



AMERICAN CONTINENTAL GROUP

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CONTENT & TECHNOLOGY POLICY REPORT DECEMBER 2, 2016



I. Congressional Updates:

- *The Hill* is reporting this week that the chairmanship of the influential House Energy and Commerce Committee—which has jurisdiction over a swath of tech issues, including at the FCC and NTIA—has been given to Rep. Walden (R-OR), former Chairman of the subcommittee on communications and technology. Read more [here](#).
- Senate Commerce Committee Chairman John Thune (R-SD) and Senate Minority Leader Harry Reid (D-NV) signaled this week that FCC Commissioner Jessica Rosenworcel’s confirmation—which Senate Republicans have blocked for months—is “very close” to being completed before the end of the year.
- On Monday, the Associated Press reported that Rep. Darrell Issa (R-CA), chairman of the subcommittee on Courts, Intellectual Property, and the Internet, narrowly edged out Democrat Doug Applegate in his bid for a ninth term representing California’s 49th district. “I am eager to continue working to advance the best interests of the American people and restoring the focus of Washington where it belongs: Economic prosperity, national security, and government accountability,” Issa said in a statement following his victory. Read more [here](#).
- House Ways & Means Subcommittee on Trade Chairman Dave Reichert said this week that he still believes there is hope for the Trans-Pacific Partnership (TPP). Specifically, he said the deal could go forward through bilateral agreements or as “multilateral agreements in pieces.” Read more [here](#). Likewise, in a wide-ranging CNBC interview on Wednesday, Commerce Secretary

Headlines and Highlights:

- Rep. Walden wins gavel of House Energy and Commerce committee.
- President-elect Trump announces Wilbur Ross as Secretary of Commerce; Todd Ricketts as Dep. Secretary of Commerce.
- Two former Registers of Copyrights pen letter to lawmakers, call Maria Pallante’s dismissal “unseemly.”
- SiriusXM settles Turtles’ copyright lawsuit for \$99 million.

In the Blogs:

[Why You Can’t Copy a Recipe Book Plagiarism Today](#)

November 30 by Jonathan Bailey

[The Demise of the TPP and its Impact on Copyright](#)

Hugh Stephens Blog
November 28 by Hugh Stephens

[The Fake News Problem: It’s not them, it’s us.](#)

Illusion of More
December 1 by David Newhoff

nominee Wilbur Ross and Treasury Secretary nominee Steve Mnuchin said that although they are opposed to multilateral trade deals, they are in favor of bilateral trade deals. They further stated that they are not opposed to all trade deals, just bad ones. Read the transcript [here](#).

- Representative Sander Levin (D-MI) announced this week that he will step down as ranking member on the House Ways & Means Committee. Levin has served as top Democrat on the committee since 2010. Levin cited a need to support younger Members in leadership positions as his reason for stepping down. Rep. Richard Neal (D-MA) is seen as a top leading candidate to replace Levin. Read more [here](#) and [here](#).

II. Judicial Updates:

- This week, SiriusXM agreed to pay \$99 million to the band the Turtles following a class action lawsuit alleging the satellite radio company went years broadcasting pre-1972 songs without compensating labels or artists. The deal requires SiriusXM to pay, at a minimum, \$25 million for its past unlicensed use of pre-1972 recordings, and could potentially pay an addition \$15 million if appeals in New York and Florida are successful. SiriusXM additionally agreed to a 10-year license for pre-1972 recordings at a 5.5 percent royalty rate. Read more [here](#).

III. Administration Updates:

- President-elect Donald Trump announced earlier this week that Wilbur Ross will be his nominee for Secretary of Commerce. Ross made his fortune running a private equity company involved in the steel, coal, and textile industries, among others. He [has argued](#) that trade deals should be structured so that there is “zero tolerance on intellectual property theft” and has criticized the WTO for providing “little or no protection” against intellectual property theft. Read more [here](#).
- *Indiewire* has profiled Steve Bannon’s former career in the independent film industry. Bannon, who is Donald Trump’s choice for White House Chief Strategist and Senior Counselor, worked in distribution and production for the film company Wellspring Media a decade ago. He also invested in film production when he ran an investment firm in the nineties. The piece documents how Bannon even “developed a side career directing conservative-leaning documentaries” such as a profile of Ronald Reagan. Read the piece [here](#).
- President-elect Donald Trump announced this week that Todd Ricketts will be his nominee for Deputy Secretary of Commerce. Ricketts is currently the director of Chicago Baseball Holding LLC, which runs the Chicago Cubs franchise. He is also the Director and CEO of the Ending Spending Political Action Committee, which is dedicated to combatting “wasteful and excessive government spending.” Read more [here](#). In related news, Steve Mnuchin was also announced as Donald Trump’s nominee for Treasury Secretary. Mnuchin previously worked for Goldman Sachs and later started the Hedge Fund Dune Capital, where he has been involved with financing and producing Hollywood films. Read more [here](#).

