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CONTENT & TECHNOLOGY POLICY REPORT JULY 9, 2021



I. Congressional Updates:

- At the request of Senators Tillis, Hirono, Cotton, and Coons, the United States Patent and Trademark Office (USPTO) is undertaking a study on the current state of patent eligibility jurisprudence in the United States, and how the current jurisprudence has impacted investment and innovation, particularly in critical technologies like quantum computing, artificial intelligence, precision medicine, diagnostic methods, and pharmaceutical treatments. The USPTO seeks public input on these matters to assist in preparing the study. Read more [here](#).
- House Minority Leader Kevin McCarthy and Rep. Jim Jordan are facing pushback from fellow conservatives on their new antitrust overhaul proposal who say it could actually empower Silicon Valley. One of Jordan's proposals would revive the Expediting Act, passed in 1903. That act allowed DOJ and FTC antitrust cases to be heard by a three-judge panel at the trial court level and then appealed directly to the Supreme Court. The proposals are their answer to the five bipartisan tech antitrust bills that passed the House Judiciary Committee last month.

II. Judicial Updates:

- The Supreme Court has granted a petition for *writ of certiorari* in *Unicolors, Inc. v. H&M Hennes & Mauritz, L.P.* to determine whether invalidation of copyright registrations under Section 411(b) of the Copyright Act has an intent-to-defraud the Copyright Office requirement.

Headlines and Highlights:

- Biden Releases Executive Order to Promote Competition
- McCarthy and Jordan Release Antitrust Proposals
- Patent Eligibility Jurisprudence Study
- JEDI Contract with Microsoft Terminated
- Copyright Office Releases Report on Best Practice Recommendations for the Mechanical Licensing Collective
- Three Dozen States Sue Google

In the Blogs:

- Hugh Stephens Blog: [The USMCA/CUSMA is One Year Old: What Has Been its Impact on Copyright, Content and Canada-US Cultural Relations?](#)

III. Administration Updates:

- The Pentagon announced this week that it was scrapping its \$10 billion cloud computing contract with Microsoft. Now, the department is launching a new cloud effort, the Joint Warfighter Cloud Capability, or JWCC, which the Pentagon intends to go to more than one vendor and involve multiple awards. The effort will be valued at “in the billions of dollars,” said John Sherman, the acting chief information officer for DoD. Read more [here](#).
- Biden has taken longer than any president in modern U.S. history to nominate an assistant attorney general for antitrust. White House press secretary Jen Psaki said Biden is “eager to fill” the role. “As with any important position in government, he wants to have the right person in place,” she said at Tuesday’s news briefing — though she added that there’s no timing yet for an announcement.
- On Friday July 9th, 2021, President Biden released an Executive Order titled “Promoting Competition in the American Economy.” The Order includes 72 initiatives by more than a dozen federal agencies to address competition across the economy. The Order urges the FCC to reinstate Obama-era net neutrality rules and asks the FTC and DOJ to update their guidance on vertical mergers. The Order also asks the FTC to establish “right to repair” rules. Read more [here](#).

IV. International Updates:

- Negotiators are hammering out the final details on a global tax deal, but European Commission executive vice president Margrethe Vestager [told Reuters on Friday](#) that the EU is moving forward with its proposed digital levy, expected to be announced July 20. European officials have stressed that the levy is not targeted at American companies and would hit mostly European ones.

V. Industry Updates:

- On Wednesday, July 7th, three dozen states, led by New York, Utah, North Carolina, and Tennessee, filed suit against Google in federal court in San Francisco, alleging that the search giant illegally abused its power over the sale and distribution of apps through the Google Play Store on mobile devices. The states claim that Google used anticompetitive tactics to ensure that developers have no choice but to go through the Google Play store to reach users, such as by paying Samsung Electronics Co. to not develop a competing store. Furthermore, the states raise concern that the search giant collects an “extravagant” commission of up to 30 percent on app purchases. Wilson White, Senior Director of Public Policy at Google, has pushed back on the claims, insisting that “We don’t impose the same restrictions as other mobile operating systems do.” Read more [here](#).
- On July 8th, 2021, the U.S. Copyright Office released a report titled “Unclaimed Royalties: Best Practice Recommendations for the Mechanical Licensing Collective.” The report details the Office’s findings and recommendations on the best practices the

MLC may implement to identify and locate musical work copyright owners with unclaimed accrued royalties held by the MLC, encourage musical work copyright owners to claim their royalties, and reduce the incidence of unclaimed royalties. The full report is available on the Office's website [here](#).

- On Friday July 9th, the U.S. Copyright Office announced that it is further extending temporary adjustments to certain timing provisions under the Copyright Act for persons affected by the COVID-19 national emergency. The emergency modifications previously were set to continue through July 10, 2021. The Register is extending these modifications for up to an additional sixty days, thorough September 8, 2021. For additional information, please visit the Office's [Coronavirus page](#).