

## CONTENT & TECHNOLOGY POLICY REPORT MARCH 17, 2023



### I. Congressional Updates:

- On Thursday, Senators Chris Coons (D-DE), Thom Tillis (R-NC), John Cornyn (R-TX), and Sheldon Whitehouse (D-RI) introduced S. 835 the Pro Codes Act. The bill would ensure copyright protection for codes and standards even after they are incorporated into law. CEO of the Copyright Alliance, Keith Kupferschmid, released a statement of support saying “The Copyright Alliance joins the National Fire Protection Association, the International Code Council, and numerous other organizations in supporting the Protecting and Enhancing Public Access to Codes Act (Pro Codes Act), S. 835... The Pro Codes Act is a clear win for standards development organizations, lawmakers, scholars, and the public. We thank Senators Coons, Cornyn, Tillis, and Whitehouse for introducing this important legislation, and we encourage members of Congress to join them in supporting and swiftly passing the bill.” Read more [here](#).
- Next Wednesday, at 3:00pm ET, the Senate Appropriations Committee, Legislative Branch Subcommittee, is slated to hold a hearing titled: FY2024 Budget Requests for the Library of the Congress and the Architect of the Capitol. More information can be found [here](#).
- Next Thursday, at 10:00am ET, the House Committee on Energy and Commerce is slated to hold a hearing titled: “TikTok: How Congress Can Safeguard American Data Privacy and Protect Children from Online Harms.” No witnesses are announced yet. More info. [here](#).
- Next Thursday, at 2:00pm ET, the House Oversight and Accountability Subcommittee on Cybersecurity,

### Headlines and Highlights:

- Pro Codes Act Introduced in Senate
- Iyauta Green Appointed USCO Deputy Director of Operations
- USCO Publishes Copyright Registration Guidance and a New AI Initiative
- OpenAI announces GPT-4

### In the Blogs:

- Hugh Stephens Blog: [Why Are Canadian Universities Vehemently Campaigning Against Any Clarification of Fair Dealing if They Are Already Licensing All the Content They Need for Teaching Students?](#)
- The Washington Post: [Opinion To protect human artistry from AI, new safeguards might be essential By T Bone Burnett and Jonathan Taplin](#)
- Library of Congress Blog: [“Mechanical,” “Unmatched,” “Historical”: What Are the Differences between All These Royalties?](#)

Information Technology, and Government Innovation is slated to hold a hearing on “Unpacking the White House National Cybersecurity Strategy.” No witnesses have been announced yet. More info. [here](#).

## II. Administration Updates

- On Thursday, *Forbes* reported that both the FBI and DOJ are investigating TikTok’s parent company ByteDance for allegedly using the popular social media app to spy on American journalists. The article states that ByteDance employees attempted to access U.S. journalists’ location information or other private user data using the TikTok app. “We have strongly condemned the actions of the individuals found to have been involved, and they are no longer employed at ByteDance. Our internal investigation is still ongoing, and we will cooperate with any official investigations when brought to us,” said ByteDance spokesperson Jennifer Banks. This is the first report of the federal government investigating ByteDance’s surveillance practices. Read more [here](#).

## III. USCO Updates:

- On Wednesday, the U.S. Copyright Office announced that Iyuata Green has been appointed as Deputy Director of Operations. Green will assist the Assistant Register and Director of Operations with strategic planning, financial activities, and business processes for the Copyright Office. According to the press release, before joining the Office, Green served as the associate deputy assistant secretary for risk management and regulatory affairs in the Office of Housing at the U.S. Department of Housing and Urban Development (HUD). Green earned a bachelor of arts degree in policy studies from Syracuse University’s Maxwell School of Citizenship and Public Affairs and a master’s degree in public administration from American University.
- On Wednesday, the U.S. Copyright Office published a statement of policy to clarify its practices for examining and registering works that contain material generated by the use of artificial intelligence technology. “In the case of works containing AI-generated material, the Office will consider whether the AI contributions are the result of “mechanical reproduction” or instead of an author’s “own original mental conception, to which [the author] gave visible form.”<sup>24</sup> The answer will depend on the circumstances, particularly how the AI tool operates and how it was used to create the final work.<sup>25</sup> This is necessarily a case-by-case inquiry.” The office did state however that this policy does not mean that technological tools cannot be part of the creative process, rather what matters is the extent to which the human had creative control over the work’s expression. The document also addressed certain questions such as, “How to submit applications for works containing AI-generated material.” Read more [here](#). In a press release the Office stated that they will host public listening sessions this spring with artists, creative industries, AI developers and researchers, and lawyers working on these issues. “These roundtable-format listening sessions will provide an opportunity for participants to discuss their goals and concerns related to the use and impact of generative AI in creative fields.” Also, later this year, the Office plans to publish a notice of inquiry soliciting public comments on a wide range of copyright issues arising from the use of AI. In

support of this initiative, the Office has also launched a new [webpage](#) for announcements, events, and resources related to AI and copyright at [copyright.gov/ai](http://copyright.gov/ai). Interested parties can register for the public listening sessions using the links below:

