

CONTENT & TECHNOLOGY POLICY REPORT MAY 2, 2024



I. Congressional Updates:

- On April 30, the Senate Committee on the Judiciary Subcommittee on Intellectual Property held a hearing titled “*The NO FAKES Act: Protecting Americans from Unauthorized Digital Replicas*”. The hearing focused on the increasing use of AI-generated replicas, such as deepfake videos and voice-cloning tools, and the legal and ethical issues they present. Chairman Chris Coons (D-DE) discussed the *NO FAKES Act*, a discussion draft he introduced to protect individuals from unauthorized use of their images, voices, or likenesses. Ranking Member Thom Tillis (R-NC) emphasized the need for legislation to address the issue of deepfakes and digital replicas. Six witnesses testified, discussing the importance of protecting artists' identities and intellectual property, the need for regulation, and the potential misuse of AI technology. The hearing concluded with Chairman Coons, noting the need to balance individual privacy rights and First Amendment rights when regulating the use of AI, so as not to stifle creativity and innovation. He highlighted the necessity of a clear policy to protect individuals from unauthorized AI replicas, and expressed his eagerness to work with his colleagues, co-sponsors, witnesses, and others to refine the policy in the coming weeks and hopefully officially introduce the *NO FAKES Act* within the next month. A full summary from ACG can be provided upon request.
- On Tuesday, April 30, the House Energy and Commerce Subcommittee on Innovation, Data, and Commerce held a hearing titled, “Preserving Americans’ Access to AM Radio.” Witnesses included Mr. John Bozzella (President and CEO, Alliance for Automotive Innovation), Mr. Gary Shapiro (CEO, Consumer Technology Association), Ms.

Headlines and Highlights:

- Senate Judiciary Holds NO FAKES Hearing
- House E+C Holds AM Radio Hearing
- Congress Sends Letter for a US Formula 1 Team
- IPEC Releases Annual Report
- FCC Adopts Net Neutrality Rules
- Department of Commerce Announces New Actions to Implement President Biden’s Executive Order on AI
- Google to Pay up to \$6 Million to News Corp for New AI Content

In the Blogs:

- **Hugh Stephens Blog:** [When it’s Dangerous Just to go to the Movies: Indian Diaspora Targeted in Canada](#)
- **The Hill:** [Generative AI is generating astronomical profits by trampling authors and publishers](#)

Melody Spann-Cooper (Chair and CEO, Midway Broadcasting Corporation), and Mr. Justin Ahasteen (Executive Director, Navajo Nation). Of note, Mr. Gary Shapiro, CEO of the Consumer Technology Association (CTA), in his testimony stated that AM and FM radio are the only forms of radio that do not pay performers for their work. He added that digital and streaming platforms pay performance royalties, while AM and FM radio broadcasters make billions in revenue from advertisers while paying nothing to performers. He went on to say that the United States is the only democratic nation where artists are not compensated for the use of their song on FM and AM radio. A full summary from ACG can be provided upon request.

- On April 30, the Senate Committee on Appropriations, Subcommittee on Labor, Health and Human Services, Education and Related Agencies held a hearing to “Review the President’s Fiscal Year 2025 Budget Request for the Department of Education.” There was one witness: the honorable Miguel Cardona, Secretary for the Department of Education. The discussions with Secretary Cardona and policymakers covered a range of critical education issues. Firstly, Sec. Cardona shared concern over declining FAFSA completion rates, especially in low-income schools, highlighting the need for equitable access to financial aid. Secretary Cardona emphasized simplifying the FAFSA process and enhancing student support through initiatives like FAFSA clinics and webinars. Additionally, there was a strong emphasis on addressing mental health needs in schools. Commitments were made to expand school-based mental health programs, allocate funding for new mental health grants, and bolster resources such as school social workers and nurses to support students' mental well-being better. Moreover, discussions touched on campus safety, anti-Semitism on college campuses, financial literacy, challenges specific to farm families, and the need for collaborative efforts among policymakers and stakeholders to overcome systemic barriers and ensure an inclusive educational environment for all students. A full summary from ACG can be provided upon request.
- This week, *Punchbowl News* reported that Rep. John James (R-MI) is leading a bipartisan group of members who are looking for answers from Liberty Media, the owners of Formula One, on why the Mario Andretti-backed General Motors team was denied admission to the racing series. The members wrote a letter saying that the denial represents “anti-competitive actions.” The letter also accuses Formula One Management of potentially violating antitrust laws and bowing to the influence of European race teams. The team, a combination of Andretti Global and General Motors, would have competed with the first American-built and designed engine in Formula One history. Reps. Jim Jordan (R-OH), Jared Moskowitz (D-FL) and Dan Kildee (D-MI) also signed on to the letter. Read more [here](#).
- On Tuesday, May 7, the Committee on Education and the Workforce, will hold a full committee hearing titled “Examining the Education Department’s Policies, Priorities, and FY 2023 Financial Audit Failure.” Secretary Miguel Cardona will testify. The meeting is open to the press and will be live-streamed on the Committee's YouTube page [here](#).

