



information as property

intangible to impractical?

History of Information

April 12, 2009



aob

midterm

exam

In class midterm on March 18.
Arrive promptly at 9:30am.
Bring a blue book.

essay

March 18 at 8am: paper is due. No extensions will be granted, and no late papers will be accepted. Please submit one electronic copy **submitted via bSpace ...**



The New York Times

looking back



Trade Papers Struggling in Hollywood

By MICHAEL DEPLY and BROOKS BARNES
Published: March 14, 2010

LOS ANGELES — Variety, the show business bible, was born nearly 105 years ago when young Sime Silverman, by his own account, was fired by The Morning Telegraph for a review in which he declared a new theatrical sketch by a performer who happened to be one of the paper's advertisers "N. G. [No Good]."



Mr. Silverman started a paper of his own. Its first issue promised notices "that will not be influenced by advertising." Thus began a feisty tradition of entertainment trade reporting and criticism that has been so severely tested in recent weeks that some wonder whether the entire era is drawing to a close.

Variety's cost-cutting decision to lay off two of its most prominent critics and others last Monday sent shock waves through Hollywood. For generations, Variety's critics had a clout that far outweighed their number of readers, providing early readings on coming films and Broadway shows to an audience of powerful industry insiders.

Then, on Tuesday, it faced a lawsuit that accused the paper of having lured a film producer into the Oscar race with promises of wide-ranging support through a \$400,000 promotional package — only to wreck his movie's prospects with a

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REPRINTS

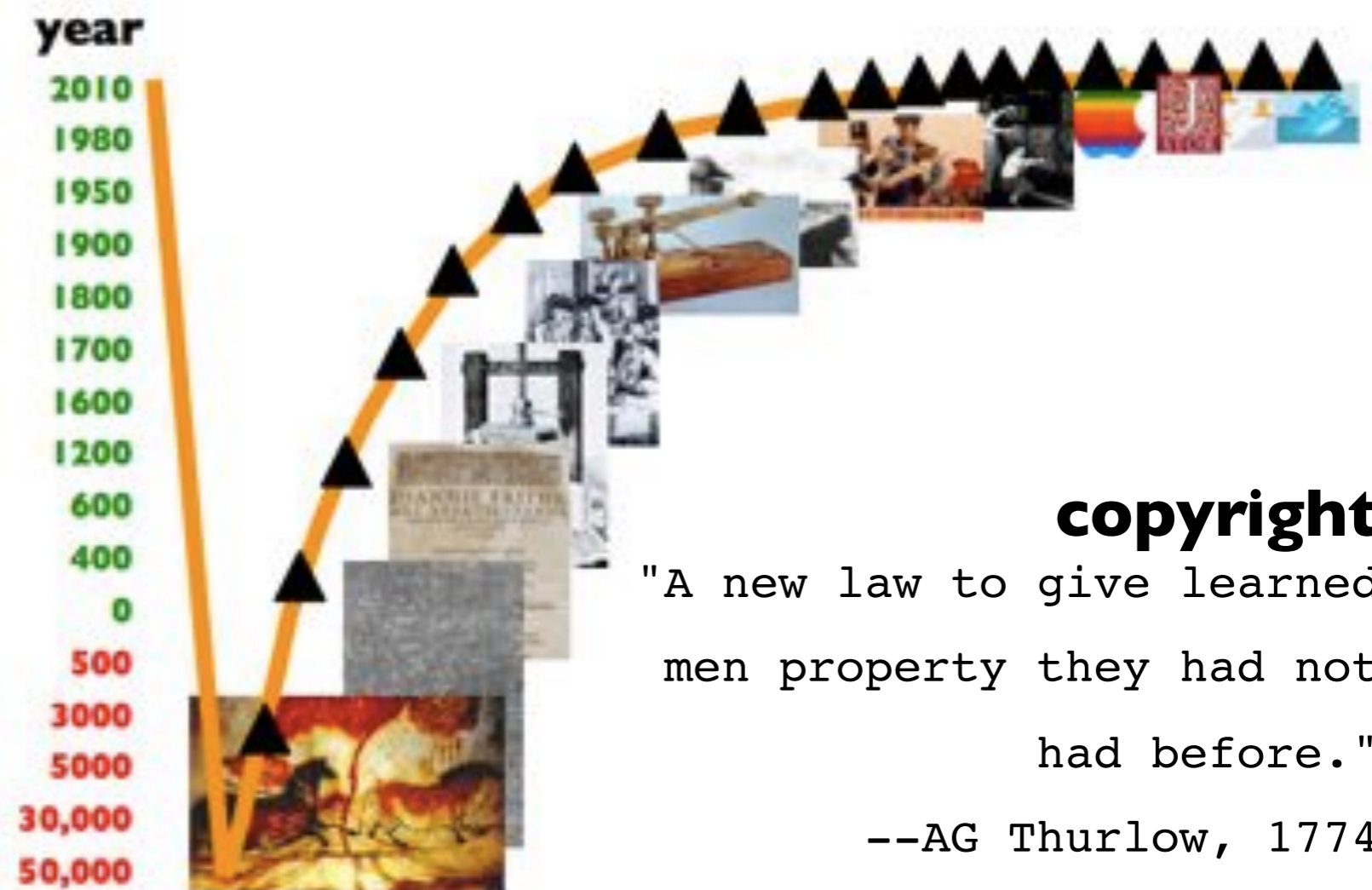
SHARE





IP

where does it fit?





IP

where does it fit?





skin in the game?

patents

copyrights

trademarks



rights and wrongs?





rights and wrongs?



Student Hit With \$675,000 Fine in RIAA File-Sharing Case

Written by [Ernesto](#) on July 31, 2009

Joel Tenenbaum has lost his trial against the RIAA and was ordered to pay \$22,500 for each of the 30 songs he shared via Kazaa. Tenenbaum, who pleaded guilty to downloading and sharing files earlier this week, will be left paying off the \$675,000 to the music labels for the rest of his life.





Jury in RIAA Trial Slaps \$2 Million Fine on Jammie Thomas

rights and wrongs?



TorrentFreak



Student Hit With \$675,000 Fine in RIAA File-Sharing Case

Written by Ernesto on July 31, 2009

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skin in the game?

patents

copyrights

trademarks

March 12, 2010 9:10 AM PST

Obama to 'aggressively protect' intellectual property

by Greg Sandoval



Font size



Print



E-n

national skin in the game?

"We're going to aggressively protect our intellectual property ... Our single greatest asset is the innovation and the ingenuity and creativity of the American people ... It is essential to our prosperity and it will only become more so in this century. But it's only a competitive advantage if our companies know that someone else can't just steal that idea and duplicate it with cheaper inputs and labor.

"There's nothing wrong with other people using our technologies, we welcome it ... We just want to make sure that it's licensed and that American businesses are getting paid appropriately. That's why the [US Trade Representative] is using the full arsenal of tools available to crack down on practices that blatantly harm our businesses, and that includes negotiating proper protections and enforcing our existing agreements, and moving forward on new agreements, including the proposed Anti-Counterfeiting Trade Agreement."



sampling?





beyond sampling?

