



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT FEBRUARY 12, 2021



I. Congressional Updates:

- The Senate Judiciary Committee, under the leadership of Chairman Richard Durbin, is in the process of reorganizing its subcommittees. The Committee will be forming two new subcommittees; one handling human rights issues to be chaired by Sen. Dianne Feinstein and another handling technology issues to be chaired by Sen. Coons. The Intellectual Property Subcommittee will be chaired by Sen. Patrick Leahy who has long played an active role in IP matters including his leadership in the passage of the America Invents Act. As of this writing, the corresponding ranking Republican seats and overall subcommittee member assignments have not yet been finalized.
- Next Thursday, February 18th at 2:00 p.m. ET, the House Judiciary IP Subcommittee is holding a virtual hearing titled “The Supreme Court’s Shadow Docket.” No witnesses have been listed yet.
- Last week, Senators Thom Tillis (R-NC) and Patrick Leahy (D-VT) joined Representatives Hakeem Jeffries (D-NY) and Nancy Mace (R-SC) to introduce legislation that directs the Register of Copyrights to waive the copyright registration fee for winners of the Congressional Art Competition and the Congressional App Competition. The Senate previously passed this legislation unanimously in 2019. Read more [here](#).
- Last week, Sens. Warner (D-VA), Hirono (D-HI), and Klobuchar (D-MN) introduced the *Safeguarding Against Fraud, Exploitation, Threats, Extremism and Consumer Harms (SAFE TECH) Act*. The bill seeks to hold social media companies accountable for enabling cyber-stalking,

Headlines and Highlights:

- Bipartisan and bicameral group of members introduce legislation directing the Register of Copyrights to waive copyright registration fees for winners of Congressional art and app competitions.
- USCO announces two hearings in triennial Section 1201 rulemaking.
- USCO releases interim rule related to the protection of confidential information by the MLC and DLC.
- Australia news compensation law to be enacted “fairly soon,” according to Communications Minister.

In the Blogs:

[IP Rights & the Bernie Meme](#)

Illusion of More

February 1 by David Newhoff

[Google’s Latest “Stoush” with Australia: What’s the Lesson from Germany’s Failed Effort?](#)

Hugh Stephens Blog

February 8 by Hugh Stephens

targeted harassment, and discrimination on their platforms by reforming Section 230 of the Communications Decency Act (CDA). “When Section 230 was enacted in 1996, the Internet looked very different than it does today. A law meant to encourage service providers to develop tools and policies to support effective moderation has instead conferred sweeping immunity on online providers even when they do nothing to address foreseeable, obvious and repeated misuse of their products and services to cause harm,” said Senator Warner, Chairman of the Senate Select Committee on Intelligence. Read a press release announcing the bill’s introduction [here](#) and a three-page summary [here](#).

II. Judicial Updates:

- *Billboard* reports that an LA photographer has filed a copyright infringement suit against celebrity tattoo artist Kat Von D over a Miles Davis tattoo she drew for a customer and posted to Instagram. Photographer Jeffrey Sedlik claims in his filing in California federal court that the tattoo infringes the copyright of an iconic portrait of Davis that he created in 1989. Since then, Sedlik says that he has offered and sold non-exclusive copyright licenses to others to reproduce, distribute, and display the image. However, Sedlik claims that Von D failed to request or receive a license to reproduce his work. He is seeking statutory damages of \$150,000 per work depicting the tattoo, as well as asking the defendants to remove content referencing the image from all print, web, and social media platforms controlled by Von D and her tattoo shop, High Voltage Tattoo. Von D did not respond to *Billboard’s* request for comment at the time of publication. Read more [here](#).

III. Administration Updates:

- On Monday, the U.S. Copyright Office issued a Federal Register notice announcing its plans to hold two hearings in its triennial rulemaking proceeding under Section 1201 on April 5-8th and April 19th-22nd. Section 1201 provides legal protections against the circumvention of technological measures used by copyright owners to prevent unauthorized access to or use of their works. Through the triennial rulemaking, the Librarian of Congress can temporarily exempt certain classes of works from the statutory prohibition against circumvention. Members of the public who wish to testify at the hearings may submit requests to do so by February 24th. More info. [here](#).
- On Thursday, pursuant to title I of the Orrin G. Hatch–Bob Goodlatte Music Modernization Act (MMA), USCO issued an interim rule creating various restrictions on the disclosure and use of confidential information collected by the mechanical licensing collective (MLC) and digital licensee coordinator (DLC). The rule is slated to take effect on March 15th. Read more [here](#).
- On February 17th, from 1:00 – 2:30 p.m. ET, the U.S. Copyright Office is hosting a virtual event to celebrate the enduring copyright legacy of Justice Ruth Bader Ginsburg. Register online [here](#).

IV. International Updates:

- On Tuesday, Australia’s Minister for Communications Paul Fletcher told *CNBC* that the legislation that would require digital platforms to pay for news will “pass into law fairly soon,” despite the pushback from Big Tech. Google has threatened to pull its search engine from the country, and Facebook has threatened to stop allowing Australians to share news on

the social network and on Instagram if the law were to be enacted. However, during his interview on Tuesday, Fletcher said that he expects “businesses that are doing business in Australia will comply with our laws.” He pointed to 2018, when Amazon briefly barred Australians from accessing products on its main website over changes to local tax laws, before walking back the decision. Read more [here](#).

- Last week, the Ministry of Law and Intellectual Property Office of Singapore released a draft of a copyright bill that will repeal and replace Singapore’s current Copyright Act later this year. Among other proposed changes, the draft bill includes an exception for text and data mining; a prohibition on restricting certain exceptions by contract; and simplifies the existing fair dealing provision to more closely track the fair use right in the U.S. Copyright Act. The government is accepting comments on the draft bill until April 1st. Read more [here](#).

V. Industry Updates:

- In a blog post published on Thursday, Microsoft President Brad Smith suggested that the U.S. should follow Australia’s suit with a news compensation law. While Google and Facebook have threatened to pull or limit their services in Australia over the proposal, Microsoft has committed to keeping its Bing search service available in the country under the new regime. Smith claims that the legislation would “redress the economic imbalance between technology and journalism” by mandating negotiations between tech gatekeepers and independent news organizations. Instead of objecting to what Smith calls “a creative Australian proposal that strengthens democracy by requiring tech companies to support a free press,” he urges the U.S. to “copy it.” Read the full blog post [here](#).