



# ASSOCIATION OF RESEARCH LIBRARIES®

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## Advocacy and Public Policy Update

December 22, 2015

Below is an update on key advocacy and public policy issues of interest to the research library community in Canada and the US from October 1 through December 22, by Prue Adler and Krista Cox. Prior advocacy and public policy updates can be found at: <http://www.arl.org/news/advocacyandpolicyupdates/term/summary>. New resources are available at the end of this update.

### Summary

Copyright continues to be an active area with a number of developments since October. The House Judiciary Committee continues to move forward with its copyright review and is close to completing its schedule of meetings between House Judiciary majority and minority staffers and witnesses who testified at hearings during the course of the review. In early 2016, members of the House Judiciary Committee will determine what issues they may want to work on with respect to possible reform. Additionally, Representatives Marino, Chu and Comstock introduced their bill on Copyright Office modernization, which would move the Copyright Office out of the Library of Congress and establish it as an independent agency within the legislative branch. On October 16, 2015, the Court of Appeals for the Second Circuit released its long-awaited opinion in *Authors Guild v. Google*, strongly affirming fair use. Also in October, the Library of Congress released its final rules for the current cycle of the Digital Millennium Copyright Act's (DMCA) Section 1201 rulemaking. Finally, the Library Copyright Alliance (LCA) filed comments responding to the Copyright Office's Notice of Inquiry regarding a proposed pilot program for mass digitization and extended collective licensing. These comments questioned the wisdom of such a pilot program.

The US Congress passed the omnibus appropriations bill for FY 2016 and avoided a government shutdown. The omnibus exceeded mandatory caps on discretionary funding, resulting in positive results for higher education and libraries.

The Department of Education issued a proposal to amend regulations and require that all Department grantees awarded direct competitive grant funds openly license all copyrightable intellectual property created with these funds. ARL submitted comments supporting the benefits of open licensing and encouraging continued dialog.

ARL joined in comments on the proposed revision to OMB Circular A-130, the Circular that provides the rules of the road for federal information management and information technology.

The DC Circuit heard oral arguments on net neutrality in December. Although threats regarding a rider to undermine the FCC's ability enforce its net neutrality rules emerged during the omnibus appropriations process, this rider was ultimately not included.

Congress continues to consider reform of the Electronic Communications Privacy Act (ECPA), and there is widespread support in the House for such reform. The Cybersecurity Information Sharing Act of 2015 was altered in ways that raise greater privacy concerns than its original version and was passed in the omnibus appropriations bill.

The US Supreme Court heard oral arguments in *Fisher v. University of Texas at Austin (Fisher II)*, a case involving the University of Texas (UT) admissions process, which seeks to improve student body diversity.

Finally on the international front, more countries have ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled, moving the Treaty closer to entry into force. The negotiations of the Trans-Pacific Partnership Agreement (TPP) have now been finalized and the texts are now public, but the agreement must still be signed and passed by each of the negotiating parties.

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## **Copyright and Intellectual Property**

### ***Copyright Review/Reform***

The House Judiciary Committee's copyright review, which began in 2013, appears to be winding down. The Committee completed its hearings on the various areas of copyright law and has almost finished its process of meeting with witnesses who testified at the hearings and responded to an invitation to speak with the Committee's majority and minority staff about copyright issues. These meetings with witnesses are expected to conclude in January 2016 and then members of the House Judiciary Committee will determine what issues they will cover and how to move forward with possible copyright reform. Additionally, the House Judiciary Committee conducted listening tours in Nashville, Silicon Valley and Los Angeles, hearing from stakeholders located in each of these regions. It is widely expected that if Congress considers copyright reform in 2016, there will be a single bill covering multiple issues, rather than many bills on individual issues. ARL was represented in the Silicon Valley and Los Angeles listening tours via two of our coalition partners, Re:Create and Owners Rights Initiative.

