

CONTENT & TECHNOLOGY POLICY REPORT

AUGUST RECESS SUMMARY

SEPTEMBER 6, 2024



I. Congressional Updates:

- During the August recess, Rep. Darrell Issa (R-CA) introduced a discussion draft titled *Preventing Abuse of Digital Replicas Act (PADRA)*. As currently written, the bill targets the commercial misuse of digital replicas of individuals' identifying characteristics, such as their likeness or voice, providing robust nationwide federal protection for the first time. The bill aims to protect the public from the deceptive use of digital replicas to confuse consumers about an individual's endorsement or affiliation with a product, service, or other commercial activity, and looks to adapt and strengthen existing trademark law under the Lanham Act, minimizing uncertainty about scope, process, and court interpretation by utilizing well-understood regimes for remedies, jurisdiction, evidentiary issues, and more. The bill looks to empower individuals to enforce their own rights against bad actors without the need for new federal government authority or bureaucracy, imposing essentially no costs to U.S. taxpayers and avoiding burdensome regulations that would hinder U.S. innovation or competitiveness in AI technology.
- On August 27, Senator Mike Rounds (R-SD), co-chair of the Senate AI Caucus, introduced a package of bipartisan AI legislation that consists of five bills.
 - (1) [The GUIDE AI Act](#): Establishes a centralized data exchange center for biomedical data through the National Institutes of Health (NIH), the National Library of Medicine (NLM) and the National Artificial Intelligence Research Resource (NAIRR).
 - (2) [The Unleashing AI Innovation in Financial Services Act](#): Establishes regulatory sandboxes at financial regulatory agencies for regulated entities to

Headlines and Highlights:

- Issa Introduces Discussion Draft on Digital Replicas
- Rounds Introduces Artificial Intelligence Policy Package
- FEC won't act on AI in election ads this year
- OpenAI, Anthropic enter AI agreements with US AI Safety Institute
- Vance's Antitrust Stance Divides GOP Tech Politics
- MLC Faces Reform Demands from Congress Amid USCO Review
- Hachette v. Internet Archive Decision
- US, UK, EU, Sign 'First-Ever International Legally Binding Treaty' for AI Systems

In the Blogs:

- **Wall Street Journal:** [Schumer Optimistic About Passing Federal AI Regulation This Year](#)
- **Library of Congress:** [Inside the Copyright Office's Report, "Copyright and Artificial Intelligence, Part 1: Digital Replicas"](#)
- **The Verge:** [OpenAI searches for an answer to its copyright problems](#)

- test AI projects, allowing them to responsibly experiment with cutting-edge technologies in the financial services space.
- (3) [The Consumers LEARN AI Act](#): Develops a national literacy strategy, providing specific AI use case guidance and conducting a national media campaign to help consumers make informed decisions about how they use and interact with AI.
 - (4) [The Increasing AI Transparency in Financial Services Act](#): Requires reports on AI regulation in the financial services industry.
 - (5) [Legislation](#) to require the Secretary of Defense to carry out a pilot program on using AI-enabled software to optimize operations of depots, shipyards and other manufacturing facilities run by the Department of Defense. This bill has been included in the base text of the Senate FY25 National Defense Authorization Act. Read the full press release [here](#).

