



information as property

from advertising to IP

History of Information

March 9, 2015

Anno Octavo

Annæ Reginae.

An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.



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: May it please Your Majesty, that it may be Enacted, and be it Enacted by the Queens most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament Assembled,

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)

CHAP. LXXXII.—*An Act concerning Trade Marks and Names*

[Approved March 8, 1865.]

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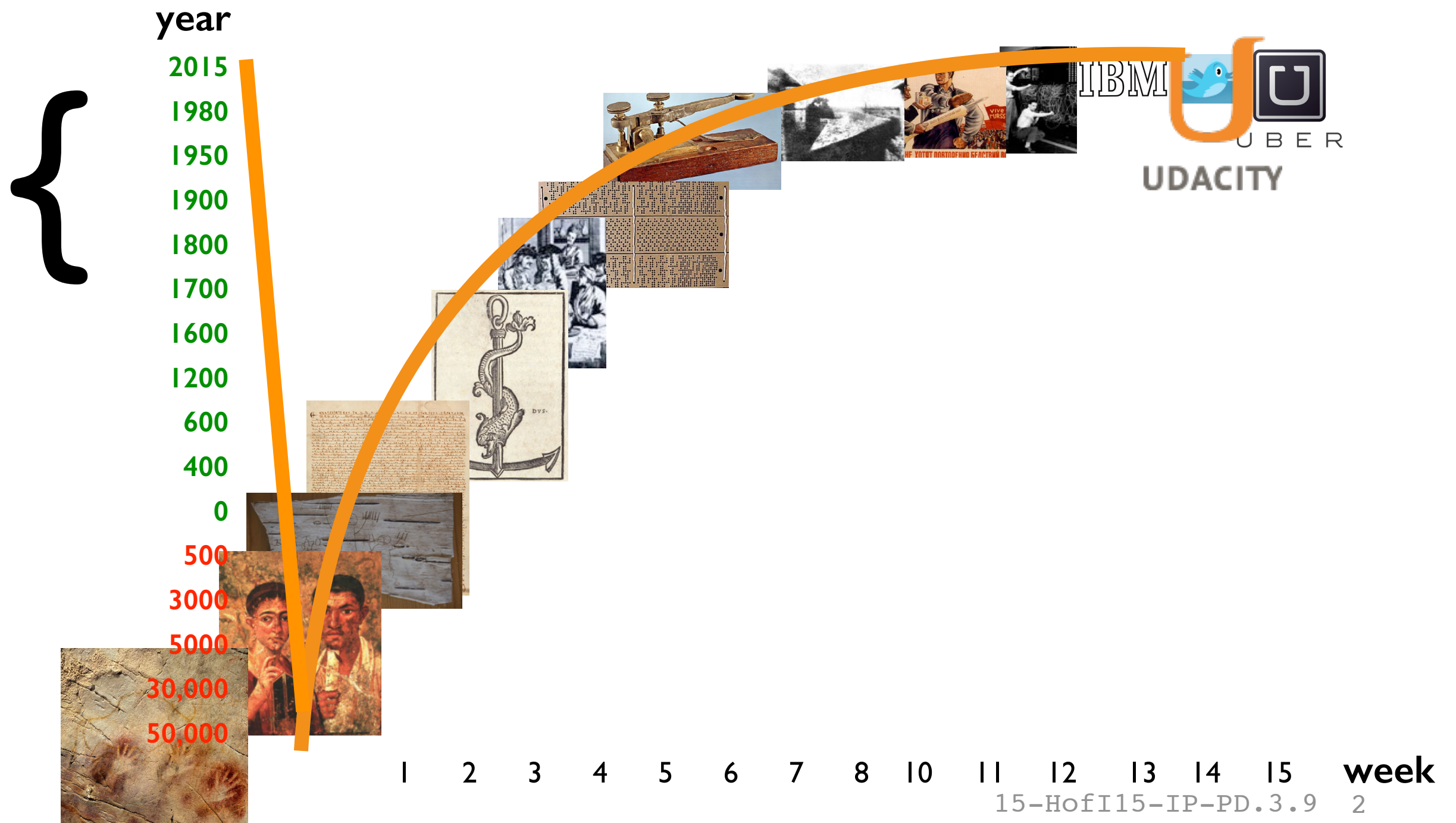
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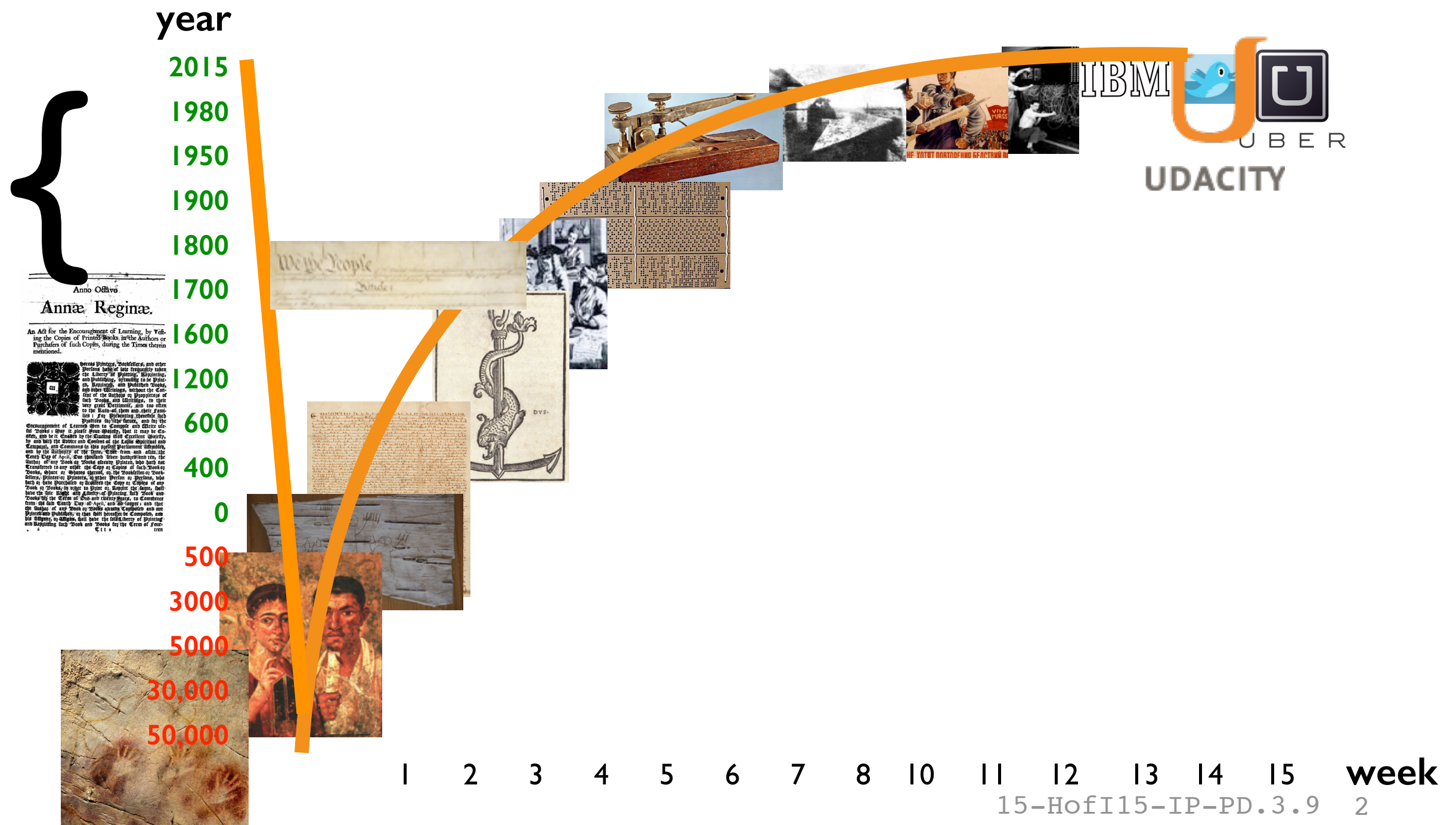
historical questions