### ***Copyright Office Modernization***

#### *House Administration Committee Conducts Hearing on Modernization of the Copyright Office*

On December 2, 2015, the Committee on House Administration held a hearing on "Improving Customer Service for the Copyright Community—Ensuring the Copyright Office and the Library of Congress are able to meet the demands of the digital age." Witnesses for the hearing included David S. Mao, Acting Librarian of Congress; Maria A. Pallante, Register of Copyrights at the US Copyright Office; and Joel C. Willemssen, Managing Director for Information Technology at the US Government Accountability Office (Willemssen authored the GAO reports regarding technology issues at the Library of Congress and Copyright Office). The hearing focused on infrastructure and information technology issues rather than on where the Copyright Office should reside. During the hearing, David Mao emphasized the Library of Congress' efforts to implement the strategies outlined in the GAO's report, including the hiring of a new permanent Chief Information Officer. Joel Willemssen acknowledged that the Library of Congress has made significant progress in implementing the GAO's recommendations. Maria Pallante pointed to the Copyright Office's recently released five-year plan and argued that modernization encompasses more than just technology upgrades. Pallante also argued that the Copyright Office and Library of Congress have separate functions that should not be conflated.

ARL filed a statement for the record emphasizing the important link between the Copyright Office and the Library of Congress, which can be read here:

<http://www.arl.org/component/content/article/6/3807>.

#### *Copyright Office for the Digital Economy Act (CODE) Introduced*

On December 11, 2015, Representatives Tom Marino (R-PA), Judy Chu (D-CA) and Barbara Comstock (R-VA) introduced the Copyright Office for the Digital Economy Act (CODE) in the House of Representatives. This bill is similar to the version of the discussion draft circulated by Representatives Marino and Chu over the summer, but it would house the Copyright Office in the Legislative Branch instead of making it an independent agency. The bill would also require ongoing technology studies.

Other Members of Congress appear to be exploring alternatives. Current considerations appear to include keeping the Copyright Office in the Library of Congress while ensuring improvements are made to the services and technological infrastructure of the Copyright Office, removing the Copyright Office from the Library of Congress and placing it under the Patent and Trademark Office, removing the Copyright Office from the Library of Congress and placing it in the Department of Commerce as a sister organization to the Patent and Trademark Office, and removing the Copyright Office and Patent and Trademark Office from their current locations and creating a single Intellectual Property Office within the Executive Branch. These discussions seem to be focused in the House of Representatives. Additional background is available in the August 14, 2015 Advocacy and Public Policy Update: <http://www.arl.org/storage/documents/publications/advocacy-and-policy-update-august2015.pdf>.

## **Copyright Cases**

### *Authors Guild v. Google*

On October 16, 2015, the US Court of Appeals for the Second Circuit unanimously affirmed the lower court's fair use decision in *Authors Guild v. Google*, also known as the "Google Books" case. Google, through its Library Project, made digital copies of tens of millions of books submitted to it by libraries. It then included these copies in a search index that displayed "snippets" in response to search queries. The Second Circuit held that the copying of the books and the display of snippets is transformative and a fair use. Furthermore, the Second Circuit ruled that Google's provision of digital copies to its partner libraries that submitted the particular work is not an infringement.

This decision follows last year's Second Circuit decision in *Authors Guild v. HathiTrust*. While there were two major differences between the two cases—first, that Google is a commercial party whereas HathiTrust is a non-profit and second, that Google displayed snippets of text while HathiTrust did not—the court found that these differences did not affect the fair use analysis. The court noted that copyright "does not include an exclusive right to furnish the kind of information about the works that Google's programs provide to the public. For substantially the same reasons, the copyright that protects Plaintiffs' works does not include an exclusive derivative right to supply such information through query of a digitized copy." The court also dismissed the Plaintiff's assertions that Google's stored digital copies could pose security risks as unsupported by evidence. Finally, the court rejected the notion that Google's distribution of digital copies to participant libraries that submitted the particular work is infringement, pointing out that the library is only permitted to use the copy in a non-infringing fair use manner. While the court acknowledged that libraries could potentially make infringing uses of these copies, it noted that this outcome is "sheer speculation" without any evidence to hold Google liable as a contribution infringer based on such speculation.

The Second Circuit's decision is a strong affirmation of fair use that demonstrates the importance of the fair use doctrine in responding to new technological developments. The search and snippet function of Google Books allows for important research, including text-and-data mining to allow researchers to conduct research that would not be possible without the large searchable database created by Google. Additionally, the partnership with libraries allows the libraries to make fair use of these copies, including the ability to provide access to those who are visually impaired.

The Authors Guild has announced its intention to appeal the case to the Supreme Court of the United States, though it is far from clear whether the Supreme Court would grant certiorari in this case.

For additional information, see ARL's Issue Brief, *Second Circuit Court of Appeals Affirms Fair Use in Google Books Case* at: <http://www.arl.org/component/content/article/6/3764>.