II. Administration Updates

- On April 23, the Office of the Intellectual Property Enforcement Coordinator (IPEC) issued its *Annual Intellectual Property Report to Congress*, which provides an overview of the intellectual property enforcement efforts of various US federal and governmental agencies, including the US Patent and Trademark Office (USPTO), the US Copyright Office (USCO),

the State Department, the Office of the US Trade Representative (USTR), and the Commerce Department's Commercial Law Development Program. The report highlights various capacity-building and foreign assistance accomplishments in copyright education and enforcement, including work by the ICHIP and IP Attaché programs on digital sports piracy issues in Romania, Latin America, and the Caribbean. In recounting USCO activities and accomplishments, the report noted that in all of the Office's public engagements on AI and copyright issues in 2023 (including the webinars and listening sessions), it reached more than 8,000 people, breaking engagement records. Read the full report [here](#).

- On April 25, the Federal Communications Commission (FCC) voted 3-2 along party lines to approve a declaratory ruling and order that restores most of the FCC's original net neutrality rules from 2015 to prevent internet service providers from blocking, downgrading, or up-charging for certain kinds of internet transmissions. The document specifies that the rules do not protect or promote copyright infringing activities and do not prohibit the reasonable efforts of internet service providers to address copyright infringement. However, the FCC notes that, similar to the 2015 rule, it "retain[s] discretion to evaluate the reasonableness of broadband providers' practices under this rule on a case-by-case basis." More information is available [here](#).
- On Monday, April 29, the United States and Ecuador held the fifth meeting of the United States-Ecuador Trade and Investment Council (TIC). The meeting highlighted the continued cooperation on bilateral issues, such as implementation of the Protocol on Trade Rules and Transparency under the TIC, as well as their commitment to regional collaboration in the Americas Partnership for Economic Prosperity. According to the joint statement, technical dialogues were carried out on agriculture, intellectual property, labor issues, and environment. In addition, bilateral Committees on Labor Affairs, Environment, and Fair Trade were established. Both countries agreed to continue technical dialogues within the framework of these Committees to address the priority issues they share and identify future areas of collaboration. Ecuador and the United States concluded the meeting by committing to organize a small and medium-sized enterprise (SME) dialogue that includes the participation of Indigenous and women entrepreneurs, highlighting the importance of ensuring that the benefits of trade extend to all sectors. Read more [here](#).
- Monday, April 29, marked the 6-month anniversary of the Biden Administration's AI Executive Order. According to the White House, federal agencies reported that they completed all of the 180-day actions in the EO on schedule, following their recent successes completing each 90-day, 120-day, and 150-day action on time. Actions that the agencies reported as complete include (1) Released for public comment draft documents on managing generative AI risks, securely developing generative AI systems and dual-use foundation models, expanding international standards development in AI, and reducing the risks posed by AI-generated content. (2) Launched the AI Safety and Security Board. (3) Developed bedrock principles and practices for employers and developers to build and deploy AI safely and in ways that empower workers. (4) Published guidance on patentability of AI-assisted inventions, and more. A table summarizing many of the activities that the federal agencies have completed in response to the Executive Order can be found [here](#). The next deadline to look for is May 27, when agencies must designate a chief AI officer. Read more [here](#).