Pink Floyd score victory for the concept album in court battle over ringtones

EMI told not to sell single tracks as downloads in ruling which could mean further losses for music label

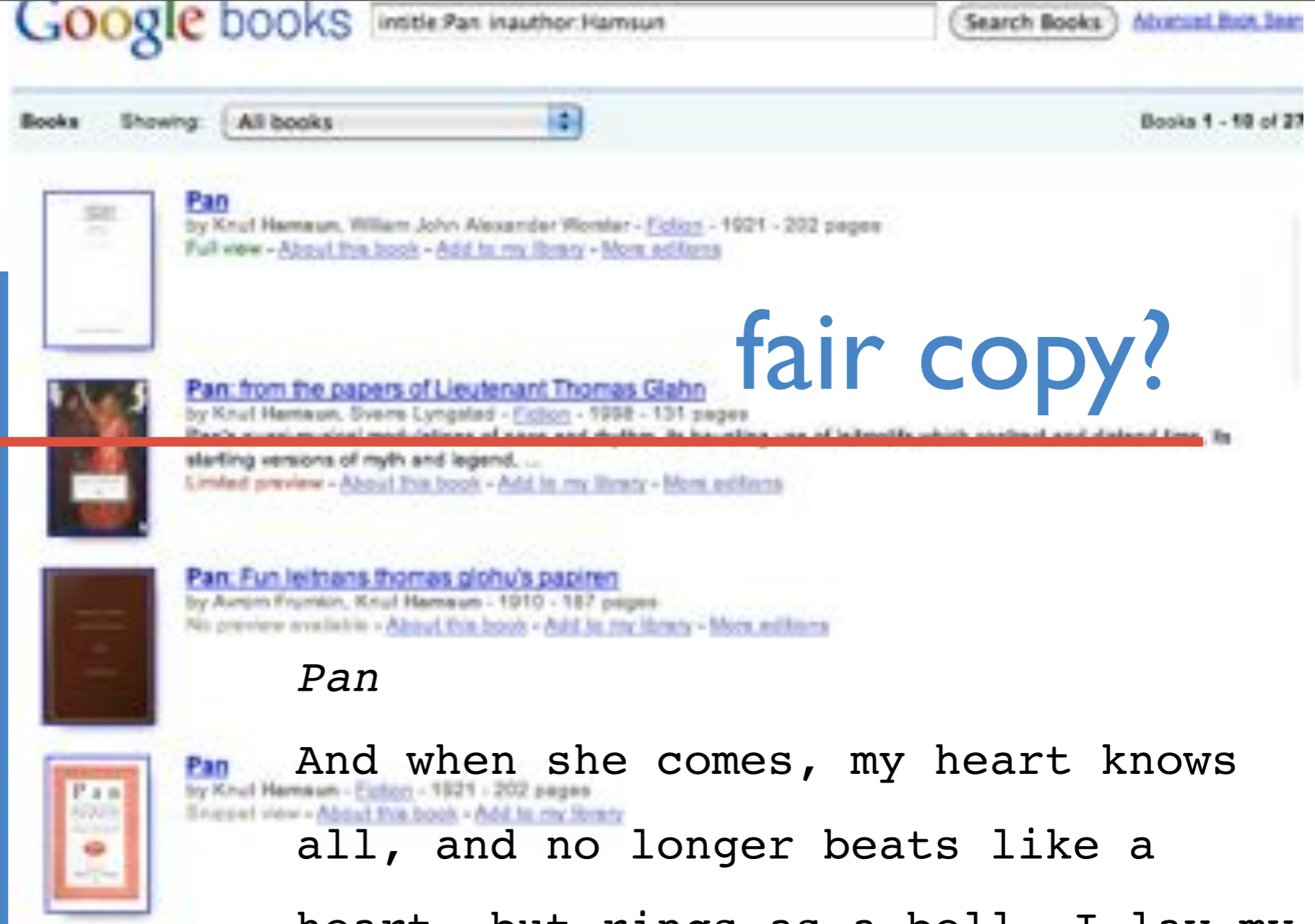
Robert Booth

guardian.co.uk, Thursday 11 March 2010 20:54 GMT

Article history



David Gilmour and Roger Waters of Pink Floyd at the Live 8 concert in Hyde Park.



fair copy?

Pan:

Translated from
the Norwegian of
Knut Hamsun
by W. W. Worster

Introduction by
Edwin Bjørkman

New York

Alfred A. Knopf, 1927
Published July, 1921

Pan

And when she comes, my heart knows
all, and no longer beats like a
heart, but rings as a bell. I lay my
hand on her.

"Tie my shoe-string," she says,
with flushed cheeks.

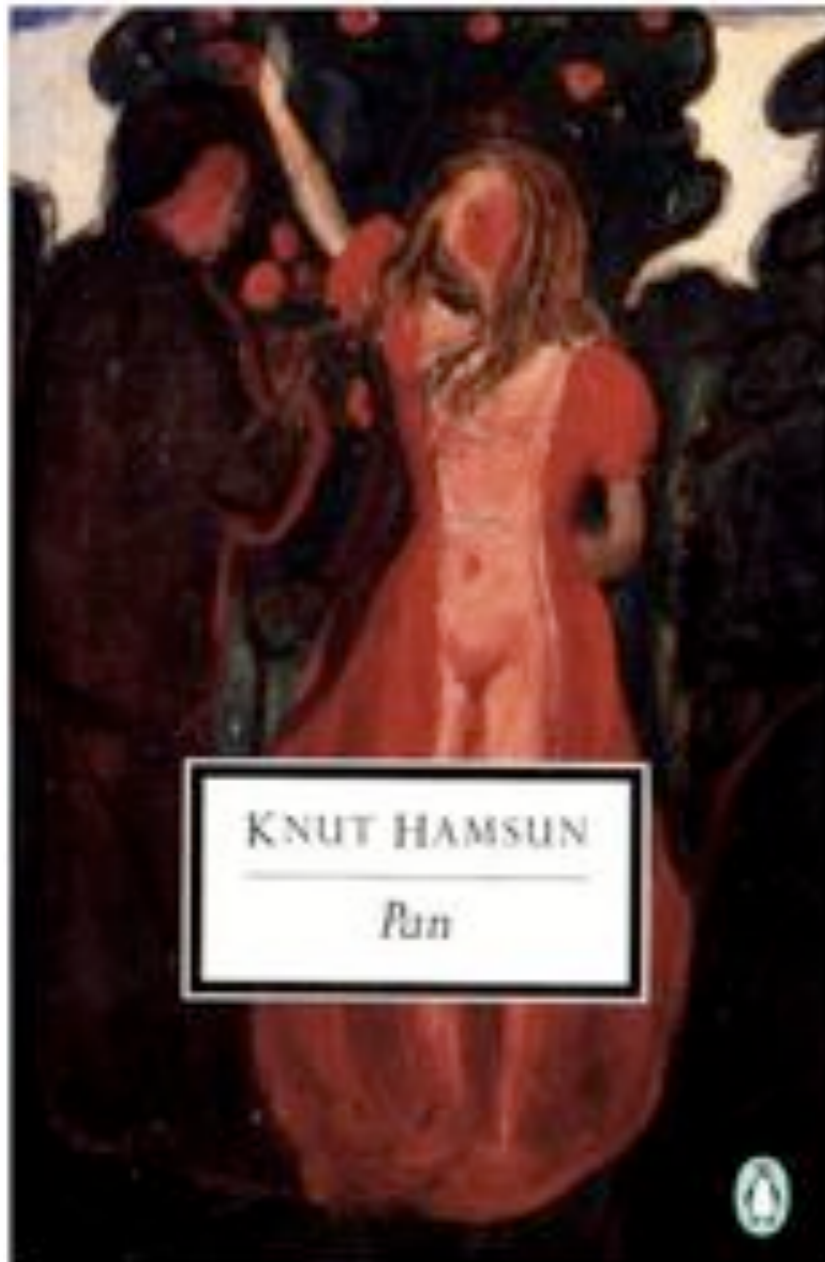


unsampling

Penguin *Pan*:

"And when she comes my heart understands, and it no longer beats, it peals. And she is naked under her dress from head to foot. I lay my hand on her.