### ***Copyright Office Notice of Inquiry on Extended Collective Licensing***

On October 9, 2015, the Library Copyright Alliance (LCA) submitted comments in response to the Copyright Office's Notice of Inquiry (NOI) regarding a proposed pilot program for mass digitization and extended collective licensing (ECL). The Copyright Office initially indicated an intention to issue this NOI in its June 2015 Report on Orphan Works and Mass Digitization.

LCA's comments point out the impracticality of the proposed pilot program and urge the Copyright Office to reconsider the decision to proceed with a pilot. LCA also points out that while the Copyright Office modeled its proposal on the Google Books Settlement, the circumstances of the settlement differ from present circumstances. (NB: The Google Books settlement was rejected by the district court, but Google's use was held to be fair use by the district court, a decision affirmed by the Court of Appeals for the Second Circuit on October 2015.)

LCA's response also highlights the inappropriate policy choices of the pilot program. For example, the Copyright Office's report suggests that Depression-era photographs would be the type of collection that would fall under the pilot program despite the fact that this type of collection could likely be considered fair use and therefore not subject to a license.

LCA's full comments are available at: <http://www.librarycopyrightalliance.org/storage/documents/massdigitizationfinal.pdf>. For additional information, including highlights from other library association comments, see the ARL Policy Notes blog post, *Libraries Comment on Copyright Office Extended Collective Licensing Proposal*: <http://policynotes.arl.org/?p=1207>.

### ***1201 Rules Adopted***

On October 27, 2015, the Library of Congress released its final rules for the current cycle of the Digital Millennium Copyright Act's (DMCA) Section 1201 rulemaking, setting forth exemptions to allow circumvention of technological protection measures (TPMs). Every three years, proponents of exemptions must engage in a long process to seek renewal or expansion of existing exemptions or the granting of new exemptions in order to circumvent TPMs for non-infringing uses. The new exemptions granted in the current rulemaking cycle expand previously granted exemptions in several areas and also grant new ones. LCA submitted petitions for certain proposed exemptions and joined in filings that provided evidence supporting the need for various exceptions.

The new rules renew the exemption for literary works distributed in electronic form for persons who are blind, visually impaired, or print disabled. There was no opposition to renewing the exemption, and the Association of American Publishers filed comments indicating it did not object to the renewal.

The 2015 rules also permit circumvention for motion picture excerpts for educational purposes. In a long and detailed rule, the new exemption permits circumvention of DVDs and Blu-ray discs for the use of short portions of motion pictures by college and university faculty and students in film studies or other courses requiring close analysis of film and media excerpts, as well as by faculty of massive open online courses (MOOCs) in film studies or other courses requiring close analysis of film and media excerpts (among other specific exceptions regarding use of motion picture excerpts).

The new exemptions also permit circumvention to access video games for the purpose of copying and modification to restore access to the game when necessary to allow preservation by a library, archive, or museum.

While the 2015 exemptions include some improvements with respect to expanded exceptions, the rules have become lengthier and more complex over the course of the past six rulemaking cycles. These long, detailed exemptions could lead to greater confusion and make the exemptions less useful. Additionally, the process is a lengthy one that often involves issues of embedded software that have little to do with copyright, and the National Telecommunications and Information Administration (NTIA), which advises the Copyright Office during the 1201 rulemaking process, wrote this year that it “urges the Copyright Office against interpreting the statute in a way that would require it to develop expertise in every area of policy that participants may cite on the record.” The NTIA also points out the “fundamental misuse of Section 1201, which can lead to reduced respect for the DMCA and copyright law.” The NTIA suggests that “a record showing that a technological measure was not deployed with copyright protection in mind should weigh heavily in favor of a proposed exemption. Such a standard is entirely consistent with the statutory factors to be considered in this rulemaking.”

For more information, see the ARL Policy Notes blog post: <http://policynotes.arl.org/?p=1211>.

### ***Fair Use/Fair Dealing Week 2016***

Mark your calendars! Fair Use/Fair Dealing Week, a celebration of fair use, will take place from February 22–26, 2016. Fair Use/Fair Dealing Week provides an opportunity to celebrate the important doctrines of fair use in the United States and fair dealing in Canada and other jurisdictions. Fair use and fair dealing allow the use of copyrighted materials without permission from the copyright holder under certain circumstances. While fair use is employed on a weekly and, in fact, daily basis, Fair Use Week provides a time to promote and discuss the opportunities presented by fair use and fair dealing, celebrate successful uses, and explain these doctrines.

