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CONTENT & TECHNOLOGY POLICY REPORT JANUARY 20, 2023



I. Congressional Updates:

- Next Tuesday, January 24th, at 10:00am ET, the Senate Judiciary Committee is scheduled to hold a hearing titled “That’s the Ticket: Promoting Competition and Protecting Consumers in Live Entertainment.” No witnesses have been listed yet. More info. [here](#).

II. Judicial Updates

- On Monday, *IPWatchdog* reported that Dr. Stephen Thaler filed a motion for summary judgement in the U.S. District Court for the District of Columbia, arguing that AI-generated works are copyrightable under U.S. federal law. He is also asking the court, if they deem AI-authored works not copyrightable, to “declare him owner of the work as a work made for hire.” In the summary judgement, Thaler also contends that none of the statutory language of the work made for hire requires that the work for hire be completed by a human author. Read more [here](#).
- On Tuesday, *The Verge* reported that Getty Images is suing Stability AI alleging that they “unlawfully copied and processed millions of images protected by copyright” to train its software and that Getty Images has “commenced legal proceedings in the High Court of Justice in London” against the firm. Getty Images CEO, Craig Peters said that they do not believe that the deployment of Stability’s commercial offering is “covered by fair dealing in the UK or fair use in the US. The company made no outreach to Getty Images to utilize our or our contributors’ material so we’re taking an action to protect our and our contributors’ intellectual property rights.” The charges in the lawsuit include copyright violation and violation of Getty’s terms of services. Read more [here](#).

Headlines and Highlights:

- Senate Judiciary Committee to hold hearing on promoting competition in live entertainment next week.
- DOJ Antitrust Division Head Jonathan Kanter cleared to oversee investigations and litigation involving Google.
- Andrew Foglia named Deputy Director of Policy and International Affairs for the U.S. Copyright Office.
- Artists sue AI generators for allegedly infringing copyrights by using protected works to train AI tools.
- WIPO to host discussion on “Intellectual Property and the Metaverse” on March 29th and 30th.

In the Blogs:

- Hugh Stephens Blog: [More Public Domain “Triumphs”](#); [Winnie the Pooh “Blood and Honey”](#), and [The Great Gatsby \(Zombie Version\)](#)

- On Tuesday, *Bloomberg Law* reported that a group of artists have sued AI generators Stability AI, Midjourney, and DeviantArt for allegedly infringing their copyrights by using their protected images to train AI tools. The artists claim that these AI companies downloaded and used billions of copyrighted images without obtaining the consent to use their works or compensating any of the artists. “The artists say that AI tools permit users to create works ‘in the style of’ a given artist instead of commissioning or licensing an original, violating the rights of millions of artists and taking away from their income. The lawsuit is the artists’ attempt to end this infringement ‘before their professions are eliminated by a computer program powered entirely by their hard work.’” The case is [Andersen et al v. Stability AI Ltd. et al](#), N.D. Cal., No. 3:23-cv-00201, filed January 13th, 2023. Read more [here](#).

III. Administration Updates

- Last week, *POLITICO* reported that Jonathan Kanter, head of the antitrust division at the Justice Department, has been cleared to oversee investigations and litigation involving Google. The decision concludes a request from Google in 2021 to have Kanter recused due to his earlier work against Google when he was in private practice. The decision to allow him to work on Google related cases paves the way for a broader antitrust lawsuit. Read more [here](#).

IV. USCO Updates:

- Next Thursday, the U.S. Copyright Office will hold the first of its 2023 monthly webinars to keep the public updated on the Office’s optimized [Recordation System](#). The webinars will “cover announcements about the module, important reminders, frequently asked questions, and a live Q&A session.” Following this session, additional webinars will be held at 1 p.m. ET during 2023, as follows: February 23rd, March 30th, April 27th, May 25th, June 29th, and July 27th. Anyone interested in attending (including members of the public) may join the session. For additional information and to register, please click [here](#).

V. International Updates:

- On Tuesday, Register of Copyrights Shira Perlmutter announced the appointment of Andrew Foglia as Deputy Director of Policy and International Affairs for the U.S. Copyright Office. Foglia will assist the Associate Register of Copyrights and Director of Policy and International Affairs with the critical policy functions of the Office, including domestic and international policy analyses, legislative support, and trade negotiations. Foglia joined the Copyright Office in November 2020 as senior counsel for policy and international affairs. His domestic and international portfolios covered artificial intelligence, South Asia, Canada, and Mexico. He was one of the lead authors for the Office’s studies on press publishers’ protections and standard technical measures. More information can be found [here](#).

VI. Industry Updates:

- On March 29th and 30th, the World Intellectual Property Organization (WIPO) is holding a conversation titled “Intellectual Property and the Metaverse.” The purpose of the event is to discuss a wide spectrum of frontier technologies enabling the metaverse, such as AI, blockchain and the NFTs, emerging AR and VR technologies, the Internet of Things and data

processing and discuss the challenges the metaverse poses to the existing IP system. It will seek to bring together all stakeholders to provide a map for navigating these challenges to ensure innovation continues to grow and develop for the benefit of all. More info. [here](#).