



AMERICAN CONTINENTAL GROUP

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## CONTENT & TECHNOLOGY POLICY REPORT DECEMBER 9, 2016



### I. Congressional Updates:

- On Thursday, House Judiciary Committee Chairman Bob Goodlatte (R-VA) and Ranking Member John Conyers (D-MI) released the first policy proposal to come out of the Committee's review of U.S. Copyright law. Among the reforms are granting the Copyright Office autonomy with respect to the Library of Congress and requiring the Copyright Office to maintain an up-to-date digital, searchable database of all copyrighted works and associated copyright ownership information, and many other reforms. Additionally, the proposal recommends the Office "host a small claims system" to "handle low value infringement cases." Reps. Goodlatte and Conyers released a statement alongside the announcement: "For years now, we have deliberately listened—through hearings, listening sessions, and site visits—to the views and concerns of stakeholders from all sides of the copyright debate. These policy proposals are not meant to be the final word on reform in these individual issue areas, but rather a starting point for further discussion by all stakeholders, with the goal of producing legislative text within each issue area." The Committee requests written comments from interested stakeholders by January 31, 2017. Read more [here](#) and [here](#).
- On Tuesday, December 6<sup>th</sup>, Members of Congress, including Reps. Blackburn (R-TN), Conyers (D-MI), Collins (R-GA), Chu (D-CA), Issa (R-CA) and Deutch (R-FL) held a press conference with the International Intellectual Property Alliance (IIPA) to mark the release of a new report on the economic contribution of the copyright sector. The report highlights that the "value added by the core copyright industries to U.S. GDP—\$1.2 trillion dollars—accounted for 6.88% of the U.S.

### Headlines and Highlights:

- Reps. Goodlatte and Conyers release their first proposal to reform the Copyright Office.
- Senior VP for Getty says CTA President "mischaracterizes" his criticism of Google Images.
- Australian creatives launch "This Book/Song Changed My Life" to push back against government 'fair use' proposal.
- YouTube touts \$1 billion in ad money for music industry; IFPI says news is "no reason for celebration."

### In the Blogs:

[Plagiarism in Pop Culture: Arthur Plagiarism Today](#)  
December 7 by Jonathan Bailey

[The "Focus on Creators" Campaign in Canada](#)  
Hugh Stephens Blog  
December 2 by Hugh Stephens

[Copyright Still Essential to Economic Future](#)  
The Illusion of More  
December 6 by David Newhoff

economy” while the core copyright industries “grew at an aggregate annual rate of 4.81%” between 2012 and 2015. Rep. Conyers said the report “demonstrates clearly that copyright industries play an important role in job creation” while Rep. Issa expressed hope that the report will paint “a clear picture for Members of Congress” on the importance of the copyright industries. Read the press release [here](#).

- On Wednesday, the Copyright Alliance and the Creative Rights Caucus held an event, “The Story of America’s Most Recognized Photos,” featuring remarks from renowned photographers Anne Geddes, Michael Grecco, and Denis Reggie. The panelists presented their stories of how they established themselves as well as their current challenges with infringement and the lack of protection for small creatives.
- *POLITICO* is reporting that Federal Communications Commission Chairman Tom Wheeler committed to Senate Minority Leader Harry Reid this week he would be willing to step down immediately if it would ensure Commissioner Jessica Rosenworcel’s reconfirmation to the commission. Rosenworcel’s reconfirmation has been stalled in part due to Republican concerns that Wheeler may not step down in the coming weeks—a tradition previous FCC Chairs have adhered to—giving the FCC a Democratic majority under President-elect Trump.

## II. Judicial Updates:

- On Tuesday, Prince’s companies NPG Records and NPG Music Publishing filed a copyright infringement lawsuit against Jay Z’s multimedia company, Roc Nation, claiming that Jay Z’s music service Tidal is streaming dozens of Prince songs even though it only has the rights to one album. The lawsuit, filed in federal court in Minneapolis, says Roc Nation and Prince agreed in 2015 to stream one his albums “Hit N Run: Phase One.” However, NPG is alleging that Roc Nation is streaming dozens of additional songs from Prince albums and also improperly using pictures and related artwork of the late artist. Read more [here](#).

