

information as property

History of Information

March 15, 2011

coming up

midterm

exam

In class midterm on March 17.
Arrive promptly at 2 pm.
Bring a blue/green book.

essay

March 16 at midnight: paper is due. No extensions will be granted, and no late papers will be accepted. Please submit one electronic copy **submitted via bSpace** ...
in the following format: FIRSTNAME-LASTNAME-103.doc.

notetaking

“The Disabled Students’ Program (DSP) is looking for a Note-Taker! If you take clear, well-organized notes, this is a good opportunity for you to assist a fellow student and receive pay. Please come to the Disabled Students’ Program Office and fill out an application. We are located in 260 Cesar Chavez right beside The Golden Bear Café. The application is also available online at dsp.berkeley.edu on the ‘Note-Takers Needed This Semester’ link. If you have any questions, please send an email to dspnotes@berkeley.edu.”



where does it fit?

in the news

Renault Apologizes to Employees Fired in Spy Case

By MATTHEW SALTMARSH
Published: March 14, 2011

PARIS — Renault apologized on Monday to three executives that it had accused of industrial espionage as the focus of the inquiry turned to an internal security agent who had been investigating the case.

 Enlarge This Image



Christophe Ena/Associated Press

The Paris prosecutor, Jean-Claude Marin, said the investigation had shifted toward "a possible swindle" inside Renault's internal intelligence service, which acts as an internal police and security service.


Add to Portfolio

In a matter that has gone from sensational to embarrassing, Carlos Ghosn, Renault's chief executive, and Patrick Pélata, the chief operating officer, presented their "sincere apologies and regrets, personally and in the name of Renault," to the three fired employees.


The Paris prosecutor, Jean-Claude Marin, said the investigation had shifted toward "a possible swindle" inside Renault's internal intelligence service, which acts as an internal policing and security service.

"At this stage we do not know whether we are dealing with just fraud or a deliberate attempt to destabilize Renault," he said.

At an extraordinary board meeting late Monday, Mr. Pélata offered to resign, fulfilling a pledge that he made last week. But Mr. Ghosn did not accept the


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MARCH 18

US Patent Office Grants Massively More Patents Than Ever Before

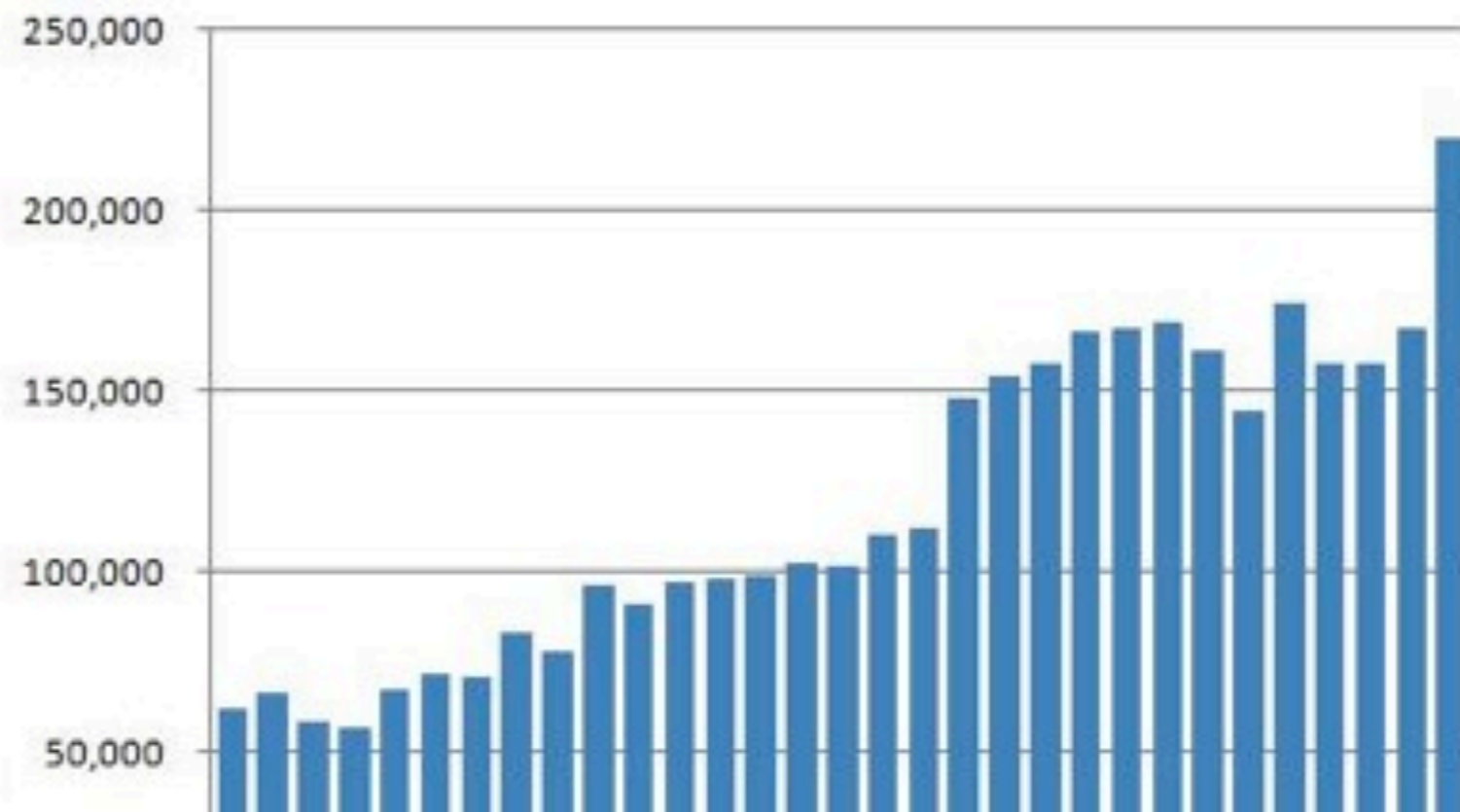
good or not good?

from the *this-is-not-good* dept

Commerce Secretary Gary Locke has made it clear that he wanted to US Patent and Trademark Office (USPTO) to clear out some of the backlog on patents, and it quickly became clear early last year that the way the USPTO was doing this was by simply approving more patents while giving less scrutiny to the patents in question -- meaning that we're now getting a ton of bad patents approved. It seemed like an obviously bad sign when we passed the total number of patents approved in 2009 by October of 2010.