In 2015, 64 organizations and institutions participated in Fair Use Week, resulting in the creation of many great resources including an infographic, videos, podcasts, a comic book, blog posts, and more. These resources, as well as information about how to participate in Fair Use Week, are available at <http://fairuseweek.org/>.

### **Appropriations**

The US Congress passed an FY 2016 omnibus appropriations bill on Friday, December 17, which was immediately signed by President Obama in order to avoid yet another government shutdown. Importantly, the omnibus exceeded the mandatory caps on discretionary funding that resulted in a \$2 billion increase for biomedical research for the National Institutes of Health (an increase of 6%), additional funding for energy and agriculture research, a 1.8%

increase for the National Science Foundation, a 1.3% increase for the National Endowment for the Humanities, and \$230 million for the Institute of Museum and Library Services. Once again, Congress was unable to achieve ‘regular order’ in its appropriations process, but the end results are positive for higher education and libraries.

## **Open Access, Open Educational Resources, and Open Licensing**

### ***Department of Education Proposal on Open Licensing***

ARL filed comments on the Department of Education proposal to amend the regulations in 2 CFR part 3474 of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to require that all Department grantees awarded direct competitive grant funds openly license to the public all copyrightable intellectual property created with Department grant funds. ARL noted, “An open license free from restrictions, such as prohibitions against commercial uses or derivative works, will allow the wide dissemination of these materials and ensure that users have the ability to create new works, update materials, and undertake text and data mining. Derivative uses are critical, as building upon existing knowledge and materials ensures faster development and new, innovative uses. We recognize that some concerns have been raised by members of the higher education community. As the Department reviews comments concerning this proposal to amend its regulations, there is great value in engaging in continued dialog with the higher education community to ensure that any concerns that may arise can be discussed and/or addressed. ARL looks forward to the opportunity to work with the Department in promoting access to knowledge.” The letter is available at: <http://www.arl.org/storage/documents/ltedopenlic.pdf>.

### ***ARL Supports Lingua Editors’ Resignation***

On October 27, 2015, the editors of the Elsevier Journal *Lingua* resigned en masse in protest of Elsevier’s practices, particularly that the journal’s price steadily increased at a rate that far outpaced costs of production. The editors also criticized Elsevier’s refusal to transition *Lingua* to a “fair open access” model. Instead, Elsevier imposed a 36-month embargo for article sharing of *Lingua* articles. The editors of *Lingua* announced a plan to launch a new open access journal called, *Glossa*.

ARL, together with the American Association of State Colleges and Universities (AASCU), the American Council on Education (ACE), the Canadian Association of Research Libraries (CARL), the Confederation of Open Access Repositories (COAR), EDUCAUSE, and the Scholarly Publishing and Academic Resources Coalition (SPARC), wrote in support of *Lingua* editors’ resignation, noting that “We firmly believe that the higher education and research communities need to collectively advance alternative models of scholarly publishing that are fair, sustainable, and transparent.” For more information, see *ARL, Higher Education Groups Support Lingua Editors, Open Access*: <http://www.arl.org/news/arl-news/3789-arl-higher-education-groups-support-lingua-editors-open-access#.VnluemSDFBc>.

### **OMB Proposes Revisions to Circular A-130**

ARL joined OpenTheGovernment and other civil society organizations in filing comments on the proposed revision to OMB Circular A-130, the Circular that provides the rules of the road for federal information management and information technology. The update focuses on cybersecurity, open data, privacy, procurement and records management. Comments were accepted via GitHub and can be found at: <https://a130.cio.gov/>.

## **Telecommunications**

### ***DC Circuit Court Hears Oral Arguments on Net Neutrality***

On December 4, 2015, the Court of Appeals for the DC Circuit heard oral arguments in *United States Telecom Ass'n v. Federal Communications Comm'n*, a case challenging the FCC's Open Internet Order, which was approved in February 2015 and went into effect on June 12, 2015. The Open Internet Order, governing net neutrality, reclassifies broadband Internet as a common carrier under Title II and bans blocking, throttling and paid prioritization. The Open Internet Order also prohibits unreasonable interference with the ability to select and access lawful content, applications, and services. Broadband providers and telecommunications associations filed petitions challenging the FCC's Order.