II. Administration Updates

- On August 2, *The Hill* reported that the Department of Justice (DOJ) sued TikTok and its parent company ByteDance for alleged violations of children’s online privacy law. According to the article, TikTok is accused of allowing children under 13 years old to create accounts, collecting data from those accounts, and failing to comply with requests to delete the account information which would violate the *Children’s Online Privacy Protection Act (COPPA)*. Read more [here](#).
- On August 8, *Axios* reported that according to Sean Cooksey, Republican chair of the Federal Election Commission (FEC), the FEC will not propose any new rules for AI in political advertising this year. "A rulemaking to limit or prohibit AI in campaign communications would not only overstep the Commission's limited legal authority to regulate political advertisements, but it would also insert the agency—in the middle of an election—into a developing technology in which it has no expertise or experience," Cooksey told Axios. "The better approach is for the FEC to wait for direction from Congress and to study how AI is actually used on the ground before considering any new rules... and [the agency] will continue to enforce its existing regulations against fraudulent misrepresentation of campaign authority regardless of the medium." Read more [here](#).
- On August 8, *Athletic* reported that during Liberty Media’s recent earnings call, CEO Greg Maffei announced that the company is part of the DOJ’s investigation into Andretti and its prospective Formula One bid. “This morning, we announced that there is a DOJ investigation. We intend to fully cooperate with that investigation, including any related requests for information,” Maffei said on the call. “We believe our determination or F1’s determination was in compliance with all applicable US anti-trust laws. And we’ve detailed the rationale for this decision vis-a-vis Andretti in prior statements. We are certainly not against the idea that any expansion is wrong. The investigation is a result of a letter sent by multiple senators to the DOJ Antitrust division calling on them to investigate Formula One Management’s decision to reject Andretti’s bid to join the grid in 2025 or 2026 writing, “it is possible that such a refusal to deal — especially if orchestrated through a group boycott could violate U.S. antitrust laws.” Read more [here](#).

- On August 15, it was announced that Deborah Robinson, the President’s nominee for Intellectual Property Enforcement Coordinator (IPEC), joined the International Anti-Counterfeiting Coalition (IACC) as Senior Vice President, Intellectual Property Enforcement and Senior Counsel. A link to the IACC's press release can be found [here](#).
- On August 19, in an interview with Undersecretary of State Jose Fernandez, *POLITICO* reported that Fernandez did not disclose any information on why the USTR has not announced the Biden administration’s final decision on proposed 301 tariff increases that were originally scheduled to take effect beginning Aug. 1. “That’s a USTR question,” he said. “The bottom line is, again, we’re taking action to protect American workers and businesses from unfair trade practices.” USTR has previously said it now expects to issue its final decision sometime in August, once it sorts through the large volume of comments it received. Read more [here](#).
- On August 26, USTR announced the successful resolution of the United States-Mexico-Canada Agreement (USMCA) facility-specific Rapid Response Labor Mechanism (RRM) matter regarding the Volkswagen de México facility in the state of Puebla, where workers alleged, they were previously denied their freedom of association and collective bargaining rights. “Today’s resolution marks the twenty-first case the United States and Mexico have successfully resolved under the RRM. Through this case, workers at Mexico’s largest automobile manufacturing plant have been reassured they can exercise their freedom of association and collective bargaining rights freely,” said Ambassador Katherine Tai. “We commend the Government of Mexico and Volkswagen de México’s efforts to strengthen labor protections at the facility.” Read the full course of remediation [here](#).
- On August 26, *FedScoop* reported that the Biden Administration has finalized guidance for federal agencies’ 2024 artificial intelligence use case inventories and establishes a deadline of December 16 for inventories to be submitted to the White House Office of Management and Budget. A copy of the guidance can be found [here](#). Read more [here](#).
- On August 29, *FedScoop* reported that OpenAI and Anthropic have signed agreements to formally collaborate with the U.S. AI Safety Institute on research, testing, and evaluation of their models. “With these agreements in place, we look forward to beginning our technical collaborations with Anthropic and OpenAI to advance the science of AI safety,” Elizabeth Kelly, director of the U.S. AI Safety Institute, said in a written statement. “These agreements are just the start, but they are an important milestone as we work to help responsibly steward the future of AI.” The official press release can be found [here](#). Read more [here](#).
- On September 3, Librarian of Congress Dr. Carla Hayden announced the appointment of Karen Donfried as director of the Congressional Research Service (CRS). “It gives me great pleasure to announce that I have appointed Karen Donfried as the director of the Congressional Research Service,” Hayden said. “She has a long and distinguished record of leadership in the making and execution of American foreign policy and is also a former staff member of the Congressional Research Service, where she served with distinction for 10 years. We are delighted to welcome her back and are excited for her future in this critical role.” Read more [here](#).