Now the final numbers are in: nearly 220,000 patents granted (219,614 if you want to be exact), a massive 31% increase over 2009 and still significantly more than ever before in history. The highest previous year was 2006, when a mere 173,772 patents were granted. So this is still 27% more patents granted in a single year than ever before. I find it hard to believe -- as USPTO supporters claim -- that the Patent Office suddenly figured out how to approve 30% more patents without decreasing the quality. Patently-O put together this lovely chart to demonstrate the pattern:

Annual Patent Grants (USPTO Utility Patents)



overview

skin in the game
rights and wrongs
what is property (and *iproperty*)
systemizing *iproperty*
patent split
copyrights
patents
trademarks

skin in the game?

patents

trademarks

copyrights

rights and wrongs?



TorrentFreak

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.



emerging here and there?

MEDIA PIRACY IN
EMERGING ECONOMIES



SSRC

Edited by Joe Karaganis

prices are too high

antipiracy education has failed

**changing the law is easy. changing
the practice is hard**

criminals can't compete with free

enforcement hasn't worked

*SSRC, Media Piracy in Emerging
Economies, 2011*

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."

overview

skin in the game

rights and wrongs

what is property (and *iproperty*)

systemizing *iproperty*

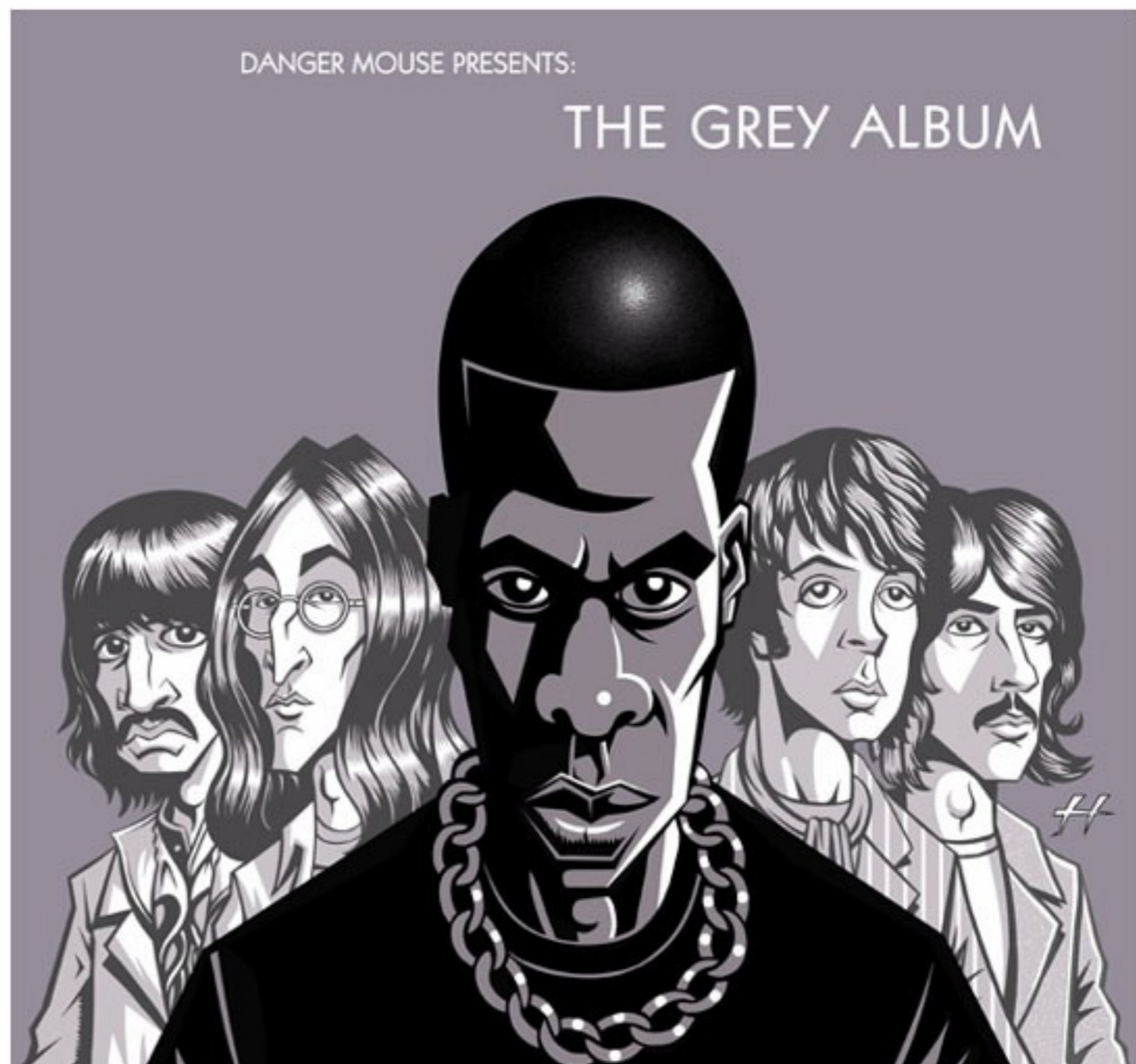
patent split

copyrights

patents

trademarks

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,

Keane-Everybody's Changing
[British Conservative Party]

James-Sit Down
[British Labour Party]

MGMT-Kids
[French UMP Party]

Jackson Browne-Running on Empty / John Mellencamp -Our Country
[John McCain]

Sam & Dave-Hold On, I'm Comin'
[Barack Obama]

Springsteen-Born in the USA
[Ronald Reagan]

Rolling Stones-Angle
[Angela Merkel]

Coldplay-Clocks
[New Zealand National Party]

Rush-Spirit of Radio
[Rand Paul]

whose right?