"Tie my shoelace," she says with flaming cheeks. And a little later she whispers directly against my mouth, against my lips, Oh, you're not tying my shoelace, sweetheart, you're not tying ... not tying my ..."





unsampling


[T]he first version by W.W. Worster (Knopf, 1921), was bowdlerized, all the expressly erotic elements, however innocuous, having been deleted.


Kindle Store - "Pan knut hamsun"


Showing 10 Results Sort by:

- 

Pan by Knut Hamsun. Published by MobileReference (mobi) by Knut Hamsun (Kindle Edition - Dec 22, 2006) - Kindle Book
Buy: ~~\$0.99~~
Auto-delivered wirelessly
★★★★★ (1)
Other Editions: Kindle Edition, Paperback
- 

Works of Knut Hamsun, Including Hunger, Pan, Wanderers, Growth of the Soil, Shallow Soil & more by Knut Hamsun (Kindle Edition - Dec 22, 2006) - Kindle Book
Buy: ~~\$3.99~~
Auto-delivered wirelessly
★★★★★ (1)
- 

Pan by Knut Hamsun (Kindle Edition - Sep 1, 2006) - Kindle Book
Buy: ~~\$9.99~~
Auto-delivered wirelessly
★★★★★ (19)
Other Editions: Hardcover, Paperback, Unknown Binding
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Pan by Knut Hamsun (Kindle Edition - Jan 18, 2005) - Kindle Book
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Auto-delivered wirelessly
★★★★★ (1)
Other Editions: Kindle Edition, Paperback
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Pan by Knut Hamsun (Kindle Edition - Jul 1, 2004) - Kindle Book
Buy: ~~\$3.99~~
Auto-delivered wirelessly
★★★★★ (1)
Other Editions: Kindle Edition, Paperback
- 

Pan by Knut, 1859-1952 Hamsun (Kindle Edition - Jan 1, 2005) - Kindle Book
Buy: ~~\$0.99~~
Auto-delivered wirelessly



beyond sampling?

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Category	Sub-Category	Article Title	Word Count
Business	Entrepreneur	How To Make A Fortune with Classified Ads	5294
Business	Entrepreneur	How To Live Up To Your Greatest Potential	5129
Business	Entrepreneur	How To Write A "How-to" Guide	4004
Business	Entrepreneur	How To Win Big At Casino Gambling	3900
Business	Entrepreneur	209 Hot Places To Run Your Classified Ad	3496
Business	Entrepreneur	How To Start Your Own Mobile Locksmithing Service	3264
Health & Fitness	Prevention	How Alcohol Causes Mental And Moral Changes	3200
Business	Entrepreneur	The Most Bang For Your Buck	2991
Business	Entrepreneur	Reduce Costs with Classified Ads	2834
Business	Home Based Business	Early Detection of Cancer	2764



fair use?

Google books

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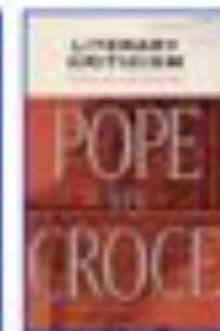
Browse popular books

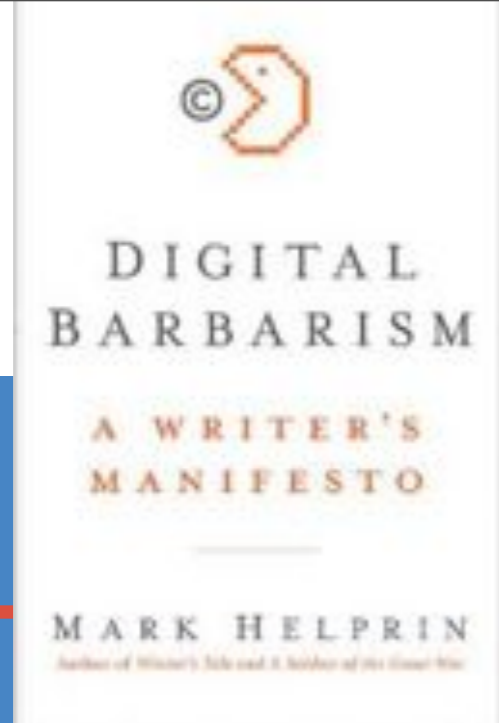
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Google has reached a [groundbreaking agreement](#) with authors and publishers.

new! My Library has custom bookshelves with public and private options. [Learn more.](#)

interesting





so what are
we talking about?

what is property?

**in what way is information
property?**

"No good case exists
for the inequality
of real and
intellectual
property, because no
good case can exist
for treating with
special disfavor the
work of the spirit
and the mind"

Mark Helprin
Digital Barbarism
2009

The Origins of Lehman's 'Repo 105'

March 12, 2010, 7:02 AM



As The New York Times's [article](#) on the court-appointed [examiner's report](#) on [Lehman Brothers](#) makes clear, perhaps the most newsworthy element to pop out of the inquest's 2,200 pages is an accounting trick known as "Repo 105."

Named after a technical aspect of the gimmick, the accounting sleight of hand helped Lehman temporarily remove about \$50 billion of assets from its balance sheet, helping to make it look better than it really was.

aspects of property

"No one shall be ... deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation"

what is property?

rules governing access to material goods

kinds of property

common

collective

private

properties of private property

rivalrous

excludable

property rights

how extensive?

one right--or a bundle?



Emperor Justinian
483-565



William Blackstone
1723-1780

how acquired?

occupatio, for property *res nullius*
--*Codex Justinianus*, 534

Blackstone's rules for acquisition

- descent
- purchase
- escheat
- occupancy
- prescription
- forfeiture
- alienation



property & occupation

Mr Moore's spleen & 'human ingenuity'

United States Patent
Golde, et al.

4,438,032
March 20, 1984

Unique T-lymphocyte line and products derived therefrom

Abstract

Human T-lymphoblast cell line, Proteinaceous products produced therefrom, messenger RNA and DNA expressing the proteinaceous products. A human T-lymphoblast cell line (Mo) maintained as a continuous culture constitutively produces proteins, including immune interferon, neutrophil migration inhibition factor, granulocyte-macrophage colony-stimulating activity and erythroid-potentiating activity, as well as other proteins produced by T-cells.

Inventors: Golde; David W. (Los Angeles, CA), Quan; Shirley G. (Los Angeles, CA)

Assignee: The Regents of the University of California (Berkeley, CA)

Appl. No.: 05/456,177

Filed: January 6, 1983



and while we're at it ...

eolas
invented here.

HOME

ABOUT US

RESEARCH

NEWS

PRODUCTS

LICENSING

Innovative research,
technology and
web interactivity
since 1994.

UNITED STATES PATENT AND TRADEMARK OFFICE REAFFIRMS PATENT 5,838,906 FOR THE SECOND TIME

Evanston, Illinois – February 05, 2009 – Eolas Technologies Incorporated announced today that the United States Patent and Trademark Office has issued an ex parte reexamination certificate for U.S. Patent 5,838,906, reaffirming the validity of the patent for the second time. This patent embodies technology that was first demonstrated publicly in 1993 and enabled Web browsers for the first time to act as platforms for fully-interactive embedded applications. This advanced browser technology makes possible rich interactive online experiences for over one billion Web users worldwide.



problems with *iproperty*

"... no one possesses the less because everyone possesses the whole of it. He who receives an idea from me receives [it] without lessening [me], as he who lights his [candle] at mine receives light without darkening me."

