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CONTENT & TECHNOLOGY POLICY REPORT MARCH 10, 2023



I. Congressional Updates:

- On Tuesday, *Politico* reported that a group of 12 bipartisan senators introduced a bill that would give the federal government new powers to restrict, and potentially ban, technologies “emanating from China and five other nations deemed to be U.S. adversaries.” Titled the RESTRICT Act, the bill is not solely focused on the Chinese-owned video app TikTok, but it is reported to be one of the main targets. Senators Warner (D-VA) and Thune (R-SD) are the two main cosponsors. The White House is also supportive as National Security Advisor Jake Sullivan stated, “This bill presents a systematic framework for addressing technology-based threats to the security and safety of Americans.” He said the RESTRICT Act would strengthen the administration’s ability to address “discrete risks posed by individual transactions” as well as “systemic risks” posed by multiple transactions “involving countries of concern in sensitive technology sectors.” Sullivan urged lawmakers to “act quickly to send it to the President’s desk.” Read more [here](#).
- On Tuesday, the Senate Judiciary Committee’s Subcommittee on Competition Policy, Antitrust, and Consumer Rights held a hearing on “Reining in Dominant Digital Platforms: Restoring Competition to Our Digital Markets.” The hearing centered around antitrust measures Congress is considering to lessen the hegemony of Big Tech. They focused on Big Tech antitrust in general, and three primary bills: the American Innovation and Choice Online Act (AICOA), the Open App Markets Act (OAMA), and the Journalism Competition and Preservation Act (JCPA). A full memo from ACG is available upon request and you may watch the full hearing [here](#).

Headlines and Highlights:

- Senate and White House Push New Bipartisan Bill that Could Ban TikTok
- Sohn Withdraws From Consideration For FCC Post
- Emily Chapuis Appointed Deputy General Counsel at USCO
- U.S. Justice Dept Opposes Google Bid to Move Advertising Antitrust Case to New York
- RadioGPT brings AI to the Airwaves
- U.S. Chamber of Commerce Calls for AI Regulation

In the Blogs:

- Hugh Stephens Blog: [“The Declaration on the Essential Role of Artists and Creative Expression in Canada Act”: Will it Become Law?](#)

- On Wednesday, the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet held a hearing titled “Intellectual Property and Strategic Competition with China: Part I.” The following witnesses testified before the Subcommittee: [William Evanina](#), Founder and CEO of Evanina Group; [Jamieson Greer](#), an International Trade Partner at King & Spalding; [Mark Cohen](#), Distinguished Senior Fellow and Director of the Asia IP Project at the Berkeley Center for Law and Technology; and [Charles Duan](#), Policy Fellow and Adjunct Professor at American University Washington College of Law’s Program on Information Justice and IP, as well as a member of the PPAC. Witnesses and members on both sides of the aisle seemed to share the concern that the Chinese government is deploying an IP strategy to gain a competitive advantage to American companies in key industries such as aerospace, pharmaceuticals, IT, electric battery technologies, and DNA geonomics. While most of the hearing focused on patents and trade secrets, several members raised concerns surrounding copyrights and our domestic creative industries. For instance, Ranking Member Nadler (D-NY) said that piracy in China continues to harm the creative community. Meanwhile, during the Q&A portion of the hearing, Rep. Ross (R-NC) cited that royalties for music used on TikTok are hundreds of times lower than what other streaming services offer. You may watch the full hearing [here](#).
- On Wednesday, the Senate Judiciary Committee, Subcommittee on Privacy, Technology, and the Law, held a hearing titled: “Platform Accountability: Gonzalez and Reform.” The focus of the hearing was to discuss the need to reform Section 230 of the Communications Decency Act of 1996. Under the current reading of the law, Section 230 grants online platforms broad immunity for third-party content on their platforms created by their users. Overall, there was broad consensus from members of the committee that reform is needed. An important point that was discussed is the distinction between housing harmful content versus actively promoting and recommending harmful content to users. A full memo from ACG is available upon request and you may watch the full hearing [here](#).

