



AMERICAN CONTINENTAL GROUP

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## CONTENT & TECHNOLOGY POLICY REPORT JUNE 16, 2017



### I. Congressional Updates:

- On Tuesday, House Judiciary Chairman Bob Goodlatte (R-VA) welcomed Rep. John Rutherford (R-FL) to the Committee. “As a former law enforcement officer and Sheriff of Duval County, Florida, Congressman Rutherford brings a wealth of experience and knowledge to the Committee,” said Chairman Goodlatte. Rep. Rutherford expressed appreciation for his appointment to the House Judiciary Committee, saying “I am grateful for this opportunity to reestablish constitutional order across our nation.” Read more [here](#).
- On Thursday, the Senate Judiciary Committee unanimously approved, by voice vote, the nomination of Vishal J. Amin to serve as Intellectual Property Enforcement Coordinator (IPEC). Amin’s nomination now heads to the Senate floor for a full Senate vote.
- *POLITICO* is On Tuesday, Rep. Will Hurd (R-TX) was interviewed by *FedScoop* on some of the flaws in government IT as well as prospects for improving it. Rep. Hurd pointed to Congress allowing Chief Information Officers of agencies to have additional responsibilities as a positive step forward, saying “You can’t hold somebody accountable for defending the digital infrastructure if they don’t have all the authority to decide what widgets they have on that digital infrastructure.” Hurd went on to say that the government should stop thinking about projects that take years to complete and instead should think in terms of months-long and weeks-long projects. Watch the interview [here](#).
- *Politico* has obtained a letter written by Rep. Zoe Lofgren (D-CA) on June 8<sup>th</sup> to Rep. Jerry Nadler (D-NY) about

### Headlines and Highlights:

- USTR Lighthizer to testify before Senate Finance on President’s Trade Policy Agenda and FY18 Budget.
- ASCAP and YouTube announce data-sharing deal.
- Sens. Cruz and Cornyn pen op-ed on how to modernize NAFTA.
- President Trump renominates Jessica Rosenworcel to fill Democratic vacancy on FCC.
- Rep. John Rutherford (R-FL) announced as new addition to House Judiciary Committee.

### In the Blogs:

#### [YouTube and the Music Value Gap](#)

Hugh Stephens Blog  
June 12 by Hugh Stephens

#### [Angels and Monkeys at Appeals Court](#)

The Illusion of More  
June 13 by David Newhoff

#### [WSIS Forum: Close Link Between Internet and Human Rights](#)

IP Watch  
June 14 by Elise De Geyter

who would become the ranking member on House Judiciary Committee should Rep. John Conyers (D-MI) decide to retire. “While noting that Conyers has not said what his intentions are for the 116th Congress, Lofgren pointed out ‘that the top Committee position ‘need not follow seniority.’” Read more [here](#).

- On Tuesday, Sens. Cornyn and Cruz, Republicans of Texas, published an op-ed in *The Dallas Morning News* titled “It’s time to modernize the North American Free Trade Agreement (NAFTA) and Texas knows how.” Sens. Cornyn and Cruz underlined the importance of NAFTA to the Texas economy, writing that “more than 380,000 Texas jobs hinge on free trade with Mexico...” However, they also stressed how much has changed in the world since 1994, when the agreement went into effect. “The past 20 years has introduced the internet into our everyday lives, which in turn has developed industries like information technology and digital trade,” the Senators wrote, adding that, despite the vast reach of the digital economy, “there are no clear and enforceable rules on cross-border data flows or intellectual property rights, something a renegotiated NAFTA should address.” Read more [here](#).
- The Senate Foreign Relations Subcommittee on East Asia, the Pacific, and International Cybersecurity held a hearing on Tuesday about state-sponsored cyber threats. Witness Samantha Ravich (Foundation for Defense of Democracies) warned that there is anecdotal evidence that Chinese hackers have resumed largescale efforts to steal intellectual property from American companies. Ravich further warned that the U.S. government is currently “inadequately structured” to protect the private sector from these attacks. Another witness, Eric Rosenbach (Harvard University), argued that the Chinese “are [now] better at doing what they were doing before.” Read more [here](#).

## II. Judicial Updates:

- On Wednesday, Jeehon Park brought a federal complaint for copyright infringement against architecture firm Skidmore, Owings and Merrill. Park claims that Skidmore—the firm that designed the Freedom Tower—copied the design he created for his 1999 thesis at the Illinois Institute of Technology. In his complaint, Park said that one of his advisors at the Illinois Institute of Technology was an associate partner at Skidmore and that his thesis was displayed until at least 2005 in the lobby of the architecture school. Park is seeking damages for 11 counts of copyright infringement and false advertising. Read more [here](#).