information

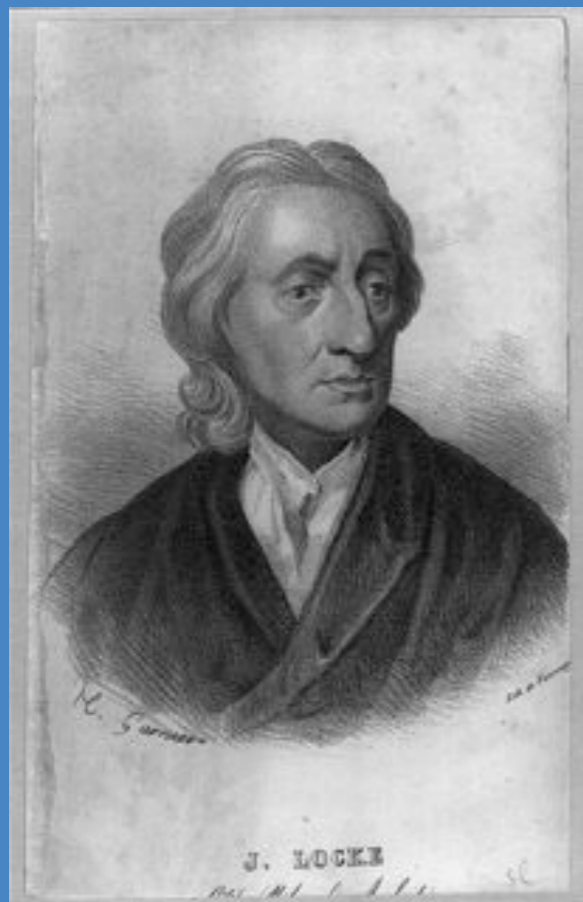
rivalrous?

excludable?

a public good?



labor and exclusion



John Locke
1632-1704

Locke's view

"Though the Earth...be common to all Men, yet every Man has a Property in his own Person. This no Body has any Right to but himself. The Labour of his Body, and the Work of his Hands, we may say, are properly his. Whatsoever then he removes out of the State that Nature hath provided, and left it in, he hath mixed his Labour with, and joyned to it something that is his own, and thereby makes it his Property. It being by him removed from the common state Nature placed it in, it hath by this labour something annexed to it, that excludes the common right of other Men."

--*Two Treatises of Government*, 1689



hard labor?



Alexander Pope
1688–1744

"True Wit is Nature to advantage dress'd
What oft was thought, but ne'er so well express'd"
Alexander Pope, "Essay on Criticism," 1708



Diderot's thoughts



Denis Diderot
1713-1784

"What form of wealth *could* belong to a man if not a work of the mind... if not his own thoughts .. What comparison could there be between .. the very substance of a man, his soul, and a field, a tree, a vine ... that an individual has only appropriated through cultivating it?"

--Denis Diderot

*Lettre Historique et Politique sure le
Commerce de la Librairie, 1763*



beyond labor & occupancy



Samuel Johnson
1709–1784

"There seems ... to be in authors a stronger right of property than by occupancy; a metaphysical right, a right, as it were of creation, which should from its nature be perpetual..."

--Samuel Johnson, 1773



paternal view



Daniel Defoe
1660?-1731

"A Book is the Author's Property, 'tis the Child of his Inventions, the Brat of his Brains; 'tis as much his own, as his Wife and Children ... [but] these Children of our Heads are seiz'd, captivated, spirited away, and carry'd into Captivity."

--Daniel Defoe, *Review*, 1710



originality



William Wordsworth
1770-1850

"every Author, as far as he is great and at the same time *original*, has had the task of creating the taste by which he is to be enjoyed,"

William Wordsworth, *Lyrical Ballads*, 1802



Locke's limits

"That any person or company should have patents for the sole printing of ancient authors is very unreasonable ... it may be reasonable to limit their property to a certain number of years after the death of the author, or the first printing of the book, as suppose fifty or seventy years."

--Locke to Edward Clarke, 1682/3



limited ownership

Edward Young
1683?-1765

Edward Young,
Conjectures on Original Composition, 1759

"There seems ... to be in authors a stronger right of property than by occupancy; a metaphysical right, a right, as it were of creation, which should from its nature be perpetual; **but** the consent of nations is against it, and indeed reason and the interests of learning are against it; for were it to be perpetual, no book, however useful, could be universally diffused amongst mankind, should the proprietor take it into his head to restrain circulation."

--Samuel Johnson, 1773



making information?

China

"I transmit rather than create."

--Confucius

Islam

Shari'a law against
"imposture" and "fraud" but not theft

Christianity

"Scientia Donum Dei Est

Unde Vendi non Potest"

--Canon law



early disagreement

Abbot Fennian & St Columba

560s: dispute over the psalter

"St Columba, sitting up all night . . . , furtively made a copy of abbot Fennian's Psalter. . . the abbot protested . . . and brought an action in detinue . . . for Columba's copy .. King Diarmed .. gave judgement for the abbot, saying *la gache boin a boinin*, . . ."to every cow her calf, and accordingly, to every book its copy."

--Birrell, *Seven Lectures on the Law and History of Copyright*, 1899





untangling privileges patents & copyrights



regulation

825: Chinese regulation of almanacs

privileges

1236: Bonafasus' dyeing

1332: Bartholomeo Verde's windmill

patents

1421: Brunelleschi's boat

1441: Eton stained-glass





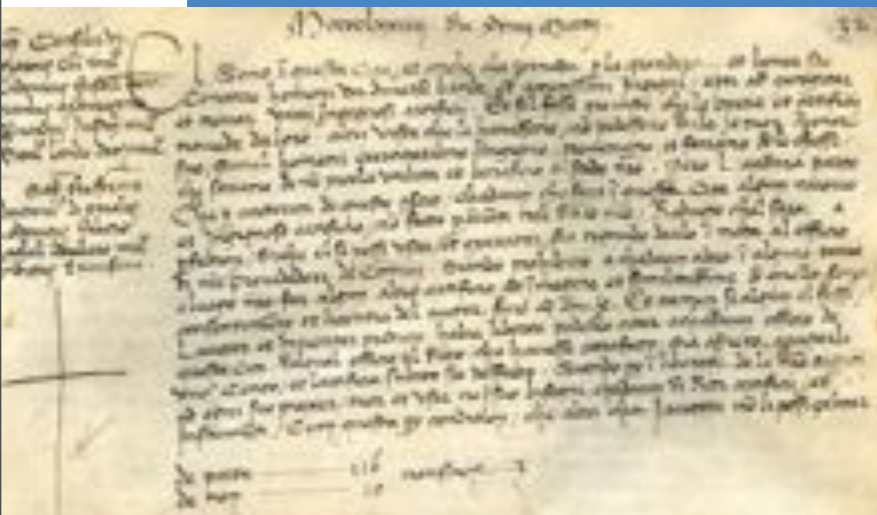
Venice's contribution



1469: John Speyer, printing patent, Venice

1474, Venetian patent law

"whoever makes in this city any new and ingenious device, not previously made within our jurisdiction, is bound to register it at the office of the *Provveditori di Comunas* soon as it has been perfected, so that it will be possible to use and apply it"



1496: Aldus Manutius' first patent

1502: patent on *italic*



"Know ye that we,
considering and
manifestly

perceiving that
certain seditious
and heretical
books rhymes and
treatises are
daily published
and printed by
divers scandalous
malicious
schismatical and
heretical
persons ...
wishing to
provide a
suitable
remedy ..."

*Stationers'
Charter*

patent privileges

1504: William Facques, "King's printer"

1504: Guillaume Cop, Paris University
signed almanac

1511: Durer's, patent

guild privileges

Venetian glassblowers

English Stationers' company 1557

*monopolies on bibles, prayer books,
almanacs, law books, music, ...*



patents proper

All Monopolies and all Commissions, Grants, Licences, Charters and Letters Patent heretofore made or granted or hereafter to be made or granted to any Person or Persons, Bodies Politick or Corporate whatsoever, of, or for the sole Buying, Selling, Making, Working or Using any Thing within this Realm... or of any other Monopolies, or of Power, Liberty or Faculty... are altogether contrary to the Laws of this Realm, and so are and shall be utterly void and of none effect ... any Declaration before mentioned, shall not extend to any **Letters Patents and Grants of Privilege for the Term of one and Twenty Years, or under, heretofore made of the sole Working or Making of any Manner of new Manufacture within this Realm, to the first true Inventor or Inventors of such Manufactures.**

Statute of Monopolies, England, 1624



publishing patents

civil war ends printing privileges

"the old *patentees* and *monopolizers*."

