that the National Science Foundation is partnering with tech companies leading on AI issues and nine other federal agencies to launch a pilot program aimed at creating a shared AI research infrastructure. The pilot program is part of the AI executive order that was signed in October and will be housed under the National Artificial Intelligence Research Resource (NAIRR). According to the

article, private companies partnering for the NAIRR pilot program include Amazon Web Services, Anthropic, Google, IBM, Meta, Microsoft, NVIDIA and OpenAI. While agencies partnering with the National Science Foundation on the pilot include the Department of Energy, NASA, the National Institutes of Health, the U.S. Patent and Trade Office and the Department of Defense. According to the National Science Foundation, the program will initially support AI research to advance “safe, secure and trustworthy AI,” and applications of AI to challenges in healthcare and sustainability. Operations will be organized into four focus areas: (1) NAIRR Open (2) NAIRR Secure (3) NAIRR Software and (4) NAIRR Classroom. Read more [here](#).