I. Congressional Updates:

• On Wednesday, House Judiciary Committee Ranking Member Doug Collins (R-GA) announced that he is running for Senate, challenging appointed GOP Senator Kelly Loeffler to complete the term of former Georgia Senator Johnny Isakson. The election will be an all-party contest in November, with the top two challengers facing off in a January runoff if no candidate garners more than 50 percent of ballots cast. GOP lawmakers and aides have also indicated that Rep. Collins will not stay as the top Republican on the House Judiciary Committee, although he won’t be stepping down right away. POLITICO reported that the GOP Steering Committee is meeting next week to discuss the timeline. Read more here and here.

• Bloomberg and POLITICO reported on Wednesday that House Energy & Commerce Consumer Protection Subcommittee Chair Jan Schakowsky (D-IL) has instructed staff to examine potential changes to Communications Decency Act (CDA) Section 230. Chair Schakowsky told reporters after speaking at the State of the Net Conference in DC that she wants a potential 230 modification to be “narrow enough to attract broad support.” Furthermore, she stated that “Publishers don't have that kind of immunity and I think we need to narrow it.” Per Bloomberg, Schakowsky described her review as preliminary and focused on political information, rather than a host of concerns lawmakers have raised regarding child exploitation or online drug sales. Read more here and here.

• On Monday, House Select Committee on the Climate Crisis Chair Kathy Castor (D-FL) sent a letter to Google CEO Sundar Pichai urging him to combat the dissemination of “dangerous climate misinformation” on YouTube. Castor

Headlines and Highlights:

• House Judiciary Committee Ranking Member Doug Collins launches Senate bid.

• House E&C Consumer Protection Chair Schakowsky to announce review of Section 230.

• Library of Congress holds first “listening session” on appointing the next Register.

• President Trump signs USMCA.

• District Court Judge dismisses Peloton’s countersuit against 15 music publishers in copyright infringement dispute.

• UK will not implement EU Copyright Directive.

In the Blogs:

Copyright Term Extension in Canada: Facts versus “Fake News”
Hugh Stephens Blog
January 27 by Hugh Stephens

With Friends Like Wyden … Creators Have a Problem
Illusion of More
January 21 by David Newhoff
cites a recent report that found that the video-sharing platform has been driving millions of viewers to climate misinformation every day. Castor calls this revelation “shocking,” and points out that it “runs contrary to Google’s important missions of fighting misinformation and promoting climate action.” Castor outlines several steps she believes Google should take to ensure that YouTube does not incentivize climate misinformation content on its platform, including removing climate denial videos from the platform’s recommendation algorithm, classifying “climate misinformation” as borderline content, and stop monetizing videos that promote falsehoods about the causes and effects of the climate crisis. Castor asked Google to send her any planned efforts to address these issues by February 7th. Read more here.

II. Judicial Updates:

• On Wednesday, U.S. District Court Judge Denise Cote dismissed Peloton’s countersuit against 15 music publishers claiming copyright infringement against the at-home exercise company. The publishers alleged that Peloton had used more than 1,000 copyright musical compositions without obtaining needed licenses in a $300 million lawsuit filed last March. Peloton countersued in April, accusing the publishers of anticompetitive behavior by engaging in a “coordinated effort” to fix prices. Specifically, Peloton accused the National Music Publishers Association (NMPA) of conspiring to prevent the exercise company from striking deals with individual companies. While finding that Peloton sufficiently established a coordinated effort by publishers, Judge Cote said that it failed to identify a “relevant market” to support its anti-competition claim. She also said that Peloton failed to establish “tortious interference” on the part of NMPA. Read more here.