"We must not think to make a staple commodity of all the knowledge in the Land, to mark and licence it like our broad cloath, and our wool packs.

"And though all the winds of doctrine were let loose to play on the earth, so Truth be in the field, we do injuriously by licensing and prohibiting misdoubt her strength. Let her and Falsehood grapple; who ever knew Truth put to the worse in a free and open encounter?"

--John Milton, *Areopagitica*, 1644



John Milton
1608-1674



from printers' patent ...

changing views of print

- growing readership
the reading nation
- politics and the public sphere
 - the end of patronage
- 1694/5: end of licensing acts
booksellers v printers



Defoe channels RIAA

"The law would also put a Stop to a certain sort of Thieving which is now in full practice in England, and which no Law extends to punish, viz, some Printers and Booksellers printing Copies not their own. ... This is really a most injurious piece of Violence, and Grievance to all Mankind ... robs Men of the due Reward of Industry ... robs the Reader, by printing Copies of other Men uncorrect and imperfect, making surreptitious and spurious collections ... the printing of other Mens Copies...as unjust as lying with their Wives."

--Defoe, *Essay on the Regulation of the Press*, 1704



to author's copyright

statute of Anne

Whereas printers Booksellers and other persons have of late frequently taken the liberty of printing reprinting and publishing or causing to be printed reprinted and published Books and other writings without the consent of the authors or proprietors of such books and writings to their very great detriment and too often to the Ruin of them and their families. For preventing therefore such practices for the future and for the encouragement of learned men to compose and write useful books ...That from and after the tenth day of April One thousand seven hundred and ten

terms?

14, 14, 21 ...

Hofl 10 -- IP 39

"A new law to give learned men property they had not had before."

--Attorney General Thurlow



whereas ...

"The clause in the law is a patent to the author and settles the propriety of the work wholly in himself, or in such to whom he shall assign it."

--Defoe, *Essay on the Regulation of the Press*

1710: statute of Anne

"any books or books already printed

"any book ... not printed ...

"nothing ... unless the title ... be ...

"if any Bookseller ... sell or expose to
sell any book ...

"provided that nine copies ..."

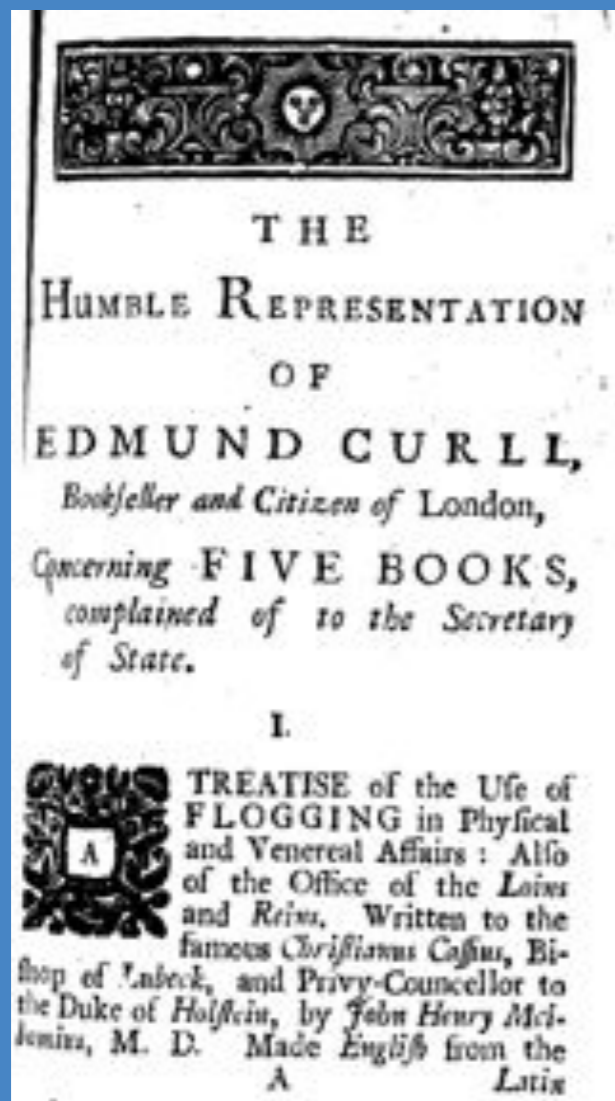


not quite right

1741: Pope v. Curl

"it is only a special property in the receiver, possibly the property of the paper may belong to him; but this does not give a licence to any person whatsoever to publish them."

--Lord Chancellor Hardwicke





defined by style

"Proper Words
in proper
places makes
the true
Definition of
Style"

Swift, 1721

"Manner of
writing with
regard to
language"

Johnson,
Dictionary

"style and sentiment are the essentials
of literary composition. These alone
constitute its identity. The paper and
print are merely accidents, which serve
as vehicles to convey that style and
sentiment to a distance. Every duplicate
therefore of a work, if it conveys
the same style and sentiment, is the same
identical work ... a duplicate of a
mechanical engine is, at best, but a
resemblance"

-Blackstone



not quite right

1774 Donaldson v Becket

booksellers defeated

"a metaphysical
right ... [or]
consent of the
nation"

