I. Congressional Updates:

- Last Friday, a group of advocacy groups sent a letter to Majority Leader Schumer arguing that “this historic opportunity to reinvigorate competition risks being rendered a historical footnote” without votes on bipartisan legislation before Democrats lose their control of the House next year. The two main bills that the groups are interested in are the American Innovation and Choice Online Act and the Open App Markets Act. After learning that the Journalism Competition Preservation Act (JCPA) was left out of the NDAA, Senators have turned their efforts to hotline the Open App Markets Act which would keep dominant app stores from imposing restrictions on app developers. Read more from The Hill here.

- On Tuesday, House and Senate appropriators announced that they had reached a “bipartisan, bicameral framework” for the $1.7 trillion omnibus spending package. The House voted this week to extend the continuing resolution deadline to December 23. While the margins are thin and time is running out before the holiday break, Minority Leader Mitch McConnell said that if the Senate does not finish the bill by December 22, he will only accept a yearlong continuing resolution.

- On Tuesday, a bipartisan group of lawmakers introduced the Averting the National Threat of Internet Surveillance, Oppressive Censorship, and Influence, and Algorithmic Learning by the Chinese Communist Party Act, also referred to as the ANTI-SOCIAL CCP Act, which would prohibit the use of TikTok in the United States. “The federal government has yet to take a single meaningful action to protect American users from the threat of TikTok.

Headlines and Highlights:

- Advocacy Groups Make Final Pitch for Antitrust Legislation this Year
- House and Senate Leaders Reach Deal on Omnibus Framework
- European Commission Releases Counterfeit and Piracy Watch List
- Core Copyright Industries add $1.8 Trillion to U.S. Economy and Employ 9.6 million American Workers, New IIPA Report Shows

In the Blogs:

- AXIOS Technology: Tech's Year of Big Endings
This isn’t about creative videos — this is about an app that is collecting data on tens of millions of American children and adults every day,” Rubio said in a statement, adding “we know it’s used to manipulate feeds and influence elections. We know it answers to the People’s Republic of China. There is no more time to waste on meaningless negotiations with a CCP-puppet company. It is time to ban Beijing-controlled TikTok for good.” Some states and government agencies have taken the step to remove the app from government/state-owned devices, but this bill would impact the general public. On Wednesday, another TikTok related bill called the “No TikTok on Government Devices Act,” introduced by Sen. Josh Hawley (R-Mo.), was passed via unanimous consent. The proposal would “prohibit certain individuals from downloading or using TikTok on any device issued by the United States or a government corporation.” Read more here and here.

III. Judicial Updates

- On Monday, IP Watchdog reported that the U.S. Supreme Court invited the Solicitor General’s views in a copyright case that asks the SCOTUS to grant a petition on the question of whether the Copyright Act’s preemption clause allows a business “to invoke traditional state-law contract remedies to enforce a promise not to copy and use its content.” The petition was brought by ML Genius Holdings, more famously known as Genius, which is an online platform for song lyrics. They filed against Google’s LyricFind which they claim “[stole] Genius’s work and placing the lyrics on its own competing site, drastically decreasing web traffic to Genius as a result.” Read more about this case here.

- Reuters reports that Google asked a federal court to toss out the Department of Justice’s 2020 lawsuit alleging that the search giant violated antitrust law to maintain dominance in its search business on Monday. The trial for the case is scheduled for September 2023. Read more here.

IV. USCO Updates:

- On November 22, the USCO and USPTO announced they will be publishing a Federal Register notice (FRN) announcing their joint study to examine various matter related to intellectual property that arise from the use of non-fungible tokens (NFTs). To assist in preparing a report for Congress, the notice seeks written responses from the public to several questions. It also announces that the Copyright Office and USPTO intend to hold virtual public roundtables in January 2023. For additional information, including instructions for submitting comments and asking to participate in the roundtables, please visit the Copyright Office website. Comments must be received no later than January 9, 2023.

- On Friday, the Copyright Office announced that two years after the introduction of the Copyright Public Records System (CPRS) pilot, they will be releasing over 240,000 application card records from the Historical Public Records (HPR) Copyright Card Catalog into the CPRS. These records come from the 1938–1945 period when applications for copyright were submitted on card stock and filed in the card catalog. “Making these records more easily searchable online supports the Office's goals of copyright for all and continuous
development in making copyright records more available to the public.” The public can access the new CPRS pilot at publicrecords.copyright.gov.

- On Monday, the Copyright Office is expected to publish a Federal Register Notice (FRN) to amend its regulations governing the appearance of law student representatives before the Copyright Claims Board, district court referrals, proof of service forms, and default proceedings. The amendments also allow the Copyright Claims Board to modify or suspend certain rules when a claim is referred by a district court and, in cases that are first filed before the Copyright Claims Board, accept alternative proof of service forms. Read more here.

V. International Updates:

- On December 1, the European Commission released its Counterfeit and Piracy Watch List listing various problematic illicit and pirate sites and services including The Pirate Bay and other cyberlocker and stream ripping websites. The list can be found here.

VI. Industry Updates:

- On Wednesday, the International Intellectual Property Alliance (IIPA) released a detailed report that highlighted a record $1.8 trillion economic contribution by the core copyright industries to the US economy. The report also reveals that the core copyright industries employed nearly 9.6 million American workers, accounting for 4.88% of the entire U.S. workforce. “IIPA is excited to release this groundbreaking study, which highlights the significant contributions that the copyright industries make to the U.S. economy, including employing 9.6 million American workers, accounting for 4.88% of the nation’s workforce and 5.53% of total private employment in the U.S., and demonstrates that the copyright industries have in fact led the way in driving the growth of the digital marketplace, accounting for 48.1% of employment in the U.S. digital economy using conservative measurements” said Kevin Rosenbaum, the Executive Director of the IIPA. “This report underscores the importance of improving copyright protection and enforcement, particularly in the digital marketplace, and opening markets abroad.” The full report is available here, and an accompanying infographic is available here.

- On Friday, the Copyright Royalty Board (CRB) published the final regulations that set rates and terms for physical phonorecords, permanent downloads, ringtones, and music bundles applicable during the period from January 1, 2023 through December 31, 2027, for the statutory license for making and distributing phonorecords of nondramatic musical works. “For the year 2023, for every physical phonorecord and Permanent Download the Licensee makes and distributes or authorizes to be made and distributed, the royalty rate payable for each work embodied in the phonorecord or Permanent Download shall be either 12.0 cents or 2.31 cents per minute of playing time or fraction thereof, whichever amount is larger.” Read the full notice here.