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CONTENT & TECHNOLOGY POLICY REPORT FEBRUARY 24, 2017



I. Congressional Updates:

- Rep. Mike Doyle (D-PA), the ranking member of the House Energy and Commerce Telecom Subcommittee, told *Politico* this week that despite Republicans' plans, net neutrality rules will not be "repealed so easy," adding that, when the rules were first being looked at, the FCC "received millions" of contacts from the public and grassroots organizations. Doyle also expressed concern about a potential H-1B executive order, saying there is a "documented need" for a more skilled workforce, particularly in tech sectors. Read more [here](#).
- *CQ News* is reporting that a number of organizations are lobbying House Republicans to ensure that any border adjustment tax legislation "exempts any change to trade under existing business contracts and transactions involving offshore intellectual property." Organizations are also "concerned that the border adjustments proposal would eliminate business deductions for licensing fees that multinational companies pay to foreign affiliates for rights to use patents, software and other intellectual property" rights if those rights "would be treated as imports." Read more [here](#) (subscription).
- Both the House and Senate were in recess this week.

II. Judicial Updates:

- The Copyright Alliance filed an amicus [brief](#) last Friday in the *Oracle v. Google* copyright case. The Alliance's brief supports Oracle's claim that Google infringed its copyrights, and argues that if a district court ruling that Google engaged in fair use is upheld, it will "have

Headlines and Highlights:

- Groups lobby House Republicans on intellectual property implications of border adjustment tax proposal.
- Copyright Alliance files amicus brief in *Google v. Oracle* case.
- Music industry organizations call for DMCA changes.
- Google and Bing agree to demote infringing sites in UK search results, Parliament withdraws proposal for mandatory anti-piracy code.

In the Blogs:

[The GIPC Index: Measuring Global IP Standards](#)

February 19 by Hugh Stephens

[End of Copyright Alert System Shouldn't Deter Voluntary Agreements](#)

Mister Copyright

February 12 by Kevin Madigan

[Who Holds the Copyright to an Essay Mill Paper](#)

Plagiarism Today

February 21 by Jonathan Bailey

serious consequences for creators across a wide range of industries.” Commenting on the case, Copyright Alliance CEO Keith Kupferschmid said that the district court ruling “makes it too easy for opportunistic and predatory businesses to take a copyrighted work from one medium, adapt it to another, and claim it is transformative.” Read more [here](#).

- Warner Bros. has settled a copyright lawsuit concerning Oscar screeners with talent agency Innovative Artists, according to *The Hollywood Reporter*. Warner Bros. had alleged that Innovative Artists illegally lifted Oscar screeners from DVDs and posted them on a “digital distribution platform” for the agency’s clients and others with connections to the agency. Warner Bros had also alleged that copies of the films were further lifted from that platform and posted on pirate websites. Read more [here](#).

III. Administration Updates:

- There have been no further developments on Michelle Lee’s status as USPTO director this week. Last Friday, *IP Watchdog*’s Gene Quinn contacted the Commerce Department’s Office of Public Affairs, who told him that they could not comment on the matter. Read more [here](#).
- Recently-appointed White House Chief Digital Officer Gerrit Lansing will no longer be able to serve in the position after failing an FBI background check. Lansing was one of six White House staffers who failed the check last week. He previously served as Chief Digital Officer for the Republican National Committee. Read more [here](#).
- Acting FTC Chair Maureen Ohlhausen, who [reportedly](#) wants the Trump Administration to appoint her as chair in full, gave a short speech about the importance of intellectual property rights while participating on a CPAC panel this week. She criticized the Obama Administration for pushing the idea that intellectual property rights should be “devalued,” which has encouraged foreign entities in countries such as China to “take American intellectual property without proper payment.” View video of her remarks [here](#).
- A large coalition of groups and individuals, including ACT | The App Association, George Mason’s Center for the Protection of Intellectual Property (CPIP), the Information Technology & Innovation Foundation (ITIF), and the Property Rights Alliance, have sent the Trump Administration an open letter recommending the adoption of certain “intellectual property guidelines.” The group describes itself as comprising “organizations [that] represent millions of Americans through both state and national advocacy or engage in rigorous research and educational work on intellectual property rights.” The guidelines stress the importance of intellectual property rights for economic growth and argue that intellectual property is “deserving [of] the same respect as physical property.” Additionally, the guidelines note that intellectual property theft on the internet creates significant economic harm, and state that “protecting IP and internet freedom are...not mutually exclusive” because “a truly free internet, like any truly free community, is one where people can engage in legitimate activities safely, and where bad actors are held accountable.” The coalition also calls for stronger intellectual property protections in trade agreements. Read the letter [here](#).

IV. International Updates:

- Google and Bing have [agreed](#) to abide by a voluntary code of practice in the United Kingdom intended to encourage the demotion of infringing websites in search results. The voluntary code was created by the UK's Intellectual Property Office and Department for Culture, Media and Sport. Under the code, Google and Bing users will increasingly find legal websites in their search results rather than infringing websites. However, as a result of the adoption of the voluntary code a legislative proposal which would have given the UK government the ability to force search engines to combat piracy has been withdrawn. Read more [here](#) and [here](#).
- Google senior copyright counsel William Paltry recently criticized Australia's copyright laws, calling them a "hindrance to innovation." Paltry told *The Australian* that unlike in the United States, Google's search function is not covered by fair use under Australian law. Google is part of a large coalition calling for revisions to Australian copyright law, and for fair use legislation in particular. Read more [here](#).

V. Industry Updates:

- *Politico* is reporting this week that Michael Punke, former U.S. Ambassador to the World Trade Organization, will join Amazon as Vice President for Global Public Policy for Amazon Web Services.
- Music producer T Bone Burnett submitted a video on Tuesday to the U.S. Copyright Office in response to its request for comments on the Digital Millennium Copyright Act (DMCA) safe harbor provisions. In the video, Burnett says that the safe harbors have "failed" and that "it's time for Congress to close the loopholes in Section 512 of the DMCA." He also describes the internet as "an exploitative digital black hole that benefits a handful of mega corporations and web moguls...[who] are enriching themselves off the artistic, cultural and economic value everyone else creates." Read more [here](#) and [here](#). Likewise, a coalition of 15 music industry organizations submitted comments to the Copyright Office, calling the DMCA "broken and antiquated." The organizations include the Recording Industry Association of America (RIAA), SoundExchange, the Nashville Songwriters Association International, ASCAP, and BMI. The comments argue that the "unbalanced" DMCA "results in an unfair subsidy to active, online entertainment companies and does not merely protect passive conduits." Read excerpts from the filing [here](#).