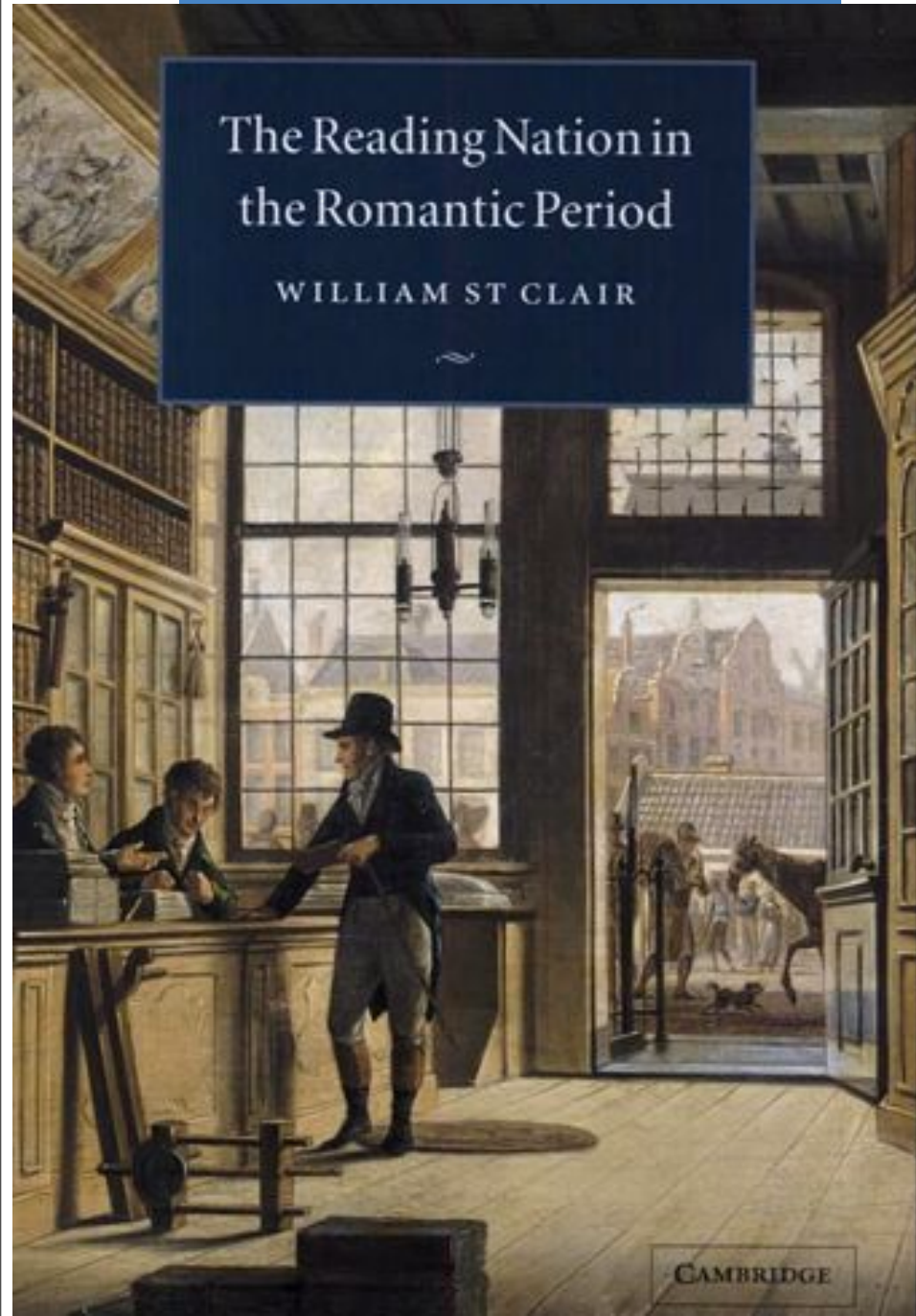
--Johnson

"learning would be locked up in the
hands of the Tonsons and the Lintots
of the age, till the public become as
much their slaves, as their own
hackney compilers are"

--Lord Camden



trend lines?



The Reading Nation in the Romantic Period

WILLIAM ST CLAIR

Number of titles printed in England:

1630s	600
1640s	1,600
1650s	1,200
1660s	800
1670s	1,000
1680s	1,500
1690s	1,400
1700-50	500
1750-89	600
1790-1800	800
1800-1810	800
By 1827	1,000

("rising fast")

William St. Clair, *The Reading Nation*, 2004



Pink Floyd score victory for the concept album in court battle over ringtones

EMI told not to sell single tracks as downloads in ruling which could mean further losses for music label

Robert Booth

guardian.co.uk, Thursday 11 March 2010 20:54 GMT

[Article history](#)



David Gilmour and Roger Waters of Pink Floyd at the Live 8 concert in Hyde Park, London, in 2005. Photograph: Rex Features

Pink Floyd, the British rock group behind platinum-selling albums *The Dark Side of the Moon* and *The Wall*, today secured a legal victory for the much-maligned genre of the concept album against the apparently inexorable march of the instant pop download.

As a high court judge ruled the band's fans to receive a victory for

foreign ideas?

natural law

moral rights



meanwhile ...

at the patent office

US patent law, 1790
revised, 1836

UK Statute of Monopolies, 1624
Patent Law Amendment Act, 1852
Patent reform, 1883

France 1791, 1800, 1844

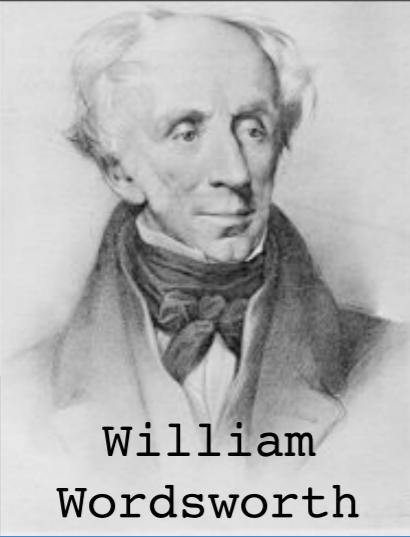
patent confusion

"SDG" [sans garantie du gouvernement]

patent resistance & patent boom



Crystal Palace
1852



William
Wordsworth
1770-1850

copyright boundaries



Charles Dickens
1812-1870

international trade and © concerns

"vile French pirates"
--William Wordsworth

1842 UK copyright law

containing a provision for making
reciprocal copyright arrangements



Ernest Renan
1823-1892



Rev. Isaac Funk
1839-1912

US resistance

*American Notes for
General Circulation*
--Charles Dickens, 1842

Life of Jesus
--Ernst Renan, 1863



going global

March 3, 1891.

CHAP. 565.—An act to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to copyrights.

Copyrights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section forty-nine hundred and fifty-two of the Revised Statutes, be, and the same is hereby, amended so as to read as follows:

SEC. 10. That section forty-nine hundred and seventy-one of the Revised Statutes be, and the same is hereby, repealed.

Exclusion of aliens repealed.
R. S., sec. 4971, p. 960, repealed.

SEC. 11. That for the purpose of this act each volume of a book in two or more volumes, when such volumes are published separately and the first one shall not have been issued before this act shall take effect, and each number of a periodical shall be considered an independent publication, subject to the form of copyrighting as above.

Volumes separately copyrightable.



owning work

1800-1900

from the skill of the craftsman
the rights of "free labor"
(and the risk of enticement)

to trade secrets
"obligation to preserve such
secrets must be implied"

non-compete clauses (Eastman Kodak, 20 years)

& work for hire (attribution vs ownership)

entrepreneurship vs corporate labs?



international agreement



Victor Hugo
1802-1885

1858 Brussels congress

1886 Berne convention

Germany, Belgium, Spain, France, Haiti, Italy,
Switzerland, UK, Tunisia

intermediate revisions

newspapers, translations, performance,
mechanical reproduction, cinema (1908)
oral works, moral rights (1928)

1988 US joins Berne convention

no © notice required
no registration required



new technology



THE MENACE OF MECHANICAL MUSIC

By JOHN PHILIP SOUSA

ILLUSTRATED BY F. STROTHMANN



WEeping across the country with the speed of a transient fashion in ding or Panama hats, political war cries or popular novels, comes now the mechanical device to sing for us a song or play for us a piano, in substitute for human skill, intelligence, and soul. Only by harking back to the day of the roller skate or the bicycle craze, when sports of admitted utility ran to extravagance and virtual madness, can we find a parallel to the way in which these ingenious instruments have invaded every community in the land. And if we turn from this comparison to pure mechanics to another which may fairly claim a similar pre-eminence of music in its soul, we may observe the English sparrow, which, introduced and welcomed in all innocence, but so time in multiplying itself to the dignity of a pest, to the destruction of numberless native song birds, and the invariable regret of those who did not stop to think in time.

On a matter upon which I feel so deeply, and which I

used an alchemist, admittedly swayed in part by personal interest, as well as by the impending harm to American musical art. I loose a marked deterioration in American music and musical taste, an interruption in the musical development of the country, and a host of other injuries to music in its artistic manifestations, by virtue—or rather by vice—of the multiplication of the various music-reproducing machines. When I add to this that I myself and every other popular composer are victims of a serious infringement on our clear moral rights in our own work, I but offer a second reason why the facts and conditions should be made clear to everyone, alike in the interest of musical art and of fair play.