- On September 5, *POLITICO* reported that Vice presidential candidate J.D. Vance’s pro-antitrust stance is creating tension within the GOP’s tech circles. Vance’s interventionist approach contrasts with the traditional Republican preference for minimal regulation, sparking uncertainty about how industrial policy will evolve if he takes office. The Chamber of Progress’ Adam Kovacevich suggested that a Harris administration could see a shift from the largely hostile attitude of President Joe Biden’s White House, opening the door to liberal policymakers with their own vision for how tech and society can flourish side-by-side. “I don’t know that Democrats are going to ditch the anti-corporate focus from a campaign rhetoric perspective,” he said, “but the policy direction they take is up for grabs.” Read more [here](#).

III. USCO Updates:

- On August 21, the USCO sent an invite to members of the public to register to attend the upcoming online webinar, Copyright Essentials: Myths Explained, on September 18, 2024, at 1:00pm ET. The webinar will discuss what is and is not true when it comes to copyright. The list of resources that will be discussed will be available on the [event page](#). Speakers include Jessica Chinnadurai, Attorney-Advisor, Office of Public Information and Education and Laura Kaiser, Attorney-Advisor, Office of Public Information and Education. Register for the webinar [here](#).
- On August 30, the US Copyright Office announced that they are adjusting certain compliance dates related to the corrective adjustment process in its July 9, 2024, final rule on termination rights and other topics related to the Music Modernization Act. The final rule contained a discrepancy between a date in the rule’s regulatory text and its preamble. To resolve any confusion created by the discrepancy and ensure parties have adequate time to participate in the corrective adjustment process, the Office is adjusting the relevant compliance dates for all parties by extending each date by approximately thirty days from the original dates provided in the rule’s regulatory text. The original final rule and the rule adjusting the compliance dates can both be found on the [website](#).
- On August 30, the US Copyright Office announced it will now be accepting applications for the Barbara A. Ringer Copyright Honors Program. The program is a paid fellowship that runs 18-24 months for attorneys in the initial stages of their careers who demonstrate exceptional ability and interest in copyright law. Ringer Fellows work closely with senior attorneys and others in the Office of the General Counsel, the Office of Policy and International Affairs, the Office of the Register, the Office of Registration Policy and Practice, and the Office of Public Information and Education on a range of copyright-related law and policy matters. Ringer Fellows serve as full-time federal employees for the term of their fellowships and are eligible for salary and benefits as permitted under federal law. Additional details about the Ringer Fellowship, including the application process, can be found on the Barbara A. Ringer Copyright Honors Program [website](#). Applications will be accepted from August 30, 2024, through December 31, 2024.