## III. Administration Updates:

- Executives from Google, Apple, Facebook, Amazon, and Oracle are scheduled to meet with Donald Trump’s top aides on December 14<sup>th</sup>. Incoming White House Chief of Staff Reince Priebus, Donald Trump’s son-in-law Jared Kushner, and PayPal founder Peter Thiel are expected to represent the Trump team at the gathering. Read more [here](#).
- This week, President-elect Donald Trump announced Iowa Governor Terry Branstad as his nominee to be ambassador to China. Branstad has been an outspoken advocate for the importance of the Trans-Pacific Partnership and trade more generally. In July, Branstad appeared with the governors of Virginia and Louisiana to call on Congress to ratify the TPP. As recently as October Branstad told reporters that regardless of who won the election he would “make sure...we’re doing everything we can to open these markets.” Read more [here](#).

## IV. International Updates:

- This week, Australian musicians, authors, and other creatives joined with the Copyright Agency and APRA AMCOS to launch the “[This Book/Song Changed My Life](#)” social media campaign. The campaign underscores the importance of Australian creativity in an effort to push back against proposed expansions of the copyright exceptions system put forth by Australia’s Productivity Commission earlier this year. Following the announcement of the campaign, Copyright Agency CEO Adam Suckling told reporters: “Draft recommendations made by the Productivity Commission include the implementation of ‘fair use’... This, along with the proposed expansion of the safe harbor provision, would see Australian artists, writers, musicians, and filmmakers not receiving fair payment for their work...” Read more [here](#).
- The European Union Intellectual Property Office has published findings from a series of studies showing that in the European Union (EU) 7.4% of sales across nine sectors – including music - are lost due to infringement. The studies also show that counterfeiting and piracy deprive EU governments of £14.3 billion each year. Moreover, the studies show that infringement costs the EU 790,000 jobs every year. Read more [here](#).

## V. Industry Updates:

- On Tuesday, via its official [YouTube blog](#), Google said that, in the last 12 months, YouTube has paid out “over \$1 billion to the music industry from advertising alone.” This payout, the blog says, alongside the growth of subscription services demonstrates “that multiple experiences and models are succeeding alongside each other.” The International Federation of the Phonographic Industry (IFPI) [pushed back](#) against YouTube’s optimism saying the news was “no reason for celebration.” “YouTube, the world’s largest on-demand music service, is not paying artists and producers anything like a fair rate for music,” IFPI wrote on its website, adding that this “highlights more than ever the need for legislative action to address the ‘value gap’ that is denying music rights holders a fair return for their work.” Read more [here](#).
- On Wednesday, Yoko Miyashita, Senior Vice President and General Counsel for Getty Images wrote a letter responding to Consumer Technology Association President and CEO Gary Shapiro’s November [TechDirt article](#) warning Getty to “be careful about turning image search into an antitrust complaint” after the company urged the Senate Judiciary Antitrust Subcommittee to investigate Google’s Images service for anticompetitive behavior. In Getty’s response, Miyashita writes that Shapiro “mischaracterizes” their concerns and that his suggestion that image publishers like Getty Images can simply opt their images out of this format “is not a realistic choice for most online businesses.” “What we see are continued steps to solidify Google’s dominance in search,” Miyashita writes, adding “Who will pay for what Google gives away for free?”
- Billboard is reporting this week that the National Music Publishers Association (NMPA) has reached a settlement with YouTube over unpaid royalties. While the exact amount was not disclosed sources with knowledge of the agreement said it could be in the range of the \$30 million payout by Spotify. “We appreciate YouTube’s willingness to work with us on behalf of the industry to help pay out millions of dollars in previously unclaimed royalties to publishers and songwriters,” NMPA president and CEO David Israelite said following the deal. Read more [here](#).