## III. Administration Updates:

- President Trump has renominated Jessica Rosenworcel to fill a Democratic vacancy on the Federal Communications Commission (FCC). Rosenworcel previously served on the FCC from 2012 to 2016, with the Senate failing to act on her renomination at the end of the 2016. Read more [here](#).
- On Wednesday, June 21<sup>st</sup> at 10 a.m. the United States Trade Representative (USTR) Robert Lighthizer will testify before the Senate Finance Committee in a hearing on “The President’s Trade Policy Agenda and Fiscal Year 2018 Budget.” In a [press release](#) announcing the hearing, Senate Finance Chairman Hatch (R-UT) said the United States’ focus “should be on opening new markets for our exporters and protecting intellectual property rights to help maintain the United States’ competitiveness abroad.”

#### IV. International Updates:

- The European Court of Justice ruled against The Pirate Bay on Wednesday, declaring that “making available and managing an online platform for sharing copyright-protected works, such as ‘The Pirate Bay,’ may constitute an infringement of copyright.” The court further stated that the platform can “be regarded as playing an essential role in making” infringing content available. The ruling came in a case brought by Dutch anti-piracy group Stichting Brein. Read more [here](#).
- United Kingdom Prime Minister Theresa May and French President Emmanuel Macron have announced a joint campaign to combat terrorist propaganda on internet platforms. The two leaders agreed during a meeting on Tuesday that this initiative will, according to May, include “exploring creating a legal liability for tech companies if they fail to take the necessary action to remove unacceptable content.” In a press conference, May said that corporations “should abide by their social responsibility to...remove harmful content from their networks.” Read more [here](#) and [here](#).

#### V. Industry Updates:

- This week, performance rights organization (PRO) ASCAP and YouTube announced a deal in which ASCAP will combine its database of 10.5 million musical works with YouTube’s data exchange, a move that ASCAP’s CEO Elizabeth Matthews says “substantially increases the aggregate amount of revenue” for the organization and its members. The deal is also retroactive, meaning that ASCAP will be compensated for its works streamed on YouTube since 2013—the year the video sharing site began operating on a compulsory interim license with ASCAP. Read more [here](#).
- Thirty entertainment companies have [formed](#) an antipiracy coalition called the Alliance for Creativity and Entertainment. The coalition’s membership includes NBCUniversal, Disney, Amazon, Hulu, Netflix, and Warner Bros. The coalition intends to “expand ongoing, cooperative efforts to reduce the prevalence of online piracy.” In particular, the group will “conduct research, work closely with law enforcement to curtail illegal pirate enterprises, file civil litigation, forge cooperative relationships with existing national content protection organizations, and pursue voluntary agreements with responsible parties across the internet ecosystem.” The coalition also intends to “draw upon the global antipiracy resources of the Motion Picture Association of America (MPAA).” Read more [here](#).
- *Axios*’s Kim Hart has profiled the rising tide of complaints that large technology companies such as Google and Facebook hold too much power. Hart writes that these companies “have become enormous concentrations of wealth and data, drawing the attention of economists and academics who warn they’re growing too powerful.” However, Hart points out that FTC Chair Maureen Ohlhausen “said in a recent speech that the agency has no intention of meddling in the way tech companies use algorithms and data.” Hart also claims that “insiders expect” Makan Delrahim, the nominee to head the Department of Justice Antitrust Division, to “be cautious” when it comes to policing online platforms. Read more [here](#).
- Spotify has released financial filings showing that in 2016 its revenue grew by over 50 percent, to \$3.3 billion. The filings also state that over the next two years Spotify will pay over \$2 billion in minimum payments to record labels. *Recode* reports that these payments

are related to recent deals with Universal Music Group and Merlin. Spotify also reported a net loss of \$601 million last year. Additionally, the company announced that it has 140 million users worldwide, up from 126 million at the end of 2016. Read more [here](#).

- The Copyright Office has issued an interim rule governing its special procedure for examining secure tests. The interim rule “memorializes some of the Office’s existing procedures for examining secure tests, updates the Office’s procedures to increase the efficiency of the examination process, and discontinues the practice of examining databases and computer programs under the special procedure for secure tests.” The interim rule will go into effect on July 12, 2017. The Office is seeking comments, due December 11, 2017, on the interim rule. Read the interim rule [here](#).
- The Copyright Office has issued a final rule allowing the submission of applications for supplementary copyright registration through the Office’s online registration system. The Office notes that “applicants will generally be required to file applications for supplementary registration online.” The rule also makes “other changes to the practices relating to supplementary registration”. Read the final rule [here](#).