IV. Industry Updates:

- On August 5, *IPWatchdog* reported that the Recording Industry Association of America (RIAA) and other organizations [submitted](#) an amicus brief supporting various music publishers against Anthropic. The RIAA and others wrote, “AI can reach its full potential and respect the rights of creators at the same time. The arguments that no one in the AI field, including Anthropic, can or should have to license copyrighted works before copying and exploiting them are a pretense belied by industry practice and well-established legal principles.” The publishers accused Anthropic of widespread copyright violations including using copyrighted lyrics to train its AI models. Read the full *IPWatchdog* coverage [here](#).
- On August 5, *IPWatchdog* reported that the U.S. District Court for the District of Columbia [ruled](#) that Google violated antitrust law and has a monopoly on the search and text advertising industries. U.S. District Judge Amit Mehta said that the search engine giant controls 90% of online searches. The ruling could set up another trial about solutions to remedy the unfair monopoly, including breaking up Google’s parent company Alphabet. Read the full *IPWatchdog* coverage [here](#).
- On August 12, *IPWatchdog* published a podcast with ACG Partner Chris Israel, discussing innovation and patent politics. During their discussion they talked about matters ranging from proposed guidelines from the National Institute of Standards and Technology (NIST) relating to use of march-in rights to control drug prices, to the [recently introduced RESTORE Act](#), which in little more than one-page would largely, if not completely, overrule the Supreme Court’s *eBay* decision and create a presumption that victorious patent owners who have proved infringement and withstood all invalidity challenges would be presumed to be entitled to injunctive relief. Since joining ACG, Chris has worked with some of the largest and most innovative companies in the world, and he has developed a particular expertise and focus leading a coalition of top venture capitalists and innovative startups. He has also been named one of the 50 most influential people on IP. To hear the entire conversation click [here](#).
- On August 12, *IPWatchdog* reported that the Trump campaign is under fire once again for an unauthorized use of a song. The family of singer-songwriter Isaac Hayes, who died in 2008, and Isaac Hayes Enterprises, published a letter threatening to sue Trump if the campaign did not stop using the song, remove all video clips featuring the song, and publish a statement clarifying that the song was used without authorization. According to the letter, the song has been used more than 100 times without authorization, adding up to a “very discounted fee” of \$3 million that the family is requesting be paid for the multiple counts of copyright infringement. “The normal fee for these infringements will be 10 times as much if we litigate, starting at \$150,000 per use,” said the letter (about \$20.1 million potentially). According to [another source](#), the Hayes family has been asking Trump to stop using the song for two years, with no results. Read more [here](#).
- On August 20, *IPWatchdog* reported that journalists and book authors Andrea Bartz, Charles Graeber and Kirk Wallace Johnson [filed suit](#) against Anthropic, on behalf of a class of plaintiffs in the U.S. District Court for the Northern District of California – San Francisco Division, alleging widespread copyright infringement of “hundreds of thousands of copyrighted books.” The complaint alleges that Anthropic’s AI ChatBot, Claude, was fed “known pirated versions of Plaintiffs’ works” in order to train the Chatbot to generate human-like responses. “An essential component of Anthropic’s business model—and its flagship ‘Claude’ family of large language models (or “LLMs”)—is the largescale theft of copyrighted

works,” said the complaint. The suit calls out Anthropic’s corporate clients such as Slack, Zoominfo, Asama, Bridgewater, LexisNexis, and Jane Street Capital. The infringement allegations stem chiefly from Anthropic’s admission in a December 2021 paper that it created a training dataset relying mostly on “The Pile,” which is “an 800 GB+ open-source dataset created for large language model training,” according to the complaint. The suit is seeking statutory or compensatory damages, an injunction against the infringing activity and attorney’s fees, among other relief. Read more [here](#).

- On August 20, *Axios* reported that OpenAI and Condé Nast have reached a multiyear licensing deal that will allow OpenAI to display content from Condé Nast brands within OpenAI's products such as *Vogue*, *The New Yorker*, *Bon Appétit*, *Vanity Fair* and *Wired*. In a note to staff, Condé Nast CEO Roger Lynch praised the deal, saying, "It's crucial that we meet audiences where they are and embrace new technologies while also ensuring proper attribution and compensation for use of our intellectual property. This is exactly what we have found with OpenAI." Read more [here](#).
- On August 20, *IPWatchdog* reported that music publishers [filed](#) a petition with the U.S. Supreme Court asking for the judges to reconsider a lower court ruling that threw out a \$1 billion judgment in their favor in their copyright dispute with Cox Communications. The music publishers accused Cox of inadequately resolving thousands of infringement complaints and allowing mass theft of copyrighted material. However, an appeals court overturned the \$1 billion award in favor of the music groups earlier this year. Read more [here](#).
- On August 26, *Reuters* reported that Disney won their bid to reverse a jury’s \$600,000 verdict that it misused another company’s motion-capture technology in the 2017 remake of “Beauty and the Beast”. U.S. District Judge Jon Tigar said that Disney was not involved in the animation process that used Rearden's software and could not have recognized or policed Digital Domain's infringement. Read more [here](#).
- On August 27, *Bloomberg Law* reported that Apple will soon allow some iPhone users in the European Union to delete built-in apps in order to comply with recent EU regulations intended to “enhance developer competition and user choice”. According to the article, “Apple rivals have long argued such preloaded services hinder their ability to compete. Which is why the EU, through its Digital Markets Act aimed at reining in the power of tech companies designated as platform “gatekeepers,” is forcing Big Tech players like Apple to open up their closed ecosystems.” Read more [here](#).
- On August 28, *CBS News* reported that a lawsuit against TikTok regarding the death of a 10-year old girl was revived by a Philadelphia US appeals court stating that TikTok could be potentially liable for promoting the content that ultimately led to the girl’s death. While Section 230 of the 1996 Communications Decency Act is often used as a defense by social media companies, it only provides a defense to state criminal liability, not federal. Judge Patty Shwartz wrote, "TikTok makes choices about the content recommended and promoted to specific users, and by doing so, is engaged in its own first-party speech." Jeffrey Goodman, a lawyer for the family, said "Today's opinion is the clearest statement to date that Section 230 does not provide this catchall protection that the social media companies have been claiming it does." Read more [here](#).

