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CONTENT & TECHNOLOGY POLICY REPORT DECEMBER 1, 2023



I. Congressional Updates:

- On November 20, *The Hill* reported that the Senate Judiciary Committee has subpoenaed the CEOs of Discord, Snap, and X to appear before a committee hearing on December 6 that will focus on child online privacy. “Since the beginning of this Congress, our Committee has rallied around a key bipartisan issue: protecting children from the dangers of the online world. It’s at the top of every parent’s mind, and Big Tech’s failure to police itself at the expense of our kids cannot go unanswered,” the Senators said in a joint statement. Read more [here](#).
- On Wednesday November 30, Senate Majority Leader Chuck Schumer hosted the latest of his AI forums, focusing on concerns over AI systems training on copyrighted content and potential AI uses for creators and inventors as well as transparency and explainability around AI. The full list of attendees included musician Rick Beato, Ben Brooks of Stability AI, Mike Capps of Diveplane, Danielle Coffey of News Media Alliance, Duncan Crabtree-Ireland of SAG-AFTRA, Ali Farhadi of the Allen Institute for AI, Zach Graves of the Foundation for American Innovation, Vanessa Holtgrewe of IATSE, Mounir Ibrahim of Truepic, Dennis Kooker of Sony Music Entertainment, Curtis LeGeyt of the National Association of Broadcasters, Riley McCormack of DigiMarc, Cynthia Rudin of Duke University, Jon Schleuss of NewsGuild, Ben Sheffner of the Motion Picture Association, Navrina Singh of Credo AI, Ziad Sultan of Spotify, Andrew Trask of OpenMined, and Nicol Turner Lee of Brookings.

Headlines and Highlights:

- Big Tech CEOs Subpoenaed to Testify Before Senate About Efforts to Protect Kids Online
- Schumer Holds IP and Copyright AI Forum
- Members of Congress Oppose Biden Administration’s Abandonment of Key Bipartisan Digital Trade Proposals
- Germany, France, and Italy Reach Agreement on Future AI Regulation
- BMI Sold to New Mountain Capital

In the Blogs:

- **Hugh Stephens Blog:** [As Creator’s Rights Face New Challenges, Canada Needs to Keep Pace with International Developments](#)
- **Hugh Stephens Blog:** [Canadian Writers Speak Up: It’s Time to End the Education Sector Rip-off \(600 Million Pages Unfairly Copied Annually\)](#)
- **Billboard:** [BMI Is Selling: What This Means for Songwriters \(Guest Column\)](#)
- **POLITICO:** [AI Comes for Music’s Middle Class](#)

II. Administration Updates

- On November 18, members of the House Ways and Means Committee sent a letter to US Trade Representative Katherine Tai to reconsider the USTR's decision to abandon important bipartisan trade proposals at the World Trade Organization designed to increase American competitiveness, protect workers and businesses, and ensure fairness in the global digital economy. Co-Chairs of the Digital Trade Caucus, Reps. Darin LaHood (R-IL) and Suzan DelBene (D-WA) along with 14 other Ways and Means Committee members signed the letter which states in part: "We wholeheartedly agree that the United States and our allies must maintain sufficient room to regulate the digital economy in a fair and transparent manner. Further, we agree that consumers must be protected as they interact with the digital economy, including by bolstering consumer data privacy protections and cybersecurity safeguards. That said, the U.S. can regulate companies within our borders without giving foreign countries, including our adversaries, the impression that the United States will no longer protect our industries and workers against discrimination, push back against the PRC's model of data censorship and surveillance, promote the free and secure flow of data across borders, and defend American companies against source code theft." Read the full letter [here](#) and the press release [here](#).

III. USCO Updates:

- On October 19, the US Copyright Office published a 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 and those supporting adoption of a proposed exemption, as well as comments 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](#).
- On Wednesday, November 15 the US Copyright Office (USCO) announced that they are extending the deadline to submit reply comments in response to the Office's August 30, 2023, notice of inquiry regarding artificial intelligence and copyright. Reply comments are now due by 11:59 p.m. eastern time on Wednesday, December 6, 2023. The *Federal Register* notice announcing this extension and additional information, including instructions for submitting comments, are available on the [Artificial Intelligence Study webpage](#).
- On Thursday, November 16 the US Copyright Office (USCO) extended the deadline to submit reply comments in response to the Office's September 26, 2023, supplemental notice of proposed rulemaking on termination rights and other topics related to the Music Modernization Act. Reply comments are now due by 11:59 p.m. eastern time on Tuesday, December 5, 2023. The *Federal Register* notice announcing this extension, and additional information, including instructions for submitting comments, is available on the [rulemaking's webpage](#).

- On November 29, the US Copyright Office (USCO) announced that over the summer they surpassed one million card catalog records digitized with searchable metadata and added them to the Office's Copyright Public Records System (CPRS) pilot. According to the announcement, the inclusion of digitized card catalog records with searchable metadata is a huge step forward for the Office's modernization journey. In total, the entire card catalog contains over forty million cards, covering the period from 1870 through 1977. Read more [here](#).

IV. Industry Updates:

- On November 20, *Reuters* reported that France, Germany, and Italy have reached an agreement on how artificial intelligence should be regulated. The article states that the three governments support "mandatory self-regulation through codes of conduct" for so-called foundation models of AI, which are designed to produce a broad range of outputs. "Together we underline that the AI Act regulates the application of AI and not the technology as such," the joint paper said. "The inherent risks lie in the application of AI systems rather than in the technology itself." Read more [here](#).
- On November 21, *Variety* reported that performing rights organization BMI had been officially sold to a New Mountain Capital-led shareholder group and is expected to close by the end of the first quarter of 2024. Mike O'Neill, BMI's president & CEO, will continue to lead the company, along with his leadership team, following the closing, according to the announcement. However, New Mountain will need shareholder approval in order to acquire the company. According to *Variety*, terms of the deal were not disclosed, but New Mountain announced that BMI's current shareholders will allocate \$100 million of the sale's proceeds to songwriters and publishers affiliates "in recognition of [their] creativity." The payout will follow BMI's distribution model: "The allocation of those funds, while not a distribution of royalties, will be in keeping with the company's distribution methodologies, which are based on performance levels over a set period of time. Read more [here](#).
- On November 27, *Reuters* reported that the United States, Britain and more than a dozen other countries signed a detailed international agreement on how to keep AI "secure by design." While the agreement is non-binding, the director of the U.S. Cybersecurity and Infrastructure Security Agency, Jen Easterly, emphasized the importance of the idea that AI systems need to put safety first. "This is the first time that we have seen an affirmation that these capabilities should not just be about cool features and how quickly we can get them to market or how we can compete to drive down costs," Easterly told Reuters, saying the guidelines represent "an agreement that the most important thing that needs to be done at the design phase is security." In addition to the United States and Britain, the 18 countries that signed on to the new guidelines include Germany, Italy, the Czech Republic, Estonia, Poland, Australia, Chile, Israel, Nigeria, and Singapore. Read more [here](#).