24 September 2010 Last updated at 08:28 ET



Ten songs stolen by politicians

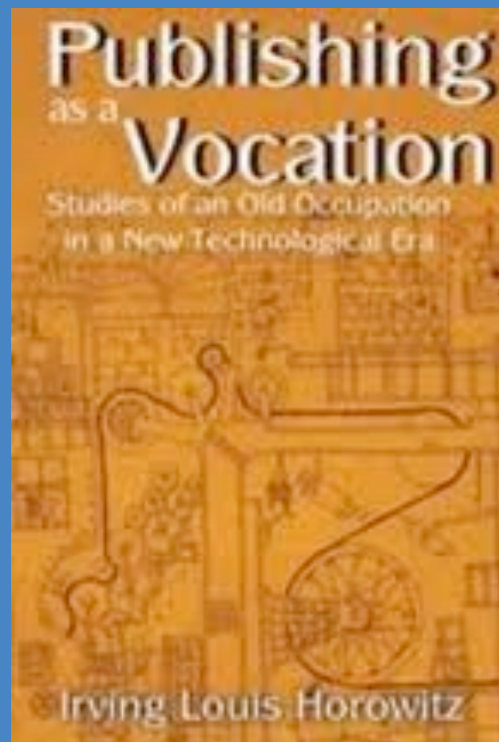
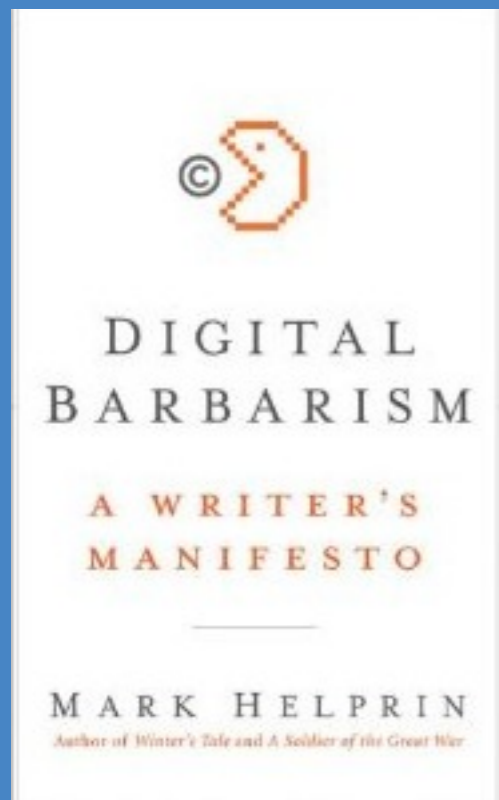
By Cat Koo
BBC News

Swedish band Abba is suing a Danish anti-immigration party for using their song, **Mama Mia** in a rally.

The youth wing of the party sang the song, **changing its lyrics to suit their far-right agenda.**

But the Swedish legends are by no means the only musicians to object to politicians using their work. Here are 10 others:





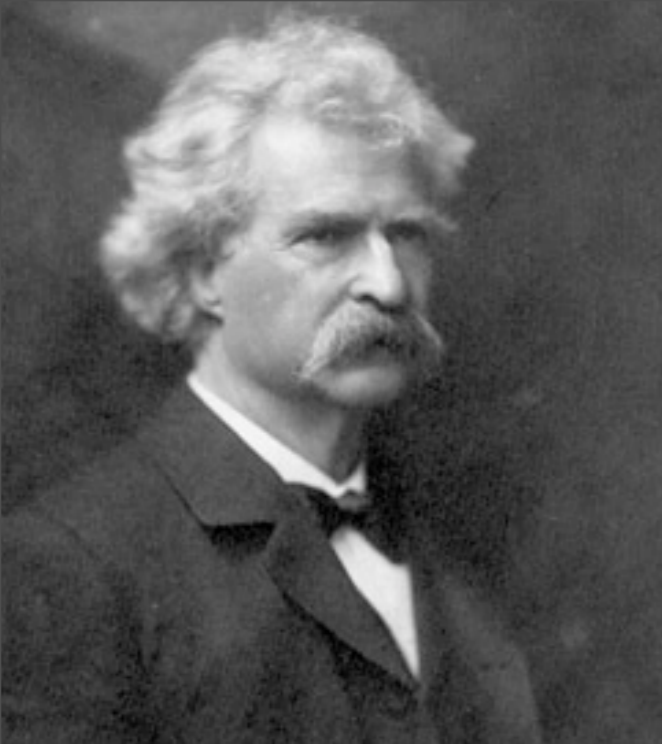
fictive distinctions

"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."