IV. International Updates:

- The European Union Council of Ministers agreed this week on draft regulation to ban “unjustified geoblocking” in an attempt to remove barriers to e-commerce across the bloc. “Shopping online from another EU country in the same way as locals do is something that many citizens expect nowadays. The new rules to stop unjustified geoblocking will improve considerably the e-commerce economy and give citizens access to a wider choice of goods and services,” Peter Ziga, President of the Council and Minister of Economy of Slovakia, said. Read more [here](#) and [here](#).

V. Industry Updates:

- Last week, the Radio Music Licensing Committee (RMLC) filed an antitrust lawsuit against the boutique performance rights organization Global Music Rights (GMR). The suit, filed in the U.S. Eastern District of Pennsylvania Court, charges that GMR “has created an artificial monopoly over works in its repertoire” and seeks injunctive relief for GMR to “submit a rate-setting procedure” similar to the one imposed by the ASCAP and BMI consent decrees. Read more [here](#).
- On Monday, two former Registers of Copyrights sent a letter to the chairmen and ranking members of the House and Senate Judiciary Committees expressing their “concern about the unseemly dismissal” of Maria Pallante as Register of Copyrights. Ralph Oman, who was Register of Copyrights from 1985 to 1993, and Marybeth Peters, who was Register of Copyrights from 1994 to 2010, write that “in the 119-year history of the Copyright Office, no other Librarian has treated a Register with such disrespect.” They also question “whether any Register, or the Copyright Office itself, can continue to serve the public interest under the current institutional framework” given that “competing missions and differing priorities of the Library and the Copyright Office have increasingly emerged as a source of tension.”
- The Recording Academy has sent a letter to Donald Trump arguing that “the laws governing the sale and distribution of music have failed to keep pace with technology, keeping music creators from receiving the fair market value for their work.” The letter urges Donald Trump “to support reform of outdated laws and oppose any regulation that would diminish the value of these creators’ hard work and property rights.” Read the letter [here](#).
- The Copyright Office has released three proposed rules related to electronic group registration of contributions to periodicals. Read the Federal Register filings [here](#), [here](#), and [here](#). The Copyright Royalty Judges also announced that they are amending their regulations to relocate the provisions dealing with coin-operated phonorecord players from the section of the *Code of Federal Regulations* containing Copyright Arbitration Royalty Panel (CARP) regulations to the section containing Copyright Royalty Board regulations. They are doing so to allow the Copyright Office to remove the outdated CARP regulation. The amendment takes effect on November 21, 2016. Read more [here](#).
- The Copyright Royalty Judges have issued a request for comments on a proposal to amend regulations to allow electronic filing of documents. On September 23, the Library of Congress awarded a contract for the design and implementation of an electronic filing and case management system for the Copyright Royalty Board (CRB). The Copyright Royalty Judges anticipate that the new system will be available by May 2017. After a six-month transition period, the judges intend to make use of the system mandatory for claimants and

participants in proceedings. To that end, the judges propose to amend the regulations governing the filing and delivery of documents to the CRB to accommodate electronic filing and to specify the required format of both electronic and paper documents. In addition, the judges propose to amend the regulations to remove references to obsolete technologies and to eliminate redundant provisions. Comments on the proposed amendment are due no later than December 23, 2016. Read more [here](#).

- This week, the U.S. Copyright Office launched its new electronic system to designate and search for agents to receive notifications of claimed infringement under the Digital Millennium Copyright Act (DMCA). The final rule implementing the new system and governing what is required of service providers to designate an agent also comes into effect today. As [previously announced](#), all new designations must now be made through the online registration system. Additionally, any service provider that has previously designated an agent with the Office through the old paper-based system will have until December 31, 2017, to submit a new designation electronically through the new system.