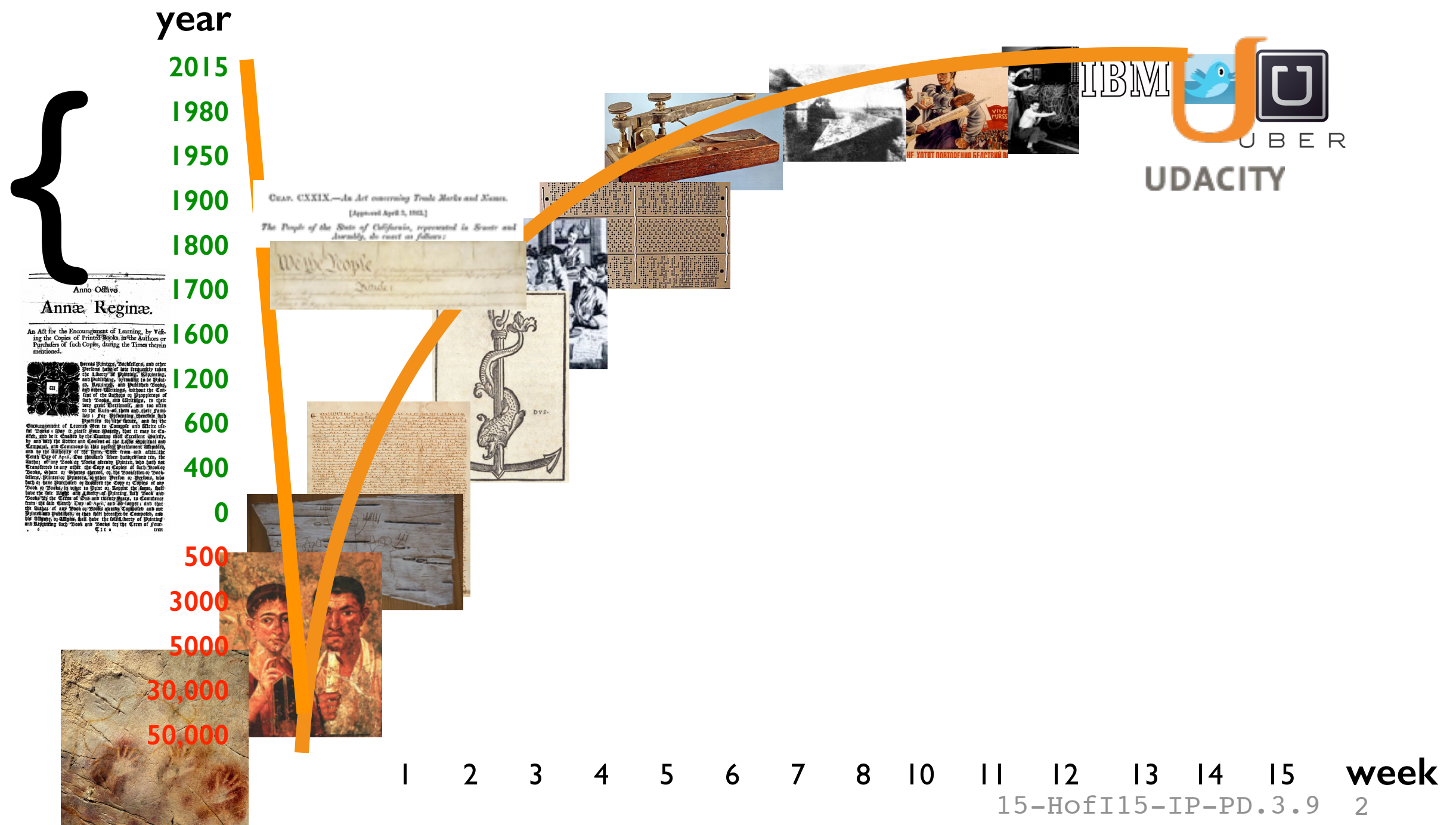


historical questions





historical questions





week

2



the road ahead

developing *iproperty*

old or new problems?

what are we talking about?

rights and wrongs



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in passing

Alice Park

Sydnee Stanley

Esther Shchemelinin

Sofia Sheikh

Ji-Hern Baek

Gavin Li

Jacob Barczak

Chuhan Zhang



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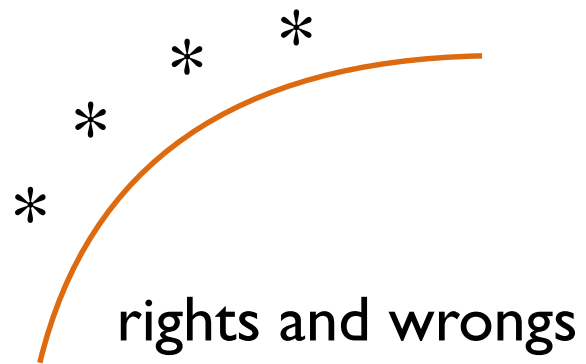
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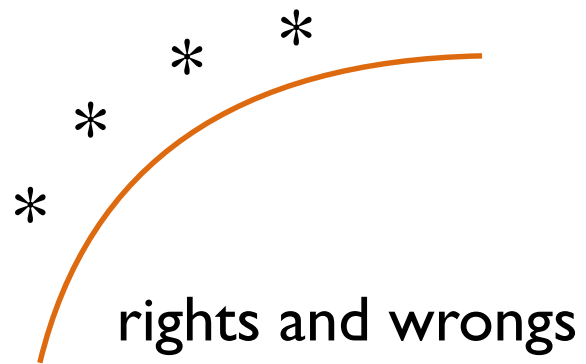
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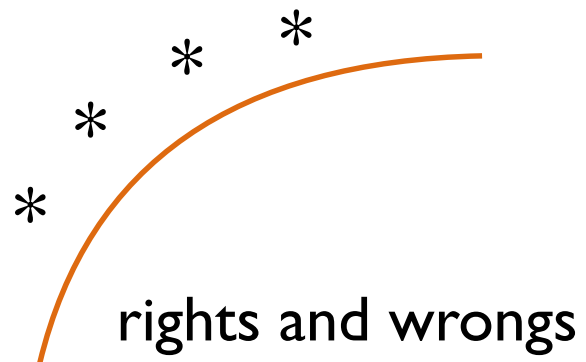
skin in the game?

who has their own ...



skin in the game?

who has their own ...
patents?