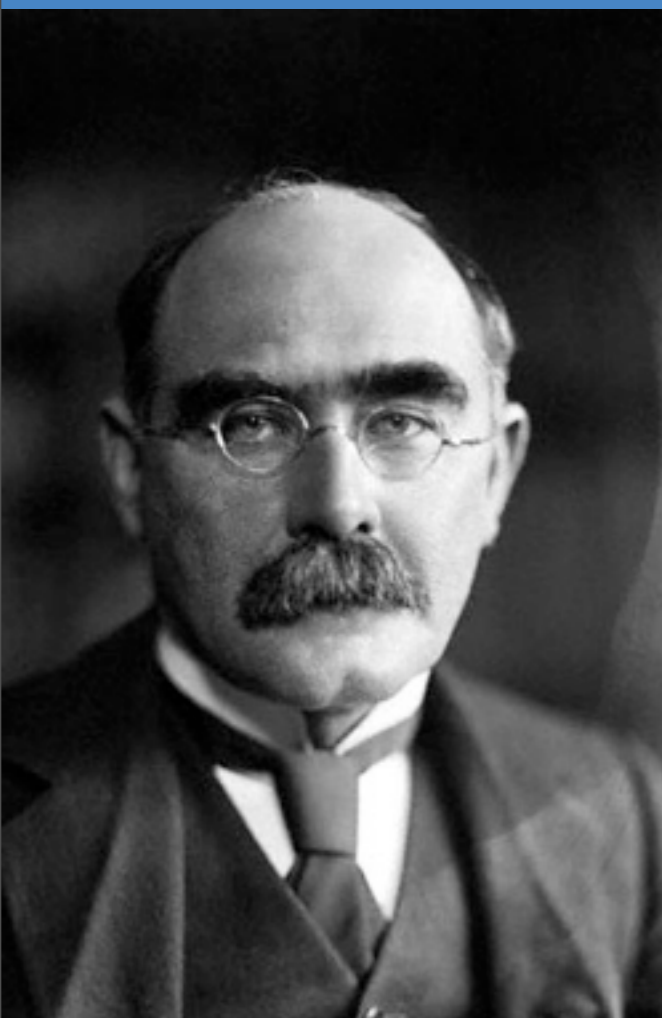
--Mark Helprin, *Digital Barbarism*, 2009

"a rhetoric of intellectual property better suited to ancient Athens than Modern Washington ... arbitrary and fictive distinctions between types of property ... more legislative relief."

--I. Horowitz, *Publishing as a Vocation*, 2010



Mark Twain
1835-1910



Rudyard Kipling
1865-1936

greater fiction

" 'There is a great deal of nonsense talked about international copyright. The proper way to treat a copyright is to make it exactly like real-estate in every way.' What I saw with the greatest clearness was mark Twain being forced to fight for the simple proposition **that a man has as much right to the work of his brains ... as to the labour of his hands.**"

--Rudyard Kipling, 1899

"An Interview with Mark Twain"

or



Michael Polanyi
1891-1976

"In order that a piece of knowledge ... may be used to earn a profit, its "producer" may be given proprietary rights ... this raises a grave difficulty. The full benefit of knowledge is only reaped when its circulation is free ... to limit its use, society is made the poorer ... the mere exercise of proprietary rights in the product of the enterprise ... involves the establishment of a harmful monopoly."

--Michael Polanyi, "Patent Reform," 1944

Carla Hesse, 'The Rise of Intellectual Property,
700 B.C.- A.D. 2000: An Idea in the Balance'
Daedalus 131(2)(2002): 26-45.

ownership?

Confucianism

"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

James Boyle, *Shamans, Software, & Spleens: Law and the Construction of the Information Society*
(Cambridge, MA: Harvard University Press, 1996)

ownership?

Mr Moore's spleen & 'human ingenuity'

United States Patent

4,438,032

Golde, et al.

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.: **06/456,177**

Filed: **January 6, 1983**

overview

skin in the game

rights and wrongs

what is property (and *iproperty*)

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so what are we talking about?



Jeremy Bentham
1748–1832

what is property?

"a curious spectacle ... multitudes of advocates and all the judges in and out of office talking about property in general, not one of them knowing what it was, nor how it was created; it was an assembly of blind men disputing about colours."

--Jeremy Bentham, *Manual of Political Economy*, 1794

in what way is *information* property?

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?

what kinds of property ownership?

properties needed for private property?

limitations on property rights

aspects of property

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rules governing access to material goods

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how extensive
how many: one right--or a bundle?

"... 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."

philosophical problems

information

rivalrous?

excludable?

a public good?

how acquired?

occupatio, for property res nullius

--*Codex Justinianus*, 534

Blackstone's rules for acquisition

descent
purchase
escheat
occupancy
prescription
forfeiture
alienation

HofII-IP 25



Emperor Justinian
483–565



William Blackstone
1723–1780

tion of actual possession with both these rights; which constitutes a perfect title 195-199

CHAPTER XIV.

OF TITLE BY DESCENT 200 to 234

1. The title to things real may be reciprocally acquired or lost, I. By descent. II. By purchase 200
2. Descent is the means whereby a man, on the death of his ancestor, acquires a title to his estate, in right of representation, as his heir-at-law 201
3. To understand the doctrine of descents, we must form a clear notion of consanguinity; which is the connection or relation of persons descended from the same stock or common ancestor; and it is, I. Lineal, where one of the kinsmen is lineally descended from the other. II. Collateral, where they are lineally descended, not one from the other, but both from the same common ancestor 203-4
4. The rules of descent, or canons of inheritance, observed by the laws of England, are these:
Inheritances shall lineally descend, to the issue of the person last actually seised, *in infinitum*; but shall never lineally ascend 208
The male issue shall be admitted before the female 212
Where there are two or more males in equal degree, the eldest only shall inherit; but the females all together 214
The lineal descendants, *in infinitum*, of any person deceased, shall represent their ancestor; that is, shall stand in the same place as the person himself would have done, had he been living 216
On failure of lineal descendants, or issue, of the person last seised, the inheritance shall descend to the blood of the first purchaser; subject to the three preceding rules.—To evidence which blood, the two following rules are established 220
The collateral heir of the person last seised must be his next collateral kinsman, of the whole blood 224
In collateral inheritances, the male stocks shall be preferred to the female; that is, kindred derived from the blood of the male ancestors shall be admitted before those from the blood of the female: unless where the lands have, in fact, descended from a female 234

CHAPTER XV.