- [Literary Works](#) on Wednesday, April 19, from 1:00 p.m. to 4:00 p.m. eastern time
- [Visual Works](#) on Tuesday, May 2, from 1:00 p.m. to 4:00 p.m. eastern time
- [Audiovisual Works](#) on Wednesday, May 17, from 1:00 p.m. to 4:00 p.m. eastern time
- [Music and Sound Recordings](#) on Wednesday, May 31, from 1:00 p.m. to 4:00 p.m. eastern time

#### **IV. Judiciary Updates:**

- On Thursday, the U.S. Attorney’s Office for the Southern District of New York published a press release announcing that a Minnesota man, Joshua Streit, was sentenced for conducting intrusions into Major League Baseball (“MLB”) computer systems and illegally streaming copyrighted content from MLB, the National Basketball Association (the “NBA”), the National Football League (the “NFL”), and the National Hockey League (the “NHL”) on a website that Streit operated, which offered the illegally streamed content to the public for profit. U.S. Attorney Damian Williams said: “Joshua Streit intruded into MLB computer networks and illegally streamed sports content online from MLB, the NHL, the NBA, and the NFL for his own personal profit. Today’s sentence shows that this crime is no game. Those who compromise computer networks and steal copyrighted content will be held accountable.” According to the press release Streit was also engaged in an attempt to extort approximately \$150,000 from MLB via a threat to publicize unrelated vulnerabilities in MLB’s internet infrastructure. In addition to the prison sentence, Mr. Streit was ordered to pay \$2,995,272.64 in restitution and \$500,000 in forfeiture. Read more [here](#).

#### **V. International Updates:**

- On Monday, *EDMTunes* reported that for the second straight year, music piracy has risen. Citing a report from UK Tech Company MUSO, The United States has the third highest number of piracy site visits behind only India and Iran. Although music piracy overall has decreased by more than 50% since 2017, the recent trend is something to keep an eye on. Read more [here](#).

#### **VI. Industry Updates:**

- On Monday, *The Verge* reported that Microsoft during their most recent round of layoffs fired their entire artificial intelligence ethics and society team. The team’s overall mission was to teach employees how to make AI tools responsibly. While Microsoft still maintains an active Office of Responsible AI, many are questioning the company’s motives at a time when they are attempting to be leaders in this new technological space. “Microsoft is committed to developing AI products and experiences safely and responsibly, and does so by investing in people, processes, and partnerships that prioritize this,” the company said in a statement. “Over the past six years we have increased the number of people across our product teams and within the Office of Responsible AI who, along with all of us at Microsoft, are

accountable for ensuring we put our AI principles into practice. [...] We appreciate the trailblazing work the Ethics & Society did to help us on our ongoing responsible AI journey.” Read more [here](#).

- On Tuesday, OpenAI announced the release of GPT-4, the most updated version of ChatGPT. While the updated model is more powerful and accurate, it still commits errors. “GPT-4 still has many known limitations that we are working to address, such as social biases, hallucinations, and adversarial prompts... In a casual conversation, the distinction between GPT-3.5 and GPT-4 can be subtle. The difference comes out when the complexity of the task reaches a sufficient threshold—GPT-4 is more reliable, creative, and able to handle much more nuanced instructions than GPT-3.5,” OpenAI wrote in a blog post. Read more [here](#).
- On Thursday, the Human Artistry Campaign was announced at the South by Southwest (SXSW) conference with support from more than 40 organizations. According to *Variety*, the group’s stated goal is “to ensure artificial intelligence technologies are developed and used in ways that support human culture and artistry – and not ways that replace or erode it,” the organization outlined principles advocating AI best practices, “emphasizing respect for artists, their work, and their personas; transparency; and adherence to existing law including copyright and intellectual property,” which are outlined in full [here](#).
  1. Technology has long empowered human expression, and AI will be no different.
  2. Human-created works will continue to play an essential role in our lives.
  3. Use of copyrighted works, and use of the voices and likenesses of professional performers, requires authorization, licensing, and compliance with all relevant state and federal laws.
  4. Governments should not create new copyright or other IP exemptions that allow AI developers to exploit creators without permission or compensation.
  5. Copyright should only protect the unique value of human intellectual creativity.
  6. Trustworthiness and transparency are essential to the success of AI and protection of creators.
  7. Creators’ interests must be represented in policymaking.