ARL, together with the American Library Association (ALA), Association of College and Research Libraries (ACRL), and the Chief Officers of State Library Agencies (COSLA), filed an amicus brief in September supporting the FCC's Open Internet Order and explaining the importance of net neutrality for the library community. For more details on the brief in *United States Telecom Association v. FCC*, see *Libraries File Amicus Brief Supporting Net Neutrality*: <http://policynotes.arl.org/?p=1175>.

The case was heard by Judge Tatel, who authored the 2014 *Verizon v. FCC* opinion striking down the FCC's 2010 Open Internet Order (in which the FCC relied on its authority under Section 706 rather than reclassifying and relying on its Title II authority), as well as Judge Williams and Judge Srinivasan. Oral arguments lasted three hours on different issues, including reclassification, application to mobile broadband, and the First Amendment.

### ***Net Neutrality Rider Not Included in Omnibus Appropriations Bill***

During the omnibus appropriations bill process, there were efforts to include a rider that would undermine the FCC's ability to enforce its Open Internet Order protecting net neutrality. ARL joined with the American Library Association (ALA) and EDUCAUSE in a letter to Congressional leaders asking them to oppose an inclusion of such rider. The letter noted the importance of net neutrality to libraries and higher education. Ultimately, this rider was not included in the final omnibus. ARL's letter can be read here: <http://www.arl.org/news/arl-news/3798-library-higher-education-groups-urge-us-congress-to-support-open-internet-order#.VnhzAmSDGko>.

## **Privacy and Surveillance**

### ***ECPA Reform***

Congress continues consideration of reform for the Electronic Communications Privacy Act (ECPA), an outdated law passed in 1986 that has not kept pace with evolving technologies. ECPA denies important privacy protections for electronic communications, allowing agencies to access documents or communications stored online that are older than 180 days without a warrant. The outdated law has led to an absurdity that affords greater protection to hard copy documents than digital communication. The ECPA reform bill has the support by an overwhelming majority of the House of Representatives and also has bipartisan support in the Senate. The ECPA reform bill imposes a warrant-for-content standard and ensures that Fourth Amendment rights are preserved in the digital world. Despite strong support for the bill, some government agencies have raised concerns, and it has not yet been voted on by either the House

of Representatives or the Senate. ARL continues to engage on this issue with a coalition of privacy advocates, non-profit organizations, and companies supporting ECPA reform.

### ***Cybersecurity Information Sharing Act Passed in Omnibus Appropriations Bill***

ARL has been engaged with a coalition of privacy advocates in opposing the Cybersecurity Information Sharing Act of 2015 (CISA). ARL's concerns with the bill include that it failed to protect personal information, was overly broad and potentially allowed the use of information in investigations unrelated to cybersecurity, permitted countermeasures that could damage networks, and raised additional transparency concerns.

During the omnibus appropriations process, the bill was significantly altered to allow greater surveillance resulting in heightened privacy concerns. Renamed the Cybersecurity Act of 2015, it removes the prohibition against sharing the information directly with the National Security Agency (NSA), allows for information to be used beyond cybersecurity purposes, removes the requirement that personal information unrelated to a cybersecurity threat be removed before sharing the information, removes the ability of the FCC or Federal Trade Commission (FTC) to require service providers to respect user privacy, and encourages greater monitoring of users. CISA, or the Cybersecurity Act, was included in the final omnibus package and approved.

### **Diversity**

#### ***Fisher v. University of Texas at Austin (Fisher II)***

On December 9, 2015, the Supreme Court of the United States heard oral arguments in *Fisher v. University of Texas at Austin* (known as *Fisher II*), a case involving the University of Texas (UT) admissions process that seeks to improve student-body diversity. The Association of Research Libraries joined with 37 other higher education organizations in an amicus brief supporting the University of Texas.

The case was previously heard by the Supreme Court, resulting in a 2013 opinion that in a 7-1 vote (Justice Kagan recusing) remanded the case to the Fifth Circuit. In *Fisher I*, the Supreme Court directed the Fifth Circuit to reconsider the case under the higher threshold of strict scrutiny in determining whether UT's admission policy comports with the Equal Protection Clause of the Fourteenth Amendment. On remand, the Fifth Circuit once again upheld UT's admission policy in which UT accepts the top 10% of graduates from Texas high schools and uses a holistic review for the remaining open spots. The holistic approach includes many factors, with race being one of the factors. The admissions process did not have quotas or specific goals in terms of the number of students meeting specific characteristics.