OF TITLE BY PURCHASE; AND, FIRST, BY ESCHEAT 241 to 257

1. Purchase, or perquisition, is the possession of an estate which a man hath by his own act or agreement; and not

2. Escheat is where, upon deficiency of the tenant's inheritable blood, the estate falls to the lord of the fee 244
3. Inheritable blood is wanting to, I. Such as are not related to the person last seised. II. His maternal relations in paternal inheritances, and *vice versa*. III. His kindred of the half blood. IV. Monsters. V. Bastards. VI. Aliens, and their issue. VII. Persons attainted of treason or felony. VIII. Papists, in respect of themselves only, by the statute law 246-257

CHAPTER XVI.

OF TITLE BY OCCUPANCY 258 to 261

1. Occupancy is the taking possession of those things, which before had no owner 258
2. Thus, at the common law, where tenant *per aucter vie* died during the life of *cestuy que vie*, he who could first enter might lawfully retain the possession; unless by the original grant the heir was made a special occupant 259
3. The law of derelictions and alluvions has narrowed the title by occupancy 261

CHAPTER XVII.

OF TITLE BY PRESCRIPTION 263

1. Prescription (as distinguished from custom) is a personal immemorial usage of enjoying a right in some incorporeal hereditament, by a man, and either his ancestors or those whose estate of inheritance he hath: of which the first is called prescribing in his ancestors, the latter, in a *que estate* 263

CHAPTER XVIII.

OF TITLE BY FORFEITURE 267 to 286

1. Forfeiture is a punishment annexed by law to some illegal act, or negligence, in the owner of things real; whereby the estate is transferred to another, who is usually the party injured 267
2. Forfeitures are occasioned, I. By crimes. II. By alienation, contrary to law. III. By lapse. IV. By simony. V. By non-performance of conditions. VI. By waste. VII. By breach of copyhold customs. VIII. By bankruptcy 267
3. Forfeitures for crimes, or misdemeanors, are for, I. Treason. II. Felony. III. Misprision of treason. IV. *Præmunire*. V. Assaults on a judge, and batteries, sitting the courts. VI. Popish recusancy, &c. 267
4. Alienations, or conveyances, which induce a forfeiture, are I. Those in mortmain, made to corporations con-

- made to aliens. III. Those made by particular tenants, when larger than their estates will warrant 268-274
- i. Lapse is a forfeiture of the right of presentation to a vacant church, by neglect of the patron to present within six calendar months 270
- i. Simony is the corrupt presentation of any one to an ecclesiastical benefice, whereby that turn becomes forfeited to the crown 276
- i. For forfeiture by non-performance of conditions, see Ch. X.
- i. Waste is a spoil, or destruction, in any corporeal hereditaments, to the prejudice of him that hath the inheritance 281
- i. Copyhold estates may have also other peculiar causes of forfeiture, according to the custom of the manor 284
10. Bankruptcy is the act of becoming a bankrupt; that is, a trader who secretes himself, or does certain other acts, tending to defraud his creditors. (See Ch. XXII.) 285
1. By bankruptcy, all the estates of the bankrupt are transferred to the assignees of his commissioners, to be sold for the benefit of his creditors 286

CHAPTER XIX.

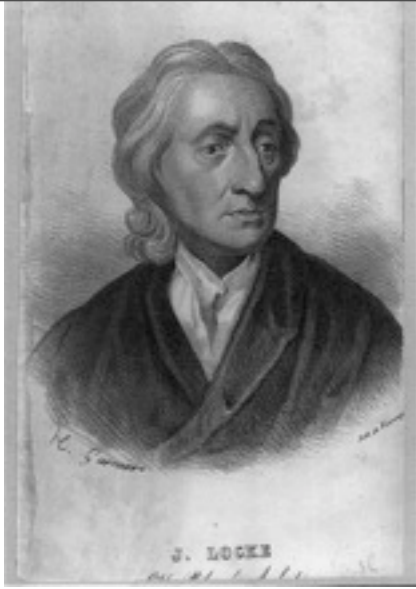
OF TITLE BY ALIENATION 287 to 294

1. Alienation, conveyance, or purchase in its more limited sense, is a means of transferring real estates, wherein they are voluntarily resigned by one man, and accepted by another 287
- i. This formerly could not be done by a tenant, without licence from his lord; nor by a lord, without attornment of his tenant 287
- i. All persons are capable of purchasing; and all, that are in possession of any estates, are capable of conveying them;—unless under peculiar disabilities by law: as being attainted, *non compos*, infants, under duress, feme-coverts, aliens, or papists 288-293
- i. Alienations are made by common assurances; which are, I. By deed, or matter in *pais*. II. By matter of record. III. By special custom. IV. By devise 293-4

CHAPTER XX.

OF ALIENATION BY DEED 295 to 342

1. In assurances by deed may be considered, I. Its general nature. II. Its several species 295
- i. A deed, in general, is the solemn act of the parties: being, usually, a writing sealed and delivered; and it may be, I. A deed indented, or indenture. II. A deed poll. 295-6



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."