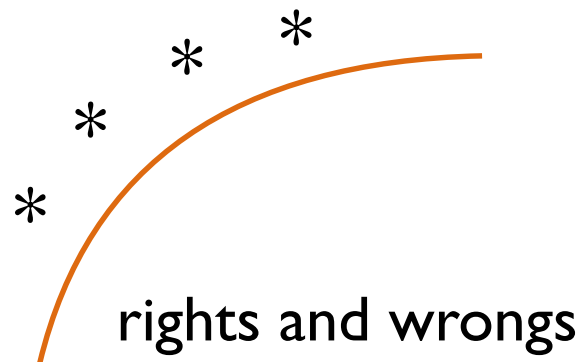


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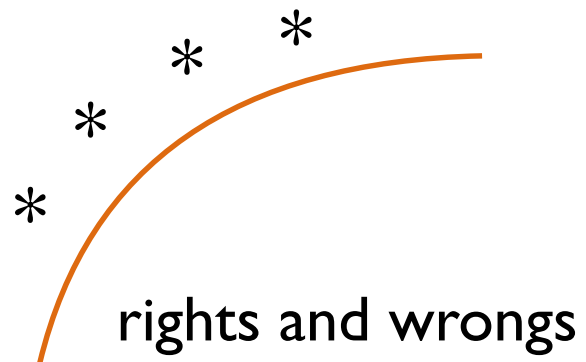
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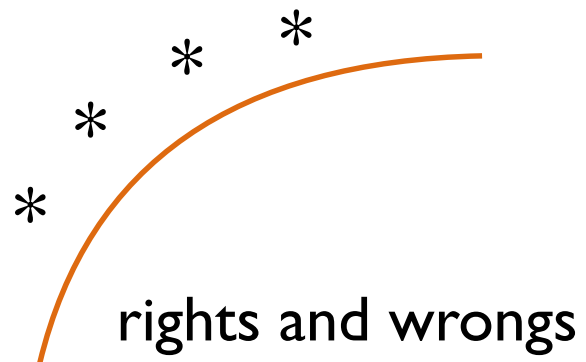
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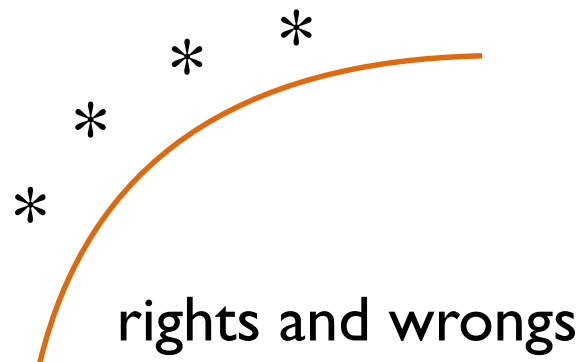
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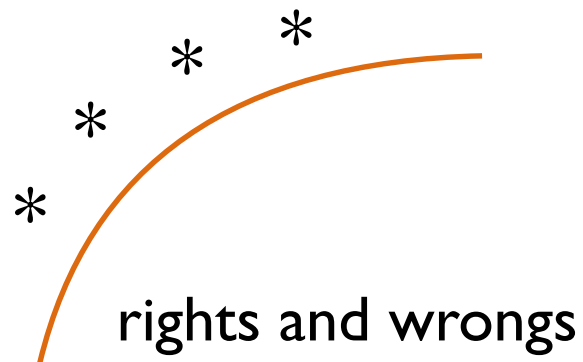
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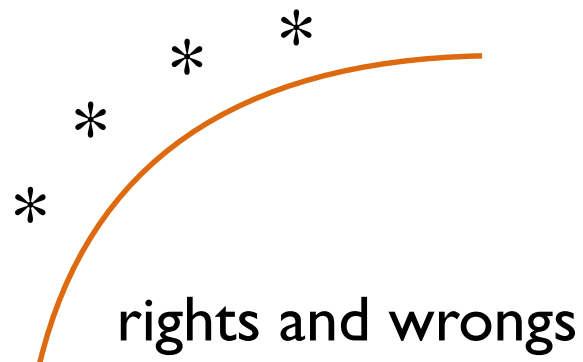
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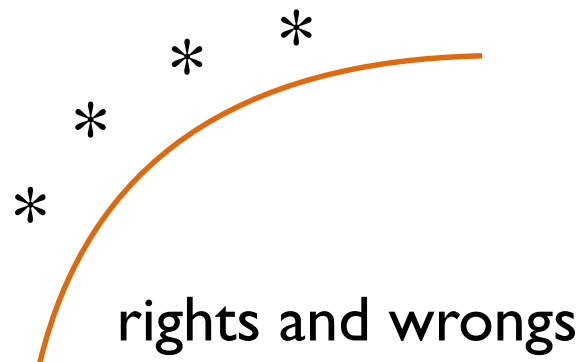
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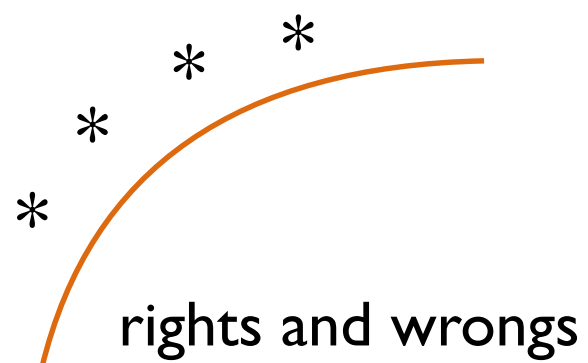
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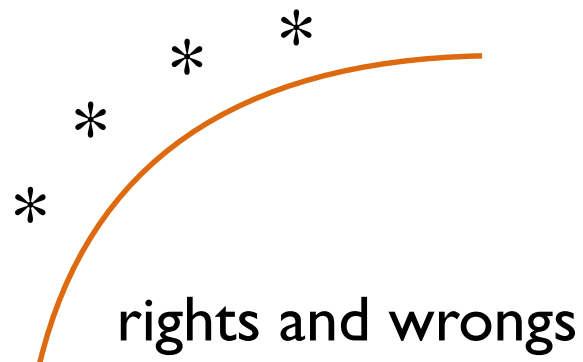
and why?



freedom from danger?

