



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT MAY 10, 2019



I. Congressional Updates:

- On Wednesday, House Ways and Means Trade Subcommittee Chairman Earl Blumenauer (D-OR) raised concerns about the ten years of intellectual property protection for biologic medicines within the U.S.-Mexico-Canada Agreement (USMCA). “I have trouble with the 10-year period of exclusivity,” and so do Canada and Mexico, Blumenauer said at the Center for Strategic and International Studies. During the event Blumenauer also revealed that U.S. Trade Representative (USTR) Robert Lighthizer will be testifying before the Ways and Means Committee at some point later this month to address concerns lawmakers have about NAFTA 2.0. Read more [here](#).
- Late last week, House Ways & Means Committee Chairman Richard Neal (D-MA), Trade Subcommittee Chairman Blumenauer, and nineteen Committee Democrats sent a letter to USTR Lighthizer sharing their concerns that the USMCA would raise health care costs for patients. Members caution that the new trade pact would “hamper” or “otherwise prevent” U.S. federal lawmakers’ efforts to combat rising healthcare costs. Further, it expresses concern USMCA standards would “significantly change” the IP regimes in Canada and Mexico. House Ways & Means Democrats have sent USTR Lighthizer a series of letters highlighting outstanding issues with NAFTA 2.0, also raising concerns for the environment and labor standards in the pact, as well as cautioning that the agreement lacks effective enforcement mechanisms. House Democrats’ support for the deal will be critical for the Trump Administration to meet its goal of passing legislation to implement the agreement through Congress

Headlines and Highlights:

- House Ways & Means Democrats raise concerns that the USMCA would raise health care costs for patients in letter to USTR.
- Marrakesh Treaty comes into force in the U.S.
- Tips Industries Limited wins a high court battle against Indian music streaming service, Wynk.
- U.S. Chamber of Commerce announces its support for the CASE Act.
- MPAA’s Charles Rivkin touts Association’s anti-piracy efforts in interview.
- Chris Hughes, a co-founder of Facebook, called for the breakup of Facebook in a New York Times op ed.

In the Blogs:

[CASE Act Introduced. Critics Spin Tales.](#)

Illusion of More
May 5 by David Newhoff

[Pirate Streaming Boxes: An Abuse of Legitimate Technology...in Canada and Elsewhere](#)

Hugh Stephens Blog

this year. Read more [here](#).

- As reported by *The Verge*, Senator and 2020 Presidential hopeful Kamala Harris (D-CA) announced her intentions to hold social media platforms “accountable for the hate infiltrating their platforms” if elected President of the United States during her remarks at the Fight for Freedom Fund Dinner at the Detroit NAACP on Sunday night. Speaking about the recent attacks on racial and religious minority groups in the United States, Sen. Harris insisted that social media platforms “have a responsibility to help fight against this threat to our democracy.” Read more [here](#).

II. Judicial Updates:

- Late last week, Universal Music Group (UMG) filed a motion to dismiss an attempted class action lawsuit, led by John Waite and Joe Ely, from recording artists seeking to take advantage of a provision in the Copyright Act of 1976 that allows authors the ability to terminate a grant after a 35-year wait. In the memorandum, UMG outlines a series of contentions that have the judge exploring largely untested ground. For instance, UMC claims that sound recording artists conducting business through loan-out companies cannot terminate copyright grants because they technically are not the grantors. UMG also brings up the “gap grant” issue, which questions when the 35-year time clock starts—is it when the original contact was signed, or when the work is published? Read more [here](#).

III. Administration Updates:

- On Wednesday, the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled came into force in the United States. This treaty requires its contracting member nations to create limitations and exceptions to copyright law to make it easier for persons with print disabilities to access printed works in accessible formats such as Braille and digital audio files. The United States became the 50th member to deposit its instrument of ratification of this treaty to the World Intellectual Property Organization (WIPO) on February 8th. Read more [here](#).
- On Thursday, the U.S. Copyright Office published a correction to its final rule on the noncommercial use of pre-1972 sound recordings that are not being commercially exploited, which was published in the Federal Register on April 9th. The previous document incorrectly numbered paragraphs governing the filing fees of certain documents that can be filed with the Copyright Office. Read more [here](#).

IV. International Updates:

- One of India’s leading record labels, Tips Industries Limited, has won a high court battle against Indian music streaming service, Wynk, that has potentially big repercussions for another case involving Spotify and Warner Music. Mumbai High Court Judge S.J. Kathawalla, the same judge overseeing the Warner/Spotify case, ruled in favor of Tips in this case. Judge S.J. Kathawalla wrote that Wynk was not entitled to claim a statutory broadcast license for the use of Tips’ catalog and that the streaming service was “knowingly infringing upon the Plaintiff’s copyrights.” Some stakeholders believe this case might have implications for how the Warner-vs-Spotify struggle will pan out, which could pose a hurdle for the music streaming service’s rollout in India. In this case, Spotify has also claimed a statutory license under 31D of India’s Copyright Act, which was added in 2012 to expand compulsory

licensing of copyrighted works for broadcasters. Mumbai courts are expected to announce the next stage in the proceedings before the end of June. Read more [here](#).

V. Industry Updates:

- On Thursday, Chris Hughes, a co-founder of Facebook, called for the breakup of Facebook in a *New York Times* op ed, citing the threat of the platform's unchecked power and that of its chief executive, Mark Zuckerberg. Read more [here](#).
- On Thursday, the U.S. Chamber of Commerce announced its support for S.1273 and H.R. 2426, the "Copyright Alternative in small Claims Enforcement (CASE) Act." The CASE Act would streamline the process for small copyright claims by creating a small claims board within the U.S. Copyright Office to adjudicate copyright infringement cases. Read more [here](#).
- Anna Carugati from World Screen interviewed the Motion Picture Association of America's (MPAA's) Charles Rivkin earlier this week to discuss fighting piracy, protecting artistic and creative freedoms, and advancing the storytelling business. Mr. Rivkin noted that while the industry faces new challenges from the rise of digital entertainment and digital privacy, the business is largely the same as it was in the past. The industry is still concerned with protecting artists, storytellers and copyright, advancing the interests of film, and television and direct-to-consumer content. Mr. Rivkin stated that the MPAA has created an organization called ACE, the Alliance for Creativity and Entertainment, to help combat piracy. Mr. Rivkin also discussed the THEME Report, which is an annual report that he instituted since joining the MPAA. The MPAA issues this report to accurately reflect the reality of what's happening in the marketplace. Mr. Rivkin also highlighted the rich diversity of films, film makers, and actors and actresses that were nominated and honored at this year's Academy Awards. Read more [here](#).
- Reports surfaced this week that Guillermo Malpica is expected to depart his current role as head of the Trade and NAFTA Office at the Embassy of Mexico at the end of the month to lead the American Chamber of Commerce of Mexico in Monterrey, Mexico. Malpica led the NAFTA Office in Washington since late 2017. Read more [here](#).