--John Locke, *Two Treatises of Government*, 1689

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

paternal view



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"blame Lysias, who is the father of the brat, and let us have no more of his progeny ..."



from brats to calfs

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 . . . 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

from calfs to soul



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 Librarie, 1763

metaphysics



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



Edward Young
1683?-1765



William Wordsworth
1770-1850

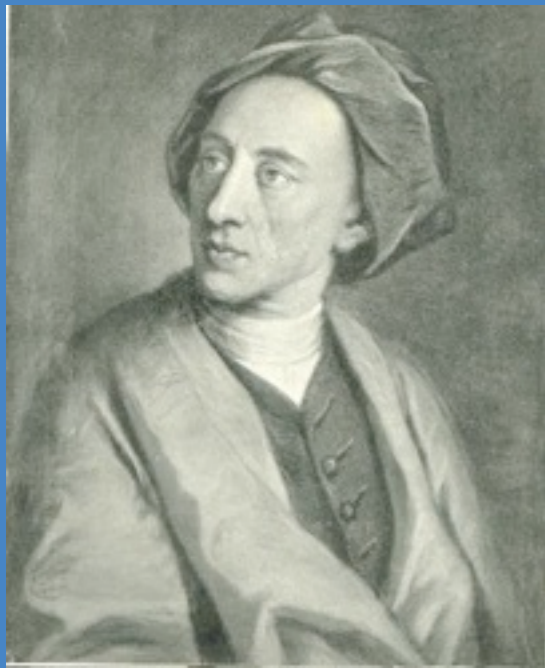
originality

Edward Young,
Conjectures on Original Composition, 1759

"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

originality?



Alexander Pope
1688–1744

True Wit is Nature to advantage dress'd
What oft was thought, but ne'er so well express'd

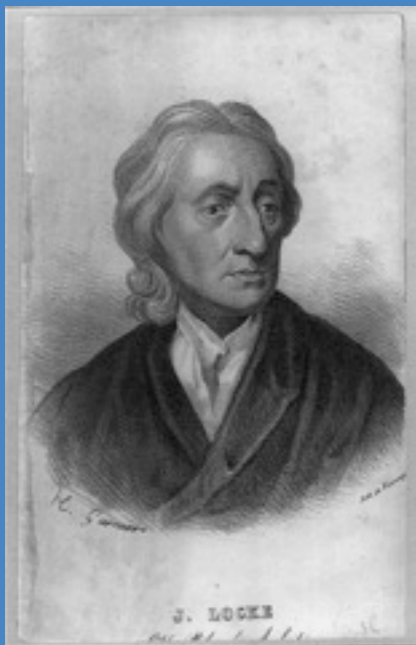
Alexander Pope, "Essay on Criticism," 1708

limited ownership

"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

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

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great inventions

"I have already intimated my opinion that in the world's history, certain inventions and discoveries occurred, of peculiar value, on account of their great efficiency in facilitating all other inventions and discoveries. Of these were the arts of writing and of printing -- the discovery of America, and the introduction of Patent-laws. The date of the first, as already stated, is unknown; but it certainly was as much as fifteen hundred years before the Christian era; the second -- printing -- came in 1436, or nearly three thousand years after the first. The others followed more rapidly -- the discovery of America in 1492, and the first patent laws in 1624."

--Lincoln, "Discoveries and Inventions," 1859

patents & copyrights



regulation

825: Chinese regulation of almanacs

privileges

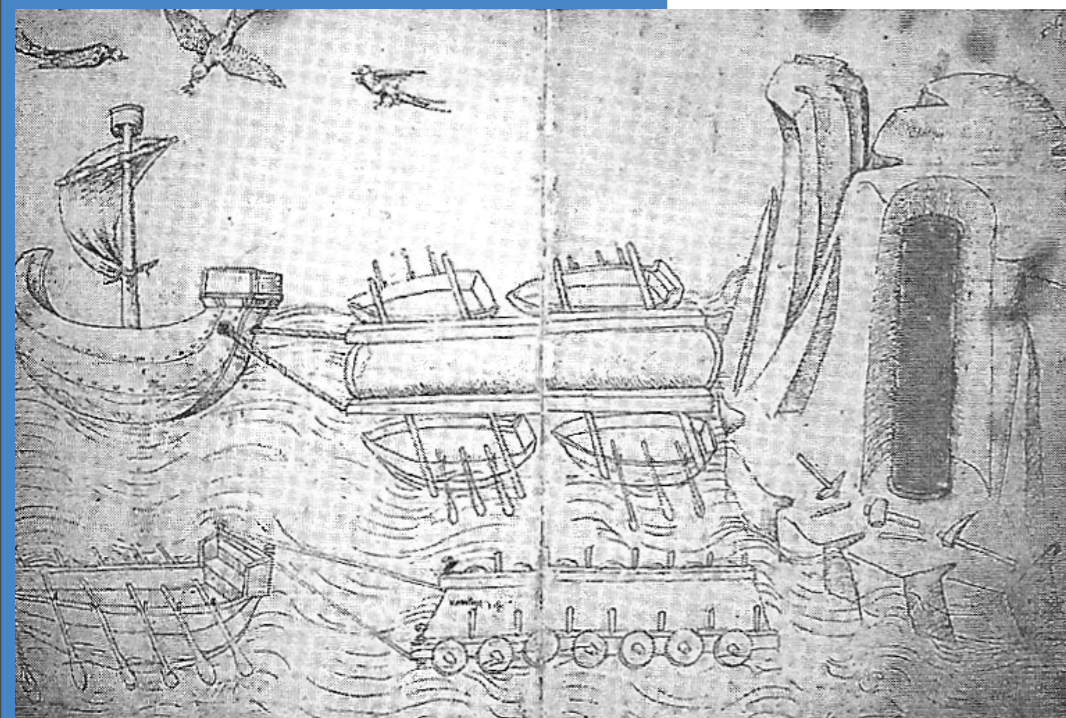
1236: Bonafasus' dyeing

1332: Bartholomeo Verde's windmill

patents

1421: Brunelleschi's boat

1441: Eton stained-glass



il Badalone



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*



patent & print

1504: William Facques, "King's printer"

1504: Guillaume Cop, Paris University

signed almanac



1511: Durer's patent

Art I § 8 Cl 8: 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**;