- On Monday, April 29, the Department of Commerce announced several new actions related to the Biden Administration's AI Executive Order. The Department's National Institute of Standards and Technology (NIST) released four draft publications intended to help improve the safety, security, and trustworthiness of AI systems as well as a challenge series that will support development of methods to distinguish between content produced by humans and content produced by AI. In addition to NIST's publications, the USPTO published a request for public comment (RFC) seeking feedback on how AI could affect evaluations of how the level of ordinary skills in the arts are made to determine if an invention is patentable under US law. According to the Department of Commerce's press release, the NIST publications cover varied aspects of AI technology: The first two are guidance documents designed to help manage the risks of generative AI — the technology that enables chatbots and text-based image and video creation tools — and serve as companion resources to NIST's AI Risk Management Framework (AI RMF) and Secure Software Development Framework (SSDF), respectively. The third NIST publication offers approaches for promoting transparency in digital content, which AI can alter; the fourth proposes a plan for developing global AI standards. These publications are initial drafts, which NIST is publishing now to solicit public feedback before submitting final versions later this year. Comments for the NIST drafts are due by June 2. As for the USPTO's RFC they are seeking public feedback on how the use of AI could pose questions as to what qualifies as prior art and the assessment of the level of skill of a person having ordinary skill in the art. Comments for the USPTO are due July 29. The full Register Notice can be found [here](#) and the press release [here](#).
- On Tuesday, April 30, USTR Katherine Tai and Singapore Minister of Trade and Industry Gan Kim Yong co-chaired the U.S. – Singapore Free Trade Agreement (FTA) Joint Committee meeting. They discussed ongoing efforts under the FTA framework and agreed to continue working on shared areas of interest, including environment, labor, and trade facilitation. According to the USTR's press release, the ministers exchanged perspectives on ways to advance supply chain resilience, including the importance of collaborating with trading partners to incentivize a race to the top and aligning labor and environmental protections within trusted networks. The discussion was partly a celebration to commemorate the 20th anniversary of the FTA. Read more [here](#).
- On Friday, April 26, the U.S. Homeland Security Department (DHS) announced a blue-ribbon board that includes the CEOs of OpenAI, Microsoft, Google parent Alphabet and Nvidia that will advise the government on the role of artificial intelligence on critical infrastructure. According to *Reuters*, The board will develop recommendations for the transportation sector, pipeline and power grid operators, internet service providers and others to "prevent and prepare for AI-related disruptions to critical services that impact national or economic security, public health, or safety." Homeland Security Secretary Alejandro Mayorkas told reporters the board would help ensure the safe deployment of AI technology and how to address threats posed by this technology to vital services like energy, utilities, transportation, defense, information technology, food and agriculture, and financial services. "It is not a board that will be focused on theory, but rather practical solutions for the implementation of AI in our nation's daily life," Mayorkas told reporters. "It was very important to bring key developers of this extraordinary powerful tool" to the board. The 22-member board includes tech leaders OpenAI CEO Sam Altman, Anthropic CEO Dario Amodei, Nvidia CEO Jensen Huang, IBM CEO Arvind Krishna, Adobe CEO Shantanu Narayen, CEO Satya Nadella, Alphabet CEO Sundar Pichai, Cisco CEO Chuck Robbins, Amazon Web Services CEO Adam Selipsky, Advanced Micro Devices CEO Lisa Su, Delta Air Lines CEO Ed Bastian, Occidental Petroleum CEO Vicki

Hollub and Northrop Grumman CEO Kathy Warden, as well as Maryland Governor Wes Moore, Seattle Mayor Bruce Harrell and the head of White House Office of Science and Technology Policy. The board will meet for the first-time next month with quarterly planned future meetings. Read more [here](#).

III. USCO Updates:

- On Wednesday, May 1, USPTO Director Kathi Vidal, USCO Register Shira Perlmutter, Chair of the House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet Rep. Darrell Issa (R-CA), and representatives from USPTO partner organizations, including the American Intellectual Property Law Association and others to observed World IP Day 2024 with an in-person gathering at the U.S. Capitol that highlighted this year's theme of "IP and the SDGs." The 17 SDGs, which include goals such as affordable and clean energy, climate action, and gender equality, are a blueprint for people, peace, prosperity, and our planet. Participants will discuss progress on achieving these goals and the critical role IP protection plays in this achievement. Other Congressional speakers include Senator Chris Coons, Chair, Senate Judiciary Subcommittee on Intellectual Property, Senator Thom Tillis, Ranking Member, Senate Judiciary Subcommittee on Intellectual Property, and Representative Hank Johnson, Ranking Member, House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet. Read more [here](#).
- On May 7, the Special Competitive Studies Project (SCSP) and the Council for Innovation Promotion (C4IP) will host a fireside chat during the AI Expo on the implications of AI on patents and copyrights with Register of Copyrights, Shira Perlmutter, and Andrei Iancu, Partner at Sullivan & Cromwell and former Director of the U.S. Patent and Trademark Office. The discussion will be moderated by Rama Elluru, Senior Director for Society & Intellectual Property at SCSP. The AI Expo is a *free event, open to the public*, and will be held at the Walter E. Washington Convention Center. We encourage members to attend if possible. More information is available on the [registration page](#).
- 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:

- On April 16, Dr. Viviane Ghaderi, a former AI researcher for Amazon's Alexa and large language model teams, filed a [complaint](#) against Amazon, alleging multiple labor and employment related claims including discrimination, retaliation, harassment, and wrongful termination. In the complaint, Ghaderi alleges that while working on development of

Amazon's large language models, she had raised conflicts with the company's copyright-related policies but had been directed by her managers to violate those policies "in pursuit of better results because 'everyone else'—i.e., other AI companies—is doing it." More information is available [here](#).

