

CONTENT & TECHNOLOGY POLICY REPORT MAY 12, 2023



I. Congressional Updates:

- On Wednesday, May 10th, the Senate Rules and Administration Committee held a hearing titled, “Oversight of The Library of Congress.” The sole witness of the hearing was the Librarian of Congress, Dr. Carla Hayden. Her full opening statement can be found [here](#) and the full livestream of the hearing can be viewed [here](#). Overall, the hearing focused on the modernization efforts of the Library of Congress (LOC) as well as the U.S. Copyright Office’s (USCO) approach to AI generated works. Senators that participated in the hearing included Chairwoman Amy Klobuchar (D-MN), Ranking Member Deb Fischer (R-NE), Peter Welch (D-VT), and Bill Hagerty (R-TN). The main interest during the Q&A was on the U.S. Copyright Office and their involvement with AI. Also of note, Senator Klobuchar mentioned the Music Modernization Act, stating, “Last October the USCO proposed a new rule which is supported by artists and songwriters to clarify that songwriters should receive royalties from streaming services if they have regained the rights to their music, not their former publishers. When do you expect the USCO to issue a final rule on this matter?” Dr. Hayden replied saying that it is an open rule making and the USCO must follow the rulemaking procedure set out in the administrative procedure act, so “I won’t be able to give any definitive on the timing. I would like to refer you to the Copyright Office for a response. They can provide a response for the record.” A summary memo from ACG can be provided upon request.
- Next Monday, a group of bipartisan House members, hosted by Ted Lieu (D-CA) and Mike Johnson (R-LA), will have a closed-door, members-only dinner with the CEO of

Headlines and Highlights:

- Senate and House Announce AI Hearings for Next Week
- House Members to Host Bipartisan Dinner with OpenAI CEO Sam Altman
- Biden Nominates IPEC
- Meta May End Facebook, Instagram News Content in Canada
- British Government Regulators Launch Formal Investigation Into AI
- EU Votes on AI Act
- OpenAI Plans a Pro-Copyright Model for ChatGPT

In the Blogs:

- Tech Policy Press: [The UK Finally Published its Competition Bill. Was it Worth the Wait?](#)

OpenAI Sam Altman. The goal of the dinner is to “educate members,” said Lieu as more than 50 lawmakers have already RSVP'd. "We've all become aware of the extraordinary potential and unprecedented threat that artificial intelligence presents to humanity and the urgent calls for Congress to engage and act thoughtfully before it's too late," Johnson said. "This bipartisan discussion with Mr. Altman will be a very timely and important part of this process." Read more from *NBC News* [here](#).

- On Tuesday, May 16th, the Senate Judiciary Committee’s Subcommittee on Privacy, Technology, and the Law will hold a hearing at 10 am *titled* “Oversight of AI: Rules for Artificial Intelligence”. We understand that Sam Altman will be testifying at the hearing. According to *The Washington Post*, Christina Montgomery, vice president and chief privacy and trust officer at IBM, and Gary Marcus, a professor emeritus at New York University, are also slated to testify before the Senate Judiciary panel. More information can be found [here](#) and from *The Washington Post* [here](#).
- On Wednesday, May 17th, the House Judiciary Committee’s Subcommittee On Courts, Intellectual Property, And The Internet will hold a hearing at 10am titled, “Artificial Intelligence and Intellectual Property: Part I — Interoperability of AI and Copyright Law.” Witnesses are scheduled to be as follows:
 - [Ashley Irwin](#), President of The Society of Composers & Lyrists and Copyright Alliance member;
 - [Jeff Sedlik](#), photographer, educator, forensic analyst and intellectual property consultant, president and CEO of the PLUS Coalition, and Copyright Alliance Board member;
 - [Sy Damle](#), former General Counsel at the USCO and partner at Latham Watkins; and
 - [Chris Callison-Burch](#), professor at UPenn.
 - Find more info. [here](#).

II. Administration Updates

- The USPTO published a [Request for Comments](#) as part of the AI/emerging technologies (ET) partnership seeking stakeholder input on the current state of AI technologies and inventorship issues that may arise in view of the advancement of such technologies, especially as AI plays a greater role in the innovation process. The full text of the notice is available on the [Patent Related Notices webpage](#). Comments are due to the USPTO by May 15th.
- On Tuesday Morning, President Joe Biden announced his intent to nominate Deborah Robinson for the role of Intellectual Property Enforcement Coordinator. According to the White House press release, Deborah Robinson is an attorney with extensive experience protecting intellectual property rights on a global scale. Her career includes leadership roles as a corporate attorney and in public service as a prosecutor. As head of intellectual property enforcement at Paramount Global (formerly ViacomCBS), Robinson developed and implemented anti-piracy protocols to protect music, television, digital, and consumer-products properties. She built the global content protection group, amassed evidence for criminal prosecutions, and directed civil litigation matters. She also coordinated regularly with social media and app platforms to create specialized enforcement workflows and forged

alliances among several trade associations and industry coalitions. Prior to joining Paramount Global, Robinson spent five years protecting music creators' rights at the Recording Industry Association of America and seven years as an Assistant District Attorney for the city of Philadelphia. Robinson received her B.A. from Howard University, her J.D. from University of Pittsburgh School of Law, and she is a member of Alpha Kappa Alpha Sorority, Inc. Read the full press release [here](#).

