



AMERICAN CONTINENTAL GROUP

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## CONTENT & TECHNOLOGY POLICY REPORT JULY 28, 2017



### I. Congressional Updates:

- On Wednesday, July 26, 2017 at 11:00am, the Committee on House Administration held a hearing titled “Oversight of the Library of Congress’ Strategic Plan.” Copyright issues did not figure very prominently, but were briefly raised in an exchange between the Librarian and Representative Mark Walker (R-NC). Dr. Hayden stated that “the deposit requirement would be vital to continuing [the Library’s acquisition of materials], wherever the Copyright Office would reside.” Mr. Walker also inquired about the cost of relocating the Copyright Office, and the search for a new Register. Regarding cost, Dr. Hayden declined to comment, and concerning the Register search, she said that “the search has paused, waiting for the direction from Congress.” Outside of this exchange, Ranking Member Robert Brady (D-PA) notably remarked, “From her progress in improving Library-wide technology infrastructure and the ongoing modernization of the Copyright Office, the Library’s a better place today than it was a year ago, and we have Dr. Hayden to thank for that.”
- House Energy and Commerce Chairman Greg Walden (R-OR) announced this week that the Committee will hold a hearing titled “Ground rules for the Internet ecosystem” on September 7<sup>th</sup>. Chairman Walden said that he has invited the top executives from Amazon, Facebook, Alphabet and Netflix as well as broadband providers including Comcast, AT&T, Verizon, and Charter Communications. Read more [here](#).
- This week, Congressional Democrats released an economic agenda dubbed “[A Better Deal](#).” In the agenda, the Democrats proposed “cracking down on corporate

### Headlines and Highlights:

- Congressional Democrats release economic agenda dubbed “A Better Deal”.
- House Administration Committee holds oversight hearing on Library of Congress’ Strategic Plan.
- BMI and ASCAP announce intention to combine musical works databases.
- White House advisor Steve Bannon has argued in favor of regulating tech companies as utilities, *The Intercept* reports.

### In the Blogs:

[Getting away with infringement doesn’t mean it’s cool](#)

Hugh Stephens Blog

July 19 by Hugh Stephens

[How Napster Gave Us Donald Trump](#)

The Illusion of More

July 26 by David Newhoff

[Orlowski: Google Returns to CA Court on Equustek](#)

Illusion of More

July 27 by David Newhoff

monopolies” by preventing big mergers that may harm consumers, workers and competition; requiring regulators to review mergers after completion to ensure they continue to promote competition; and by creating a 21<sup>st</sup> century ‘Trust Buster’ to stop abusive corporate conduct and the exploitation of market power where it already exists. Read more [here](#).

- On Thursday, the Senate Appropriations Committee passed the FY2018 Commerce, Justice, Science (CJS) and Legislative Branch appropriations bills. The CJS bill [provides](#) \$9.16 billion for the Commerce Department, including \$3.5 billion for the U.S. Patent and Trademark Office (USPTO). The Legislative branch bill [provides](#) \$638.9 million for the Library of Congress, an increase of \$6.9 million from FY2017.
- On Tuesday, Federal Communications Commission (FCC) Chairman Ajit Pai and Commissioners Michael O’Rielly and Mignon Clyburn testified at a House Energy & Commerce Subcommittee on Communications & Technology hearing on FCC oversight and draft reauthorization legislation. The hearing covered issues such as net neutrality, rural broadband deployment, and 5G spectrum. Full Committee Ranking Member Frank Pallone (D-NJ) criticized the reauthorization legislation for cutting the FCC’s budget, saying that it was created with “absolutely no Democratic input” and “is not serious legislation.” At the hearing, Full Committee Chairman Greg Walden (R-OR) announced that he is inviting executives of Facebook, Amazon, Netflix, Alphabet, Verizon, AT&T, Comcast, and Charter to testify before the full Energy & Commerce Committee on net neutrality. Read more [here](#) and [here](#).

## II. Judicial Updates:

- On Wednesday, a New York judge dismissed a copyright lawsuit against The Beatles’ holding company, Apple Corps Ltd., after Sid Bernstein, the late promoter of the band’s August 1965 concert at Shea Stadium, sued the over ownership of the footage from that show. Bernstein’s company, Sid Bernstein Presents, asserted that the original 1966 footage—of which Bernstein was a producer on—was used, without permission, in the 2016 documentary “Eights Days a Week—The Touring Years.” The judge dismissed the suit, saying that the contract signed in 1965 “reserves no rights whatsoever for Bernstein in any filming or recording of the concert.” Read more [here](#).

## III. Administration Updates:

- Amazon has come under fire for allegedly raising suggested retail prices in order to make customers believe that they are receiving deals when in fact they are not. *Reuters* [reports](#) that the Federal Trade Commission (FTC) is investigating whether Amazon misleads customers about discounts, following a complaint from Consumer Watchdog, which, in an analysis of Amazon’s pricing, found that in many cases Amazon set suggested retail prices higher than a price at which it had previously sold the product. Likewise, *Fox Business* reports that a small deodorizer company called Remodeez has accused Amazon of deceptively raising suggested retail prices during Amazon’s Prime Day discount event. Remodeez alleges that the suggested retail price of its products doubled on Prime Day. Read more [here](#).
- *The Intercept* reports that White House advisor Steve Bannon has argued that certain technology companies like Facebook and Google should be regulated as utilities, citing

“three people who’ve spoken to him about the issue.” Bannon’s argument reportedly centers on the fact that these companies have “become effectively a necessity in contemporary life.” Read more [here](#).

#### IV. International Updates:

- *The Economist* reports that “China is becoming a market where people pay for music,” with digital music revenues for the recording industry quadrupling over the past five years, mostly due to a rise in music streaming. *The Economist* attributes the rise in legal music consumption to factors such as the ease of subscribing to streaming services via smartphone, the popularity of apps such as WeChat Pay that make consumers accustomed to making small digital purchases, and action by Chinese internet platforms to combat piracy. Read more [here](#).
- A new [study](#) by image theft detection platform Copytrack found that China is the country that ranks highest in the world for copyright infringement of digital photos. France and the U.S. rank second and third, respectively. “Most of our customers are very surprised where we find their images used illegally”, Copytrack CEO Marchus Schmidt said. “Image theft occurs everywhere and is committed by private people, bloggers, magazines and companies. Obviously in some countries, the creative property of others is less respected”. Read more [here](#).

#### V. Industry Updates:

- The Internet Association has hired Mèlika Carroll as Senior Vice President of Global Government Affairs. Carroll was previously the head of global public policy for Salesforce before serving as Policy Advisor to Senator Brian Schatz (D-HI). Read more [here](#).
- *Reuters* reports that Spotify is nearing a new licensing deal with Warner Music. The deal, which could be finalized before September of this year, is expected to include provisions granting Spotify additional revenue for making some new albums accessible only to subscribers on its paid tier for a certain period of time. Read more [here](#).
- On Wednesday, performance rights organizations BMI and ASCAP announced that they will create a single, comprehensive database of musical works that will launch in the fourth quarter of 2018. Read more [here](#).
- YouTube’s head of music Lyor Cohen has announced that Google plans to merge YouTube Red and Google Play Music into a single offering. Cohen also said that one “missing piece” in Google’s music business is “collaborating with the [music] industry, and not just making deals and going away and seeing how it works.” Read more [here](#).