300 years on





freedom from danger?

300 years on

Danger Mouse and EMI Settle "Dark Night of the Soul" Dispute



By DANIEL KREPS

MARCH 3, 2010 4:21 PM ET

Nearly nine months after Danger Mouse's *Dark Night of the Soul* project hit stores with a blank CD, the producer and EMI have reached an agreement to formally issue the album with music on the compact disc, the **BBC reports**. As ***Rolling Stone* wrote** last May, a legal hassle between Danger Mouse, or Brian Burton, and EMI stemming back to *The Grey Album* — Danger Mouse's mash-up of the Beatles' *White Album* with Jay-Z's *Black Album* — held up the release of *Dark Night*, a collaboration featuring the Shins' James Mercer, David Lynch, Julian Casablancas, Frank Black and more artists.



free political speech



Tom Petty: Michele Bachmann Can't Use My Song

By **GLEN LEVY** | @glenjl | June 29, 2011 | 17

[Like](#) 561 [Send](#) [Tweet](#) 36 [+1](#) 0 [Share](#) 3



If Michele Bachmann becomes the next President of the United States, it's safe to say that Tom Petty won't be playing the inauguration.

When the newly minted Republican presidential candidate left the stage in Waterloo, Iowa, after making a nationally televised speech to announce her candidacy, Petty's track "American Girl" could be heard playing her off. According to NBC's Kelly O'Donnell, Petty's manager will be asking Bachmann's team to not use the song again.



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Dropkick Murphys ✓

@DropkickMurphys

Follow

@ScottWalker @GovWalker please stop using our music
in any way...we literally hate you !!!

Love, Dropkick Murphys

6:08 PM - 24 Jan 2015

8,997 RETWEETS 8,471 FAVORITES



unstoppable?

Dropkick Murphys Tell Scott Walker: Stop Using Our Music, 'We Literally Hate You !!!'

f SHARE

t TWEET

p PIN-IT

Bookmark

55 Comments



AP Photo / Morry Gash

By **DANIEL STRAUSS** Published JANUARY 26, 2015, 12:01 PM EST

f Like

12k

32490 Views

-PD.3.9

7



to live outside the law ...





to live outside the law ...



2000



to live outside the law ...



2000

- April: Metallica sues Napster for copyright infringement. Yale and Indiana University ban service from campus.



to live outside the law ...



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to live outside the law ...

April 23rd, 2009



Wikipedia Threatens Artists for Fair Use

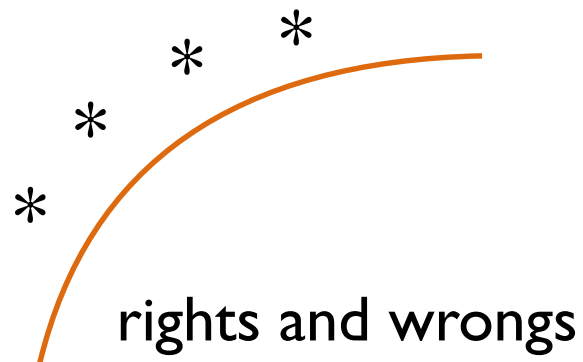
Commentary by [Corynne McSherry](#)

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.



UC heroes?

forget google ...

coming up:
Computer

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNIX SYSTEM LABORATORIES, INC.

Plaintiff,

vs.

BERKELEY SOFTWARE DESIGN, INC.,
and certain named individuals in
their collective capacity as The
Regents of the University of
California,

Defendants.

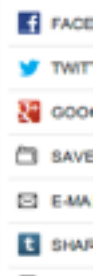
Civ. No. 92-1667

O P I N I O N

OPINION
The Immortal Life of Henrietta Lacks, the Sequel

By REBECCA SKLOOT
Published: March 23, 2013 | 126 Comments

LAST week, scientists sequenced the genome of cells taken without consent from a woman named Henrietta Lacks. She was a black tobacco farmer and mother of five, and though she died in 1951, her cells, code-named HeLa, live on. They were used to help develop our most important vaccines and cancer medications, in vitro fertilization, gene mapping, cloning. Now they may finally help create laws to protect her family's privacy — and yours.



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

or villains?

skin (and moore) in the game 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)

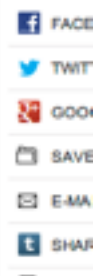
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Filed: **January 6, 1983**

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developing *iproperty*

old or new problems?

what are we talking about?

rights and wrongs



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so what are we talking about?



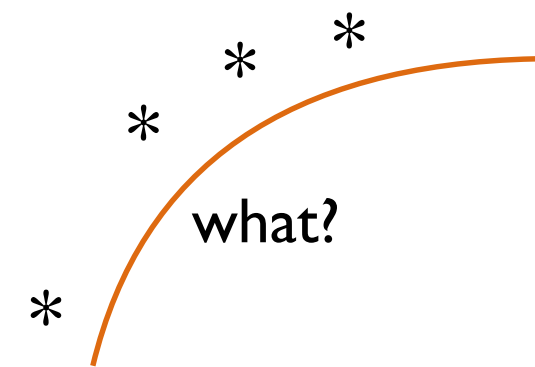
what is property?