- April 23, the Copyright Alliance and 18 Community Partner organizations hosted a World IP Day (WIPD) panel via Zoom, titled *Sustaining and Empowering the Creative Community Through Copyright*. The event, which drew more than 130 attendees, covered how creators can meet their goals today while helping to ensure that tomorrow's creative community is sustained through job growth, a strong creative economy, and continued growth of the arts, all of which are perpetuated through copyright protections. A video of the event is available on their YouTube channel. Also, be sure to check out the [WIPD video message](#) shared by Copyright Alliance CEO Keith Kupferschmid, and numerous video messages from elected officials posted on their [World IP Day webpage](#).
- On April 24, *Cordcutting* released survey results after polling 988 American adults about their streaming and piracy behaviors. More than one-third of participants admitted to pirating TV shows or movies during the past 12 months. 54% of those participants answered that they accessed pirated TV and movies to the same degree as last year, 35% reported they pirated works less this year, and 11% indicated that they pirated works more often this year. The most-cited reason for piracy was that the participant was only interested in a specific show or movie that was not worth a full subscription (36%). Read more [here](#).
- On Friday, April 26, *Deadline* reported that Producers United, comprising 86 prominent film and TV "Career Producers," has emerged as a collective effort to advocate for significant changes within the entertainment industry. This coalition, composed of producers responsible for a substantial portion of Hollywood's major independent and studio/streamer films, seeks to address various challenges faced by producers, particularly in terms of the fee structure, healthcare benefits, and the evolving landscape of the industry. The coalition argues that producers, especially Career Producers, encounter both financial constraints and symbolic indignities in their roles. They highlight the disparity in fee structures, with producers often receiving minimal compensation during the development phase despite their significant contributions to project initiation and development. Moreover, they emphasize the need for healthcare contributions from film and TV companies to alleviate the burden on producers and their employees. Click to see the [entire list of producers](#) who will be pressing the case. Read more [here](#).
- On April 26, Maria Pallante, CEO of the Association of American Publishers, Mary Rasenberger, CEO of the Authors Guild, and Danielle Coffey, CEO of the News/Media Alliance, penned an [opinion piece](#) in *The Hill* championing the importance of authors and publishers and highlighting the unprecedented harms and risks to the creative industry from the unauthorized use of copyright-protected works to develop generative AI models. The op-ed highlights that although big AI companies continue to seek "a pass on the indiscriminate appropriations" from their unauthorized use of creative works, there "isn't a single, rational reason to accommodate them, but there are ample, critical reasons to protect the vitality of authors and publishers in the world, on this World IP Day and every other day."

- On Monday, April 29, *Reuters* reported that a group of visual artists claiming that Google used their work without permission to train their image generator, Imagen, are suing the technology giant. Photographer Jingna Zhang and cartoonists Sarah Andersen, Hope Larson and Jessica Fink said that Google is liable for misusing "billions" of copyrighted images, including theirs, to teach Imagen how to respond to human text prompts. "Our AI models are trained primarily on publicly available information on the internet," Google spokesperson Jose Castaneda said on Monday. "American law has long supported using public information in new and beneficial ways, and we will refute these claims in court." Read more [here](#).
- On Tuesday, April 30, *The Hill* reported that Eight newspapers owned by Alden Global Capital sued OpenAI and Microsoft on Tuesday, accusing the tech firms of illegally using copyrighted articles to train their AI models. The New York Daily News, Chicago Tribune, Orlando Sentinel, Sun-Sentinel, Mercury News, Denver Post, Orange County Register and St. Paul Pioneer Press argue the companies have used "millions" of articles without permission to "fuel the commercialization" of their generative AI products, like OpenAI's ChatGPT and Microsoft's Copilot. "Microsoft and OpenAI simply take the work product of reporters, journalists, editorial writers, editors and others who contribute to the work of local newspapers—all without any regard for the efforts, much less the legal rights, of those who create and publish the news on which local communities rely," the lawsuit alleges. Read more [here](#).
- On Thursday, April 30, *Reuters* reported that Google has agreed to pay News Corp, owner of the Wall Street Journal, between \$5 million and \$6 million annually to develop new AI-related content and products. Read more [here](#).