II. Administration Updates

- On Tuesday, *The Washington Post* reported that Biden’s Federal Communications Commission (FCC) nominee Gigi Sohn has withdrawn her name from consideration after a 16-month stalemate. “The opposition to Sohn catapulted the relatively low-profile position to the center of an unprecedented fight, which involved three Senate confirmation hearings, a series of ads and a billboard criticizing Sohn as ‘extreme’ and ‘partisan’ amid dissection of her social media posts.” Read more [here](#).
- On Thursday, President Biden sent his budget request to Congress for Fiscal Year (FY) 2024, kicking off the appropriations season. Of note, President Biden requested \$12.3 billion in discretionary budget authority for the Department of Commerce, a \$1.3 billion or 11-percent increase above the 2023 enacted level. Resources provided through the 2024 Budget complement investments in high-speed Internet access and climate resilience provided by the Bipartisan Infrastructure Law, as well as significant investments to revitalize the domestic semiconductor industry provided by the CHIPS and Science Act, and additional support for climate resilience and science provided by the Inflation Reduction Act. Read an overview of the budget [here](#) and find supplemental materials [here](#). As a reminder, the budget request is an aspirational document from the Administration, as the appropriations for the federal

government is crafted by and must pass through Congress each year. The current fiscal year ends on September 30th.

III. USCO Updates:

- On Monday, Register of Copyrights Shira Perlmutter announced the appointment of Emily Chapuis as Deputy General Counsel for the U.S. Copyright Office, effective March 13th, 2023. Chapuis will assist the General Counsel and Associate Register of Copyrights in providing legal guidance to the Office's divisions, implementing regulations governing the administration of the copyright system, advising congressional offices and other federal agencies, and developing legal positions in copyright litigation and other matters. According to a press release announcing her appointment, before joining the Office, Chapuis spent twelve years in private practice at Jenner & Block LLP. Prior to her time at Jenner, Chapuis represented unions in labor and employment matters at Bredhoff & Kaiser PLLC. Chapuis earned a JD from Yale Law School and a BA from Tulane University.
- On Wednesday, the U.S. Copyright Office joined with national and regional intellectual property offices from around the world as well as with the World Intellectual Property Organization (WIPO) to issue a message in support of women creators and innovators. Read the [complete joint statement](#) for International Women's Day on the United States Patent and Trademark Office website [here](#).

IV. Judiciary Updates:

- On February 28th, the Copyright Claims Board (CCB) issued its first final determination on the merits in the case, [Oppenheimer v. Prutton \(22-CCB-0045\)](#). The CCB awarded the claimant \$1,000 in statutory damages. Read more [here](#).
- On Monday, *Reuters* reported that the U.S. Justice Department is fighting to keep its digital advertising lawsuit against Google in Virginia federal district court rather than having it move to New York at the request of Alphabet. In its filing, the DOJ stated that if the case were transferred to Manhattan, the earliest a trial could take place would be 2025. "The need for swift action is particularly pronounced in this case given the pace of change in technology and the dynamic nature of Google's anticompetitive conduct across the ad tech industry," lawyers for the DOJ, Virginia, and other states – including New York and California – said in their filing. Read more [here](#).
- On Wednesday, United States Attorney Jacqueline C. Romero announced that Bill Omar Carrasquillo was sentenced to 66 months' imprisonment, five years of supervised release, more than \$30 million in forfeiture, and more than \$15 million in restitution by United States District Court Judge Harvey Bartle III for crimes arising from a wide-ranging copyright infringement scheme and hundreds of thousands of dollars of copyright infringement. According to the press release, "Carrasquillo along with his co-defendants operated a large-scale internet protocol television (IPTV) piracy scheme in which they fraudulently obtained cable television accounts and then resold copyrighted content to thousands of their own subscribers, who could then stream or playback content." Read more [here](#).

V. Industry Updates:

- On Tuesday, *Axios* reported that an Ohio based media company called Futuri has launched a program called RadioGPT, the world's first-ever radio platform powered by artificial intelligence. According to the article, "RadioGPT uses Futuri's [TopicPulse](#) technology to scan online news sources and social media to identify topics and trends in local markets. The platform then creates scripts for radio broadcasts — which are delivered on air by AI-generated personalities — using the same GPT-3 technology implemented by [ChatGPT](#)." As expected, there were mixed reactions to the news, with some people predicting that it will put traditional radio out of business. The technology is expected to debut at actual radio stations in mid-April and is expected to be implemented by "several hundred" radio stations across the country by the end of the year. You can check out RadioGPT at Futuri's demo site [here](#). Read the *Axios* article [here](#).
- On Thursday, *Reuters* reported that the U.S. Chamber of Commerce has called for regulation of artificial intelligence technology to "ensure it does not hurt growth or become a national security risk." [The Chamber report](#) argues that policymakers and business leaders must quickly ramp up their efforts to establish a "risk-based regulatory framework" that will ensure AI is deployed responsibly. The report states that AI is projected to add \$13 trillion to global economic growth by the end of the decade. "Rather than trying to develop a one size-fits-all regulatory framework, this approach to AI regulation allows for the development of flexible, industry-specific guidance and best practices," the report says. Read more [here](#).