"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?

Jeremy Bentham
1748–1832



properties of property

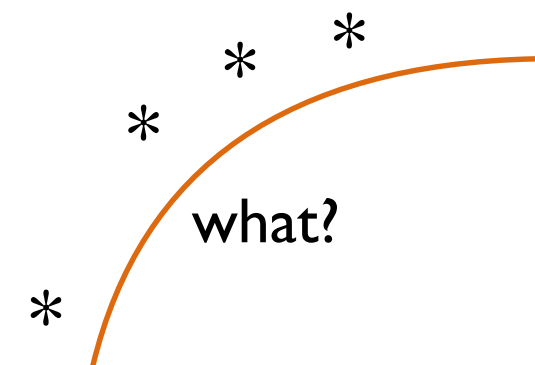
"No one shall be ... deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation"

what is property?

what kinds of property ownership?

properties needed for private property?

limitations on property rights



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rules governing access to material goods

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"a property right is a legally enforceable power to exclude others from using a resource, without need to contract with them."

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how extensive

how many: one right--or a bundle?



Emperor
Justinian
483–565



William
Blackstone
1723–1780

how acquired?

occupatio ... res nullius

–*Codex Justinianus*, 534

Blackstone's rules for property acquisition

descent, purchase, escheat, occupancy
prescription, forfeiture, alienation, *Commentaries*, 1765.

which one for iproperty?



Emperor
Justinian
483–565



William
Blackstone
1723–1780

Yale Law Library Exhibit: “250 Years of Blackstone’s Commentaries”

ABAA BOOK FAIRS

MARCH 6TH, 2015 – JUNE 2ND, 2015

how acquired?

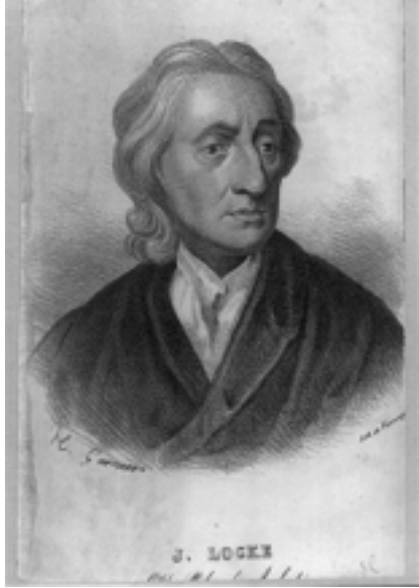
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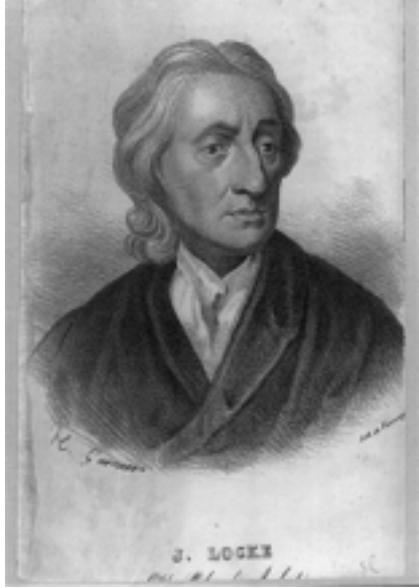
John Locke
1632-1704

uncommon?

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



John Locke
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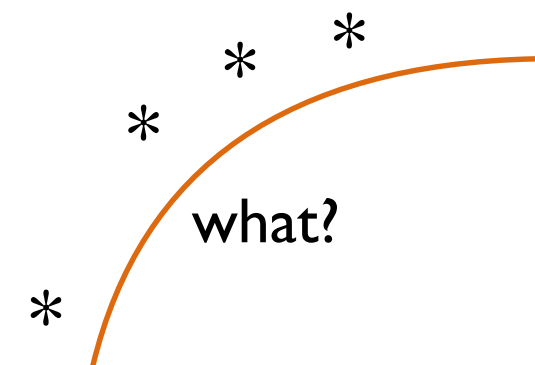


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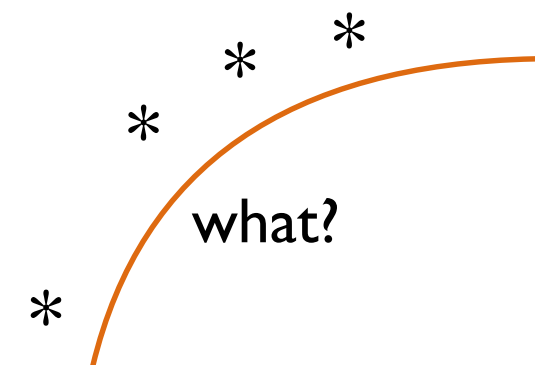
paternal view



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

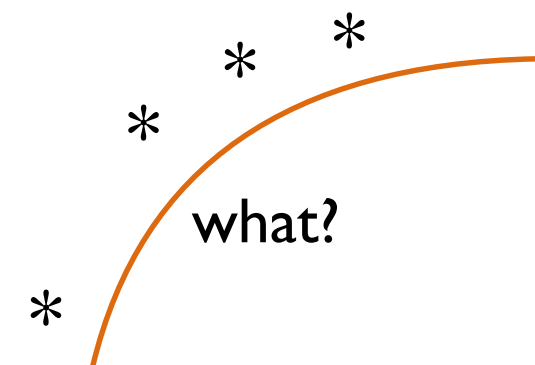


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"blame Lysias, who is the father of the brat, and let us have no more of his progeny ..."