It cannot be denied that the owners and inventors have shown wonderful aggressiveness and ingenuity in developing and exploiting these remarkable devices. Their mechanism has been steadily and marvelously improved, and they have come into very extensive use. And it must be admitted that where families lack time or inclination to acquire musical technique, and to hear public performances, the best of these ma-





the march of ©

"The United States takes the view that anything made by man, under the sun, can be patented. And they have granted patents for business methods, mainly computer business methods. But as far as I can see, it would cover a new and improved method of stacking oranges on a barrel"

DRM: Lessig's code vs code
DMCA, 1995; Bono Act, 1998
open source and copyright
software copyright and patents
copyright, first sale, and EULAs

"Every change .. tend[s] to advance the producer interest against the consumer" --St Clair, *Reading Nation*

"The course of twentieth century American copyright law ... has been a story of the steady strengthening of the proprietary rights of intellectual property owners at the expense of access and interest" --Carla Hesse, "The Rise of Intellectual Property"



the missing leg?

trademark law

France: 1803, 1824, 1857

California: 1863

US: 1870, 1881, 1906, 1920, 1946

UK: 1862, 1876, 1905, 1938



the missing leg?

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April 23rd, 2008

Wikipedia Threatens Artists for Fair Use

Commentary by [George Muschey](#)

Can a noncommercial critical website use the trademark of the entity it critiques in its domain name? Surprisingly, it appears that the usually open-minded folks at Wikipedia think not.

Last February, a pair of artists, working with several collaborators, created a Wikipedia article and invited the general public to add to it, following Wikipedia's standards of credibility and verifiability. The work was intended to comment on the nature of art and Wikipedia. But Wikipedia editors did not take kindly to the project, and it was **shut down** within fifteen hours for being insufficiently "encyclopaedic."

Fast forward a couple of months. The artists, Scott Kildall and Nathaniel Stern, have created a noncommercial website that documents the project, called Wikipedia Art. The domain name for the project: [wikipediaart.org](#).

Yep, they used the term "wikipedia" in their domain name. "Wikipedia" is a trademark owned by the Wikimedia Foundation. And now the Foundation **has demanded** that the artists give up the domain name peaceably or it will attempt to take it by (legal) force.



legal determinism

1870: revision of patent office
registration of trademarks and
the "second industrial revolution"

1879: the "trade-mark cases"
is it intellectual?
is it an invention?
is it progressive?

-- USSC: NO

1881 - 1906: foreign treaty and indian tribes

1906: commerce clause



legal determinism

"The Congress shall have power ...

"To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries"

1870: revision of patent office
registration of trademarks and
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is it intellectual?
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restrictive practices?

Bass "will make no objection ..."





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restrictive practices?

Bass "will make no objection ..."





restrictive practices?

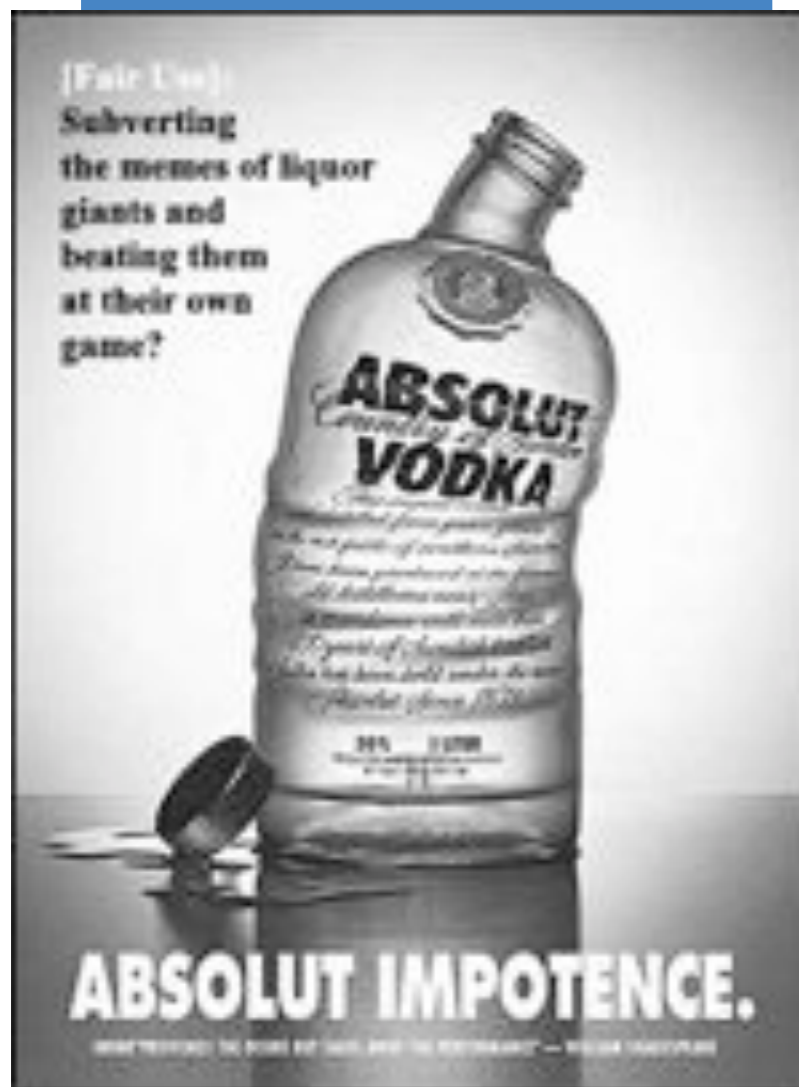
Bass "will make no objection ..."





culture jamming

and jamming culture jamming





going global

Bass in Boston

Wendell & Co, Distributors, 1894

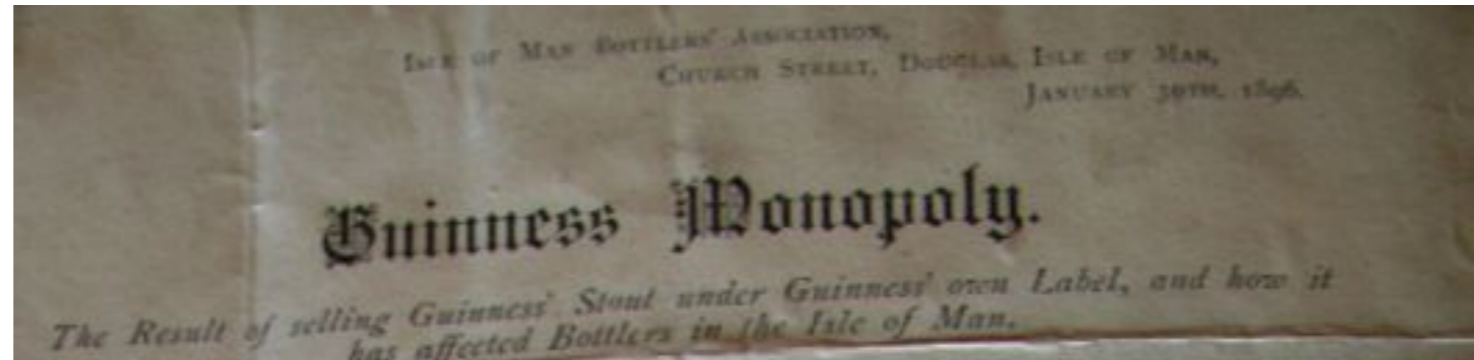
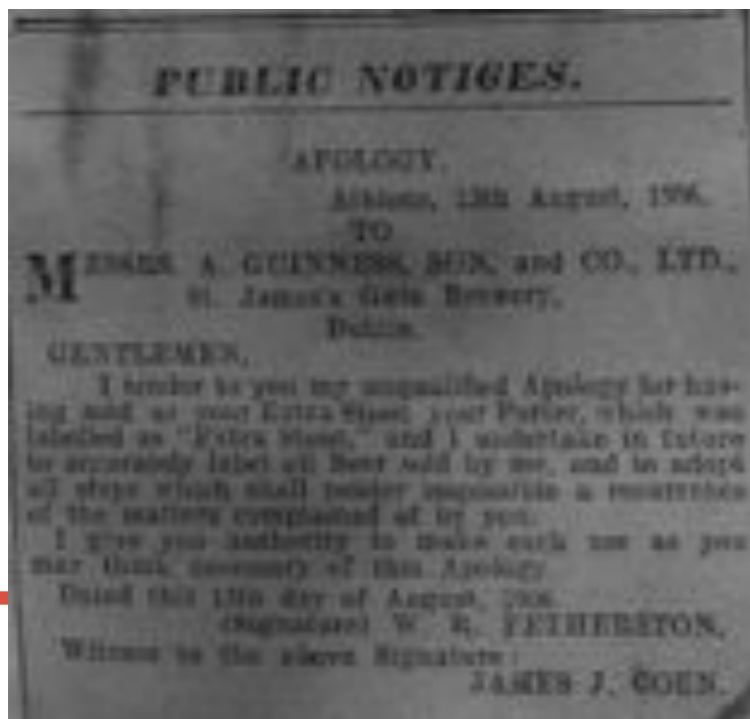
16 Feb: "engaged a reliable man to act as an amateur detective and his Agent is working up the case"