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stationers company



Mary I
1516–1558

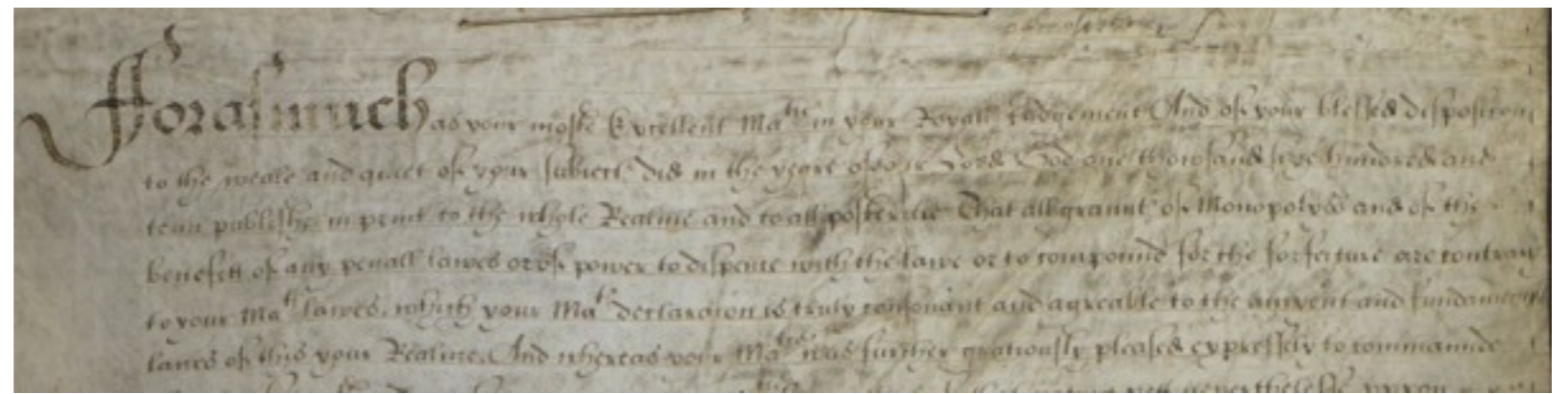
"Know ye that we, considering and manifestly perceiving that certain seditious and heretical books rhymes and treatises are daily published and printed by divers scandalous malicious schismatical and heretical persons ... wishing to provide a suitable remedy ..."

Stationers' Charter, 1557

monopolies on bibles, prayer books, almanacs, law books, music, playing cards ...



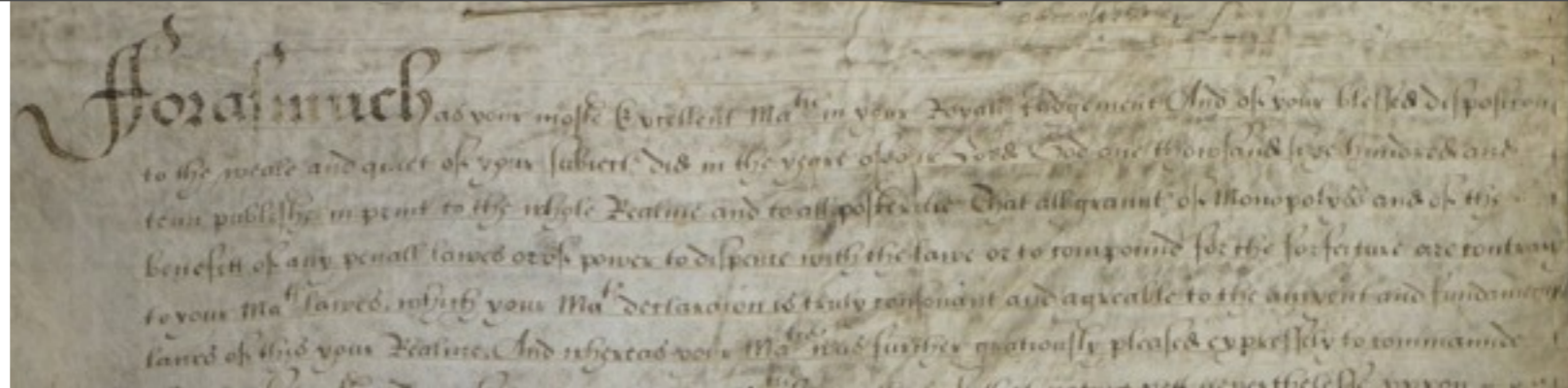
Charles I
1566-1625



sorting things out

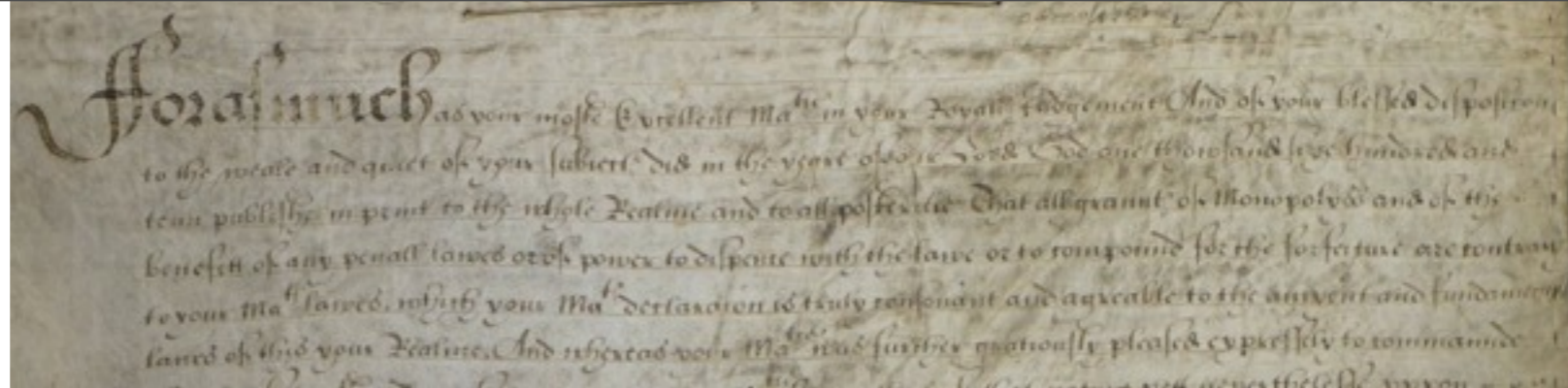
"All Monopolies and all Commissions, Grants, Licences, Charters and Letters Patent heretofore made or granted or hereafter to be made or granted to any Person or Persons, Bodies Politick or Corporate whatsoever, of, or for the sole Buying, Selling, Making, Working or Using any Thing within this Realm... 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."