- On August 30, *Semafor Technology Newsletter* reported an update on whether California Governor Gavin Newsom will veto the newly passed AI bill. This bill will hold developers legally liable when their software might be misused. Democratic congressional lawmakers, like Nancy Pelosi (D-CA-11) and Ro Khanna (D-CA-17) have come out against the bill. It is said that Newsom holds a tough decision, he has always been close to the states high tech industry and if he approves the bill “anger over [the bill] could drive a wedge between some corners of the tech industry and the Democratic party.” Read more [here](#).
- On September 3, *Digital Music News* reported that the Mechanical Licensing Collective (MLC) is facing increased scrutiny from federal lawmakers and organizations such as the Songwriters Guild of America (SGA) and the Society of Composers & Lyricists (SCL) as it undergoes its initial 5-year redesignation process. In a recent letter sent to the Register of Copyrights, Representative Scott Fitzgerald (R-WI) called for “additional transparency and oversight measures,” focusing on the MLC’s spending, board composition, and handling of unallocated “black box” royalties. The SGA and SCL, along with Music Creators North America (MCNA), echoed these calls, advocating for operational improvements, particularly in how royalties are distributed and the influence of major publishers on the MLC board. The MLC, which has processed over \$2 billion in royalty payments, has been criticized for its lack of transparency and potential conflicts of interest. As the redesignation process continues, music organizations are doubling down on demands for reform, calling changes “essential prerequisites” to the MLC’s future role. Read more [here](#).
- On September 4, the *Copyright Alliance* reported that the Second Circuit issued a decision in the *Hachette v. Internet Archive* case, affirming the district court’s categorical rejection of Internet Archive’s (IA) fair use defense. The court states in the decision, “*This appeal presents the following question: Is it “fair use” for a nonprofit organization to scan copyright-protected print books in their entirety, and distribute those digital copies online, in full, for free, subject to a one-to-one owned-to-loaned ratio between its print copies and the digital copies it makes available at any given time, all without authorization from the copyright-holding publishers or authors? Applying the relevant provisions of the Copyright Act as well as binding Supreme Court and Second Circuit precedent, we conclude the answer is no.*” Read more from *IPWatchdog* [here](#).
- On September 5, *Digital Music News* reported that the US, UK, and EU have signed the “first ever international legally binding treaty” for AI systems to abide by human rights and the rule of law. “This convention is a major step to ensuring that these new technologies can be harnessed without eroding our oldest values, lie human rights and the rule of law,” [said](#) Britain’s Justice Minister, Shabana Mahmood. According to the article, the Framework Convention was adopted by the Council of Europe Committee of Ministers on May 17, 2024. The 46 Council of Europe member states, the European Union, and 11 non-member states (Argentina, Australia, Canada, Costa Rica, the Holy See, Israel, Japan, Mexico, Peru, the United States of America, and Uruguay) negotiated the treaty. Read more [here](#).