During oral arguments, Justices Kennedy and Breyer appeared to consider the possibility of remanding the case back to the district court in order to develop a more complete record. Based on the prior concurrences in *Fisher I* as well as prior opinions regarding affirmative action, it appears clear Justices Scalia and Thomas would not uphold the admissions policy. Questioning during oral arguments in *Fisher II* indicated that Justice Alito was not particularly sympathetic to the University of Texas and Justice Roberts questioned when affirmative action programs would no longer be necessary and also appeared to question the value of diversity in some classes. If the Court splits 4-4, the Fifth Circuit's decision will stand.

The Court is expected to rule before it concludes its 2015–2016 term in June, though an opinion could be released sooner. For more information, see *Supreme Court Hears Oral Arguments in*

*Fisher v. University of Texas (Fisher II)*: <http://policynotes.arl.org/?p=1233>. ARL's amicus brief is available at: <http://www.scotusblog.com/wp-content/uploads/2015/11/14-981-bsac-American-Council-on-Education.pdf>.

## **International**

### ***Marrakesh Treaty***

The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled officially has 13 ratifications: Argentina, Australia, Brazil, El Salvador, India, Mali, Mexico, Mongolia, Paraguay, Republic of Korea, Singapore, United Arab Emirates, and Uruguay. Other countries have made significant steps toward ratification, including some whose parliaments have ratified the treaty but have not completed the final step of depositing their instrument of ratification with the World Intellectual Property Organization (WIPO). Officially, seven more ratifications are needed for the Marrakesh Treaty to enter into force. WIPO officials expect the Marrakesh Treaty to reach the minimum 20-country threshold in 2016.

On June 8, 2015, Canada took steps toward ratification with Bill C-65, the Support for Canadians with Print Disabilities Act, which was tabled in the House of Commons (see <http://policynotes.arl.org/?p=1088>). In the United States, the Obama Administration has not yet sent its ratification package to the Senate. ARL continues to be engaged in this issue, supporting ratification without unnecessary changes to US law.

### ***Trans-Pacific Partnership Agreement (TPP)***

Trade ministers for the 12 negotiating parties of the Trans-Pacific Partnership Agreement (Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States and Vietnam) announced on October 5, 2015, that the negotiations had been finalized.

The intellectual property chapter was leaked soon after its conclusion, with the official text released soon thereafter. The final text revealed mixed results. There were significant improvements over the United States' original proposal in February 2011, such as inclusion of language on limitations and exceptions, the removal of a ban on parallel importation, and the removal of a 1201-style rulemaking process to permit exceptions to technological protection measures, but also unfortunate results, including limited flexibility on implementing systems on Internet service provider (ISP) liability and a copyright term of life of the author plus 70 years. For more information on the final text of the intellectual property chapter of the TPP, see the ARL Policy Notes blog post *Analysis of the Final TPP (Leaked) Text on Intellectual Property: Mixed Results*: <http://policynotes.arl.org/?p=1194>.

The TPP will still need to be ratified by each country according to its domestic process before it will go into effect. Due to "fast track" rules granted under Trade Promotion Authority in the United States, Congress must vote on the agreement within 90 days of submission by the Administration and can only do so on an up-or-down vote, meaning that no amendments can be made to the agreement. There are a number of waiting periods under "fast track," including for the Administration to submit implementing legislation to Congress and for an analysis of the agreement to be completed. These waiting periods make it likely that a vote on the TPP would take place during the heart of the United States' election season, if submitted early next year. Adding further doubt, Senate Majority Leader McConnell (R-KY), who supported granting

President Obama fast-track authority, has warned the Administration against submitting the TPP for ratification prior to the election.

The conclusion of the TPP came during the election period in Canada. The new government has called for widespread consultations on the TPP, which could result in a lengthy process. Notably, Canada's comprehensive trade agreement with the European Union, known as CETA, still has not yet been ratified despite officially concluding in August 2014.

## Resources

- Additional blog posts are available at the ARL Policy Notes Blog: <http://policynotes.arl.org/>
- *Issue Brief: Analysis of the Final TPP (Leaked) Text on Intellectual Property: Mixed Results:* <http://www.arl.org/storage/documents/TPP-Analysis.pdf>
- *Issue Brief: Second Circuit Court of Appeals Affirms Fair Use in Google Books Case:* <http://www.arl.org/component/content/article/6/3764>