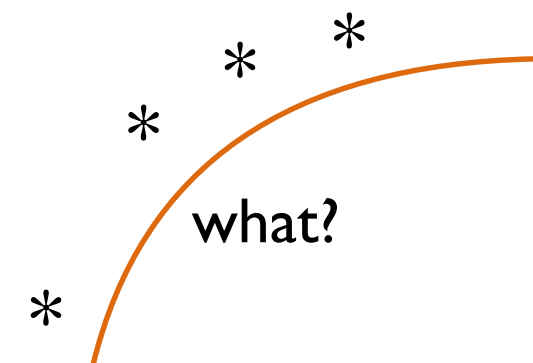
single parent?



"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

Alexander Pope
1688–1744



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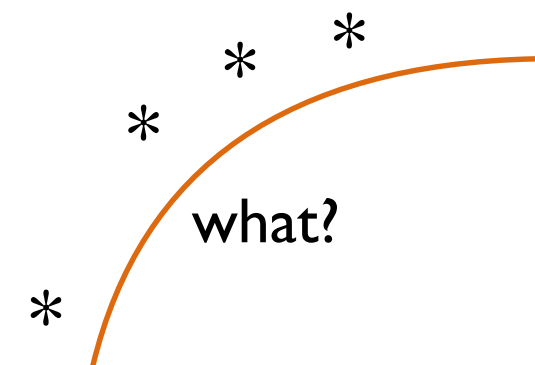
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CONJECTURES
ON
ORIGINAL COMPOSITION.
IN A
LETTER
TO THE
AUTHOR
OF
SIR CHARLES GRANDISON.

*Si habet aliquod tanquam pabulum studii, & doctrinae,
etiam fenestrate nihil est jucundius.* Cic.

LONDON:
Printed for A. MILLAR, in *The Strand*; and
R. and J. DODSLEY, in *Pall-Mall*.

M. DCC. LXX.



like fields?



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



American Dictionary
1827

fruits and labor

“Upon what principle, let me ask, can my fellow-citizens declare that the productions of the farmer & the artisan shall be protected by common law, or the principles of natural or social right, without a special statute, & without paying a premium for the enjoyment of their property; while they declare that I have only a temporary right to the fruits of my labor & this cannot be enjoyed without a premium? Are such principles as these consistent with the established doctrines of property & of moral right & wrong among an enlightened people? Are such principles consistent with the high & honorable notions of justice & equal privileges, which our citizens claim to entertain & to cherish, as characteristic of modern improvements in civil society.”

—Noah Webster to Daniel Webster, 1826

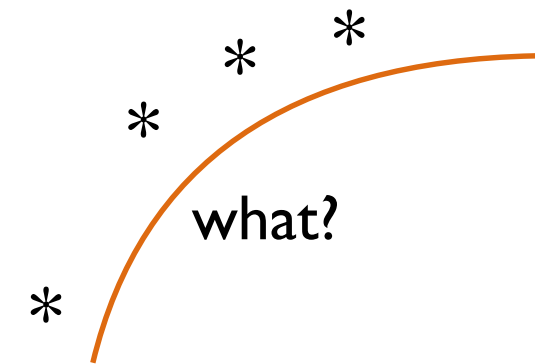


English Dictionary
1755

metaphysics vs consent

"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



theological problems

Confucianism

"I transmit rather than create." --Confucius

Islam

Shari'a law against

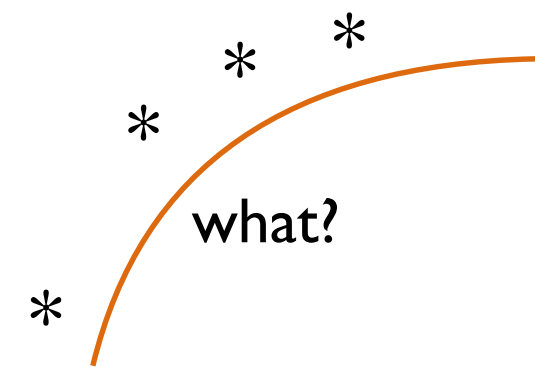
"imposture" and "fraud" but not theft

Christianity

"Scientia Donum Dei Est

Unde Vendi non Potest"

--Canon Law



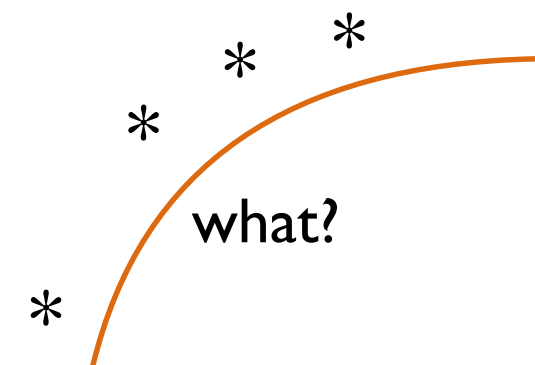
i-property, i-problems

"... 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."

properties of information

rivalrous?

excludable?



i-property, i-problems

"... 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."

properties of information

rivalrous?

excludable?

if not, then "a public good"

so hard to "incentivize"

hence ...