III. Administration Updates:

• On Tuesday, the Library of Congress (LoC) held a “listening session” with interested stakeholders to detail the process for selecting the next Register of Copyrights and collect input from the attendees. Ryan Ramsey, LoC Chief of Staff, spoke to the participants and answered several questions. Ryan Ramsey stated that the Library will be utilizing an executive search firm, which it has done previously. There will also be a “hiring panel” comprised of three individuals – a senior executive from the Library, a service unit head within the LoC that shares a similar level of statutory independence and authority with the Register, and an outside copyright expert that is currently within the Federal Government whom is “more or less” a recognizable name. The panel and firm will begin interviewing in April for about 2-3 weeks, then select a small subset of finalists from which Dr. Hayden will choose. Ryan Ramsey stated that the goal is to have a new Register on board by “summertime.” Ramsey also affirmed that Dr. Hayden has started to solicit feedback from the appropriate committees of jurisdiction in the House and Senate, mentioning Senate Judiciary IP Subcommittee Chairman Tillis (R-NC) and Ranking Member Coons (D-DE), as well as House Judiciary Chairman Nadler (D-NY).

• On February 19th, from 9:00 a.m. – 12:45 p.m. ET, the Department of Justice will hold a public workshop titled “‘Section 230 – Nurturing Innovation or Fostering Unaccountability?’ The purpose of the workshop is to discuss Section 230, “its expansive interpretation by the courts, its impact on the American people and business community, and whether improvements to the law should be made.” Interested participants should register online here by February 9th. Seating is limited, so invitations to attend will be sent to registered participants on a first-come, first-served basis.
This week the U.S. Copyright Office announced its agenda for its event “Copyright in the Age of Artificial Intelligence.” The event will be held in the Montpelier Room (LM619) of the James Madison Memorial Building on February 5th from 9:00 a.m. to 5:00 p.m. In partnership with the World Intellectual Property Organization (WIPO), the program will provide a public forum for international experts, academics, creators, and business representatives to explore artificial intelligence. WIPO Director Francis Gurry will deliver keynote remarks. More info. here.

On Wednesday, President Trump signed legislation to implement the United States-Mexico-Canada Agreement (USMCA) into law. Flanked by dozens of Republican lawmakers, local officials, industry and union leaders on the White House South Lawn, President Trump touted that the modernized pact replaces “a disastrous trade deal,” adding “this is something we really put our heart into.” Noticeably absent from the signing ceremony were congressional Democrats—many of whom ultimately supported the deal after securing key changes in negotiations with the Trump Administration. All eyes are now on the Canadian legislature, as it is the only participating country in the trilateral pact that has yet to ratify the agreement. Read more here.

Assistant USTR for the Western Hemisphere John M. Melle retires this week after over three decades at USTR. Appointed to his current post in March 2011, Melle was responsible for developing, coordinating, and implementing the United States’ trade policy for the region. Of note, Melle was appointed Chief Negotiator for the USMCA in 2017, managing the negotiations led by the U.S. Trade Representative. Read more here and here.

IV. International Updates:

News surfaced late last week that the United Kingdom plans not to implement the EU Directive on Copyright in the Digital Single Market as it formally leaves the bloc. Member states have until June 7th, 2021 to implement the new reforms, but the UK will have left the EU by that time. The Directive covers how “online content-sharing services” should deal with copyright-protected content and includes the controversial provisions Article 13 and Article 11, renamed Article 17 and Article 15 in the final version passed by the European Council last April. Opponents claimed that Article 13 would result in “upload filters” and Article 11 would amount to a “link tax.” Read more here.

V. Industry Updates:

In an interview with ProMarket published late last week, former Federal Communications Commission (FCC) Chair Reed Hundt spoke about antitrust, big tech platforms, and the future of CDA Section 230. Mr. Hundt stated that Mark Zuckerberg “should not be surprised” that people want to break up Facebook because “it’s the exactly the same thing that happened to AT&T and Standard Oil.” Hundt alluded to using antitrust laws to break up “embedded” tech platforms like Amazon, saying that “history teaches you that the response is going to be breaking up that company.” When asked if platforms should still receive the protections afforded to them in Section 230, Hundt replied “We were naïve. We were naïve in a way that is even hard to recapture.” Hundt told ProMarket that if he were FCC Chairman today, he would “probably modify” Section 230, saying that it has immunized tech platforms “from too much.” Hundt stated that Facebook has created its “own judiciary” and called for a review of the platform’s behavior. Read more here.