- On Wednesday, Federal Trade Commission (FTC) Chair Lina Khan went on CNBC's "Squawk Box" to say that antitrust enforcement, rather than the absence of it, can better position the U.S. to stay ahead of China in the race to build and innovate new technologies. "What history and experience have shown us is what best positions the United States to compete internationally, to stay ahead internationally, is making sure that we are a home for innovation," Khan said in an interview with CNBC's Andrew Ross Sorkin. "And what best produces breakthrough innovations, cutting edge technologies, is competition. I think we've seen time and time again monopolies and incumbent firms arguing that they need to preserve their monopoly to make sure that the U.S. stays ahead. But historically the U.S. has instead enforced competition laws, enforced antitrust and that is what has led us to be the home of cutting-edge technologies." Read and watch more [here](#).

III. USCO Updates:

- 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.' The answer will depend on the circumstances, particularly how the AI tool operates and how it was used to create the final work. 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. Interested parties can register for the public listening sessions using the links below:
 - [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. International Updates:

- On Monday, *Bloomberg* reported that Meta is threatening to end news content on Facebook and Instagram in Canada if lawmakers pass the proposed Online News Act which would require social-networking platforms to pay media publishers to feature their work. “We’ve taken the difficult decision that if this flawed legislation is passed, we will have to end the availability of news content on Facebook and Instagram in Canada,” Nick Clegg, Meta’s president of global affairs, said in a statement on Monday. The bill, also known as Bill C-18, was proposed to address market imbalance between digital platforms and news outlets. Read more [here](#).
- Late last week, *Digital Music News* reported that the UK’s Competition and Markets Authority (CMA) is launching an inquiry into the impact of AI on the UK economy. “AI has burst into the public consciousness over the past few months but has been on our radar for some time,” adds Sarah Cardell, Chief Executive of the CMA. “It’s a technology developing at speed and has the potential to transform the way businesses compete as well as drive substantial economic growth.” According to the article, the CMA will investigate how the development of AI models has raised issues revolving around security, copyright, privacy, and economic impact. The CMA is seeking views and evidence from stakeholders and welcomes submissions through June 2, 2023. This inquiry comes on the heels of the UK Government’s white paper on AI which noted that “a pro-innovation and proportionate approach to the regulation of how AI is used is key to realize the benefits it has to offer.” Read more [here](#).
- On Thursday, the European Union voted on their long-awaited AI Act in what many are calling the de facto global standard for artificial intelligence. According to *Bloomberg*, Parliamentarians for the EU’s internal market and justice committees agreed Thursday that companies creating “foundational” AI models should be required to produce risk assessments, summarize copyrighted material used to train the models and make sure users know when they’re interacting with AI or watching a deepfake. They also voted to ban the real-time use of AI for identifying people in public. The majority of lawmakers, 84, voted for the additional controls in a vote on the EU’s Artificial Intelligence Act, while seven voted against and 12 abstained. “Europe is the first regional bloc to significantly attempt to regulate AI, which is a huge challenge considering the wide range of systems that the broad term ‘AI’ can cover,” said Sarah Chander, senior policy adviser at digital rights group EDRi. The entire European Parliament plenary will vote on the full AI Act proposal next month and then the parliament will have to negotiate a final deal with the commission and the EU’s 27 member states, according to *Bloomberg*. Recently added provisions to the EU’s AI Act would require “foundation” AI models to disclose copyright material used to train the systems, according to a recent partial draft of the legislation obtained by *The Associated Press*. Once the Act does receive final approval, which is expected to be by the end of 2023 or early 2024, there will still be a grace period for implementation. Read more [here](#) and [here](#).

V. Judicial Updates:

- On Monday, *Reuters* reported that the 11th U.S. Circuit Court of Appeals ruled in favor of security startup Corellium Inc. saying that they lawfully recreated Apple's system under the Fair Use doctrine of the U.S. Copyright Act. The court said Corellium's software adds new features that help security researchers "do their work in a way that physical iPhones just can't." The case now goes back to the district court to consider if other cases of potential infringement of Apple's icons or malicious third parties occurred. Read more [here](#).

VI. Industry Updates:

- Last Friday, OpenAI CEO Sam Altman announced that the company is working on new ChatGPT models that respect copyright and ensure creators are paid for the value they create. He stated, "We're trying to work on new models where if an AI system is using your content, or if it's using your style, you get paid for that." Altman also spoke about the White House AI summit, stating that one of the most important conversations was around "laws so that people know if they're talking to an AI." Additionally, he spoke about AI's potential to reduce bias and make us better at everything we do, but he remained firm that AI is just "a tool, not a creature," and will not become conscious. Altman also mentioned that he expects a lot of customer service jobs to go away due to AI. This talk comes after an announcement that Altman will be hosting an "OpenAI Tour 2023" to meet and hear from users, developers, and those interested in AI generally. He will be visiting Toronto, DC, Rio, Lagos, Madrid, Brussels, Munich, London, Paris, Tel Aviv, Dubai, New Delhi, Singapore, Jakarta, Seoul, Tokyo, and Melbourne. To apply, submit this [form](#). Read more [here](#).