1 Sept: "Employed Detective, \$7 a day and expenses"

18 Sept: "'Jim Stewart" rented desk in Wendell's Place"

23 Sept: "Searched office but found no letters ... feel sure secrets in Warehouse and must find means to get into it"

22 Feb, 1885, Wendell gets 5 months hard labour



supply-chain struggles



bottlers, printers, retailers Guinness & San Francisco, 1899

Star Bottling Works	Stanyan & Waller sts	Schomaker bros	4th & Bryant
McGraw bros	401 or 418 Devisadero St	Alper Bros	5th & Clara
Schults, H.A.	Post & Larkin Sts	Wolking & Co, H.	565 Fourth St
Schranz & Waizman	601 Baker st, cor McAllister	Serris, J.	4th & Howard
Schroder, H	220 California St	Pontag	138 Fifth St
Francis, S.	430 6th St	Bennett & Witmer	Cor. Ellis & Stockton Sts
Puvogal, Jno	36 6th St	E&G Gold Rule Bazar	Market Bet 4th & 5th st
Zanganelli	6 Mason St	Edlef Atzroth	336 Fift Street
Grocer, Name unkwn	267-269 Third St	Riechers, F.W.	601 Larkin St
ditto	121 Third Street	Family Liquor Store	871 Larkin St
Tweedie, Daniel	408 Eight St	Shamrock Saloon	923 Howard
Burnell	408 Battery	Miesner, Peter	Cor. Ellis and Taylor St
		Kruse, Fred	1120 Third St



more chains

Colman in New York

"excitement among grocers"



MUSTARD POTTS.

The Bull's Head Label - Excitement Among the Grocers - Meeting of the Board of Trade - Wholesale Lawville by an English Firm.

A special meeting of the Importers and Grocers' Board of Trade was held yesterday afternoon at the rooms of the Board, for the purpose of taking action in reference to a large number of suits that have been brought against members of the board by J. & J. COLMAN, of England, through their agents and attorneys, YOUNG & LOCKY, to receive damages arising from alleged infringements of trade-marks. F. H. YOUNG was called to the chair, and S. H. KERRY acted secretary. The Chairman read the following papers, among which the object for which the meeting had been called:

About four months since we noticed in the newspapers that the above-named English firm had begun an action at law against HAZEL CANN, a label manufacturer, doing business in New York, for manufacturing mustard pots bearing a bull's head, which is since they claim as a trade-mark. During the progress of the suit a report was published that the attorneys for the above-named firm had prepared a large number of suits against manufacturers, dealers and grocers for selling pots of mustard bearing a bull's head, which suits would be prosecuted if the action against YOUNG was decided in their favor. As the device of a bull's head had been in use in this country for many years in connection with the manufacture



the rise of intangible assets





brand wars





the power of brands



the power of brands

computer?



the power of brands

computer?



the power of brands

computer?

OS?



the power of brands

computer?

OS?



the power of brands

computer?

OS?

processor?



the power of brands

computer?

OS?

processor?



the power of brands

computer?

OS?

processor?

hard drive?



the power of brands

computer?

OS?

processor?

hard drive?

2000

6 hard drive companies



the power of brands

computer?

OS?

processor?

hard drive?

2000

6 hard drive companies

196 million disks



the power of brands

computer?

OS?

processor?

hard drive?

2000

6 hard drive companies

196 million disks

0 profit



the power of brands

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OS?

processor?

hard drive?

2000

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196 million disks

0 profit

Dell: 7%



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OS?

processor?

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2000

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196 million disks

0 profit

Dell: 7%

Microsoft: 31%



the power of brands

computer?

OS?

processor?

hard drive?

2000

6 hard drive companies

196 million disks

0 profit

Dell: 7%

Microsoft: 31%

Intel: 13%



TM -- why worry?

Linux.com
The Enterprise Linux Resource
<http://enterprise.linux.com/>

Title Behind the Debian and Mozilla dispute over use of Firefox
Date 2006.10.10 15:01
Author StoneLion
Topic
<http://enterprise.linux.com/article.pl?sid=06/10/09/1434251>

Debian plans to release its newest version, Etch, in December, and wants Mozilla's Firefox Web browser to be part of the distribution. Mozilla, however, [told](#) Debian it couldn't release the software without its accompanying artwork. Now a legal expert says that the existing distinctions between copyright and trademark laws should have prevented this from becoming an issue in the first place.

Larry Rosen, an attorney specializing in intellectual property protection and former general counsel for the Open Source Initiative, told NewsForge, "An open source copyright license can permit you to make any changes you want to certain software, or to make no changes at all. But a trademark license may also be needed before you can apply the original author's trademarks to those changed or original works.

"I don't think that this should be a debate. We merely have to understand that copyright and trademark involve entirely different rights. A license to one of those isn't necessarily a license to the other."

Earlier this year, Mike Connor, a developer with Mozilla, [submitted a bug report](#) to Debian that stated that if Debian intend to call its browser Firefox, it would be required to include Firefox graphics as well, or should plan to find a new name for the browser.



dilution

perpetual property
Philips v Remington

which side are you on?

2000

- April: Rock band Metallica sues Napster for copyright infringement. Yale and Indiana University ban service from campus.
- Dec.: Napster sues an online clothes retailer for allegedly using its cat-like logo without permission on T-shirts and hats for sale.

Klein v. Economist



skin in the game

"New products are associated with old brand names. This ensures the prospective consumer of the quality of the product."

"Doctors, lawyers, and barbers, the high school diploma, the baccalaureate degree, the Ph.D., even the Nobel Prize, ... education and labor markets themselves have their own 'brand names'".

--George Akerlof, "The Market for Lemons: Quality, Uncertainty, and the Market Mechanism," 1970



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the Ph.D. in a job, ...
... themselves
... names'".

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Quality, Uncertainty, and Information," 1970



coming up

30 Mar: Politics and propaganda

Required reading:

- Marlin, Randall, 2002. "History of Propaganda," pp. 62-94 in *Propaganda and the Ethics of Persuasion*, Toronto: Broadview Press.
- Watch the first 10-minute segment of "[Divide and Conquer](#)," one of the "Why We Fight" films that Frank Capra made for the Office of War Information in WWII. (If you want more, there are the other segments on this page.) Watch this brief [video](#) on the background of these films.
- Watch the first 7-10 minutes of Leni Riefenstahl's "[Triumph of the Will](#)," and browse the rest to get the flavor of the rallies — it's pretty repetitive.