--*Statute of Monopolies*, England, 1624



inventions

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.



printing

"Provided also that all lettres Patentes and grauntes heretofore made and hereafter to be made of the priviledg of the sole printing of the Bible or booke of Common prayer or of the psalmes psalter or anie other Bookes lawfully aucthorized and allowed, or to be soe aucthorized or allowed to be used in and for the publique divine service and worshipp of God or of anie bookes of the Common lawes or Statutes of this Realme or of anie proclamacion sett fourth or to be sett fourth by his Majestie his heires or successors or of Junus and Tremellius Bibles or of Lillies Grammar or of Prymers or Almanackes shal be alsoe of such force as they were or should bee if this Act had never bene had or made and of none other, Provided alsoe that this act shall not extend to the Restraint or makeinge voyde of one Patent of Priviledge for the sole printinge and selling of a Booke called Hoff II. P. 45"



John Milton
1608-1674

Truth in the field

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

peace brings them back (1662)

HofII-IP 46



truth is not enough

"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

"this law ...

1694/5: end of licensing acts

changing views of print

- growing readership
the reading nation
- politics and the public sphere
- the end of patronage
- competing monopolies: *booksellers v printers*

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** ... to their very great detriment. ...

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 1710...

"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

"A new law to give learned men property they had not had before." --Attorney General Thurlow

whereas ...

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 ..."

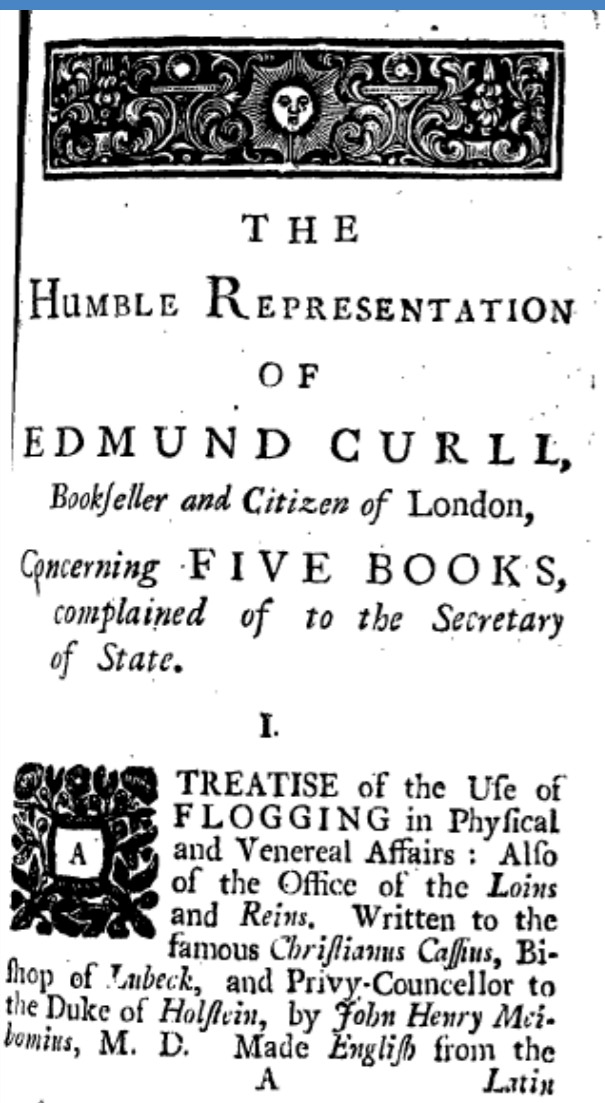
"nothing .. to Prohibit the Importation ..."

divided rights

1741: Pope v. Curll

"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



identifying property

"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

"Proper Words
in proper
places makes
the true
Definition of
Style"
Swift, 1721

"Manner of
writing with
regard to
language"
Johnson,
Dictionary

a long time coming

1774 Donaldson v Becket

booksellers defeated

"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

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

--Johnson

STATUTE II.
May 31, 1790.

Repealed.

Act of April 29, 1802, ch. 36.
Act of Feb. 15, 1819, ch. 19. Act of Feb. 3, 1831, ch. 16. June 30, 1834, ch. 157.

Authors of maps, charts and books; and purchasers from them, to have the sole right of publication.

CHAP. XV.—*An Act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned.*(a)

SECTION 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act, the author and authors of any map, chart, book or books already printed within these United States, being a citizen or citizens thereof, or resident within the same, his or their executors, administrators or assigns, who hath or have not transferred to any other person the copyright of such map, chart, book or books, share or shares thereof; and any other person or persons, being a citizen or citizens of these United States, or residents therein, his or their executors, administrators or assigns, who hath or have purchased or*

coming up

Week 11

29 Mar: Technologies of the image

Required reading:

- Newhall, Beaumont. 1964. "Prints from Paper," "Portraits for the Million," and "The Faithful Witness," pp. 32-57 in *The History of Photography, From 1839 to the Present Day*. New York: Museum of Modern Art.
- Green, David. "[Veins of Resemblance: Photography and Eugenics](#)," *Oxford Art Journal*, Vol. 7, No. 2, Photography (1984), pp. 3-16.