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

An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books in the Authors or Purchasers of such Copies, during the Times therein mentioned.

i-property, i-problems

"... 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."

properties of information

rivalrous?

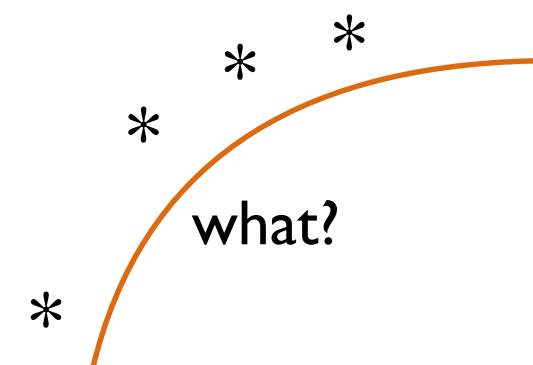
excludable?

if not, then "a public good"

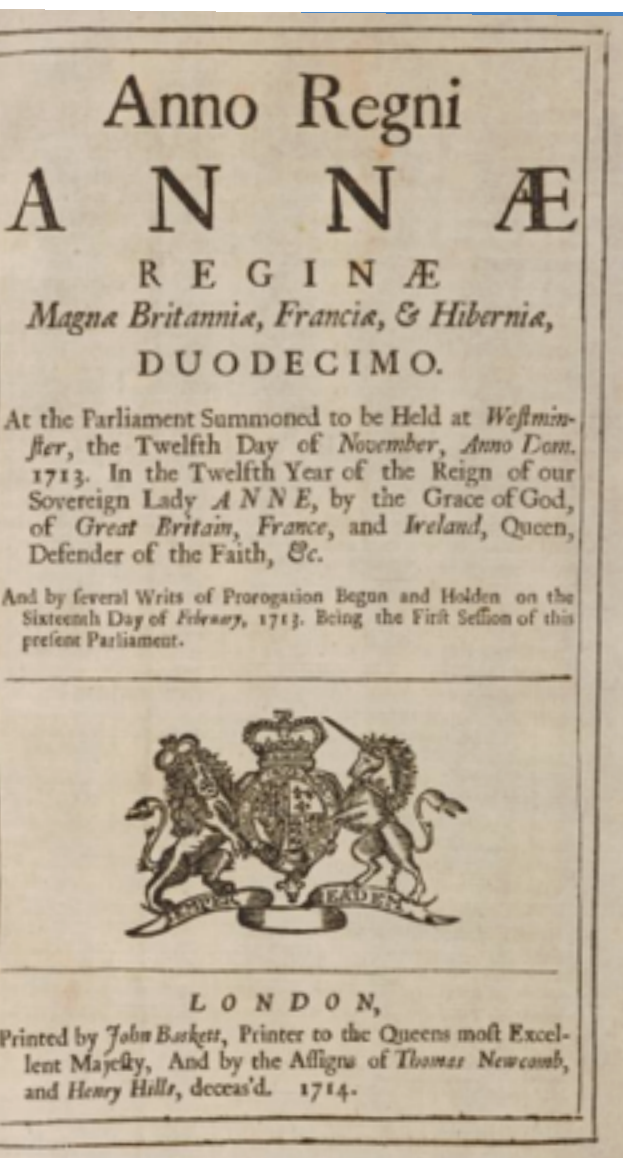
so hard to "incentivize"

hence ...

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



alternatives we know of?



Harrison



Joseph Henry



Daguerre



developing *iproperty*

old or new problems?

what are we talking about?

rights and wrongs

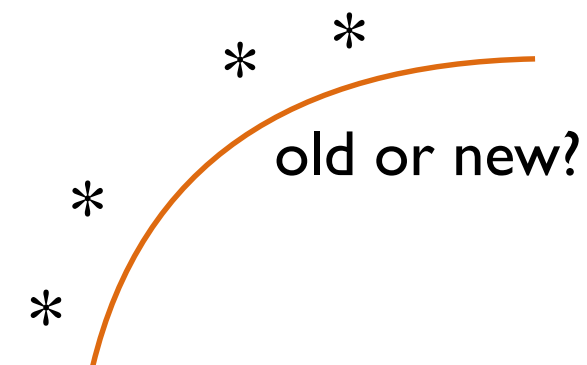


developing *iproperty*

old or new problems?

what are we talking about?

rights and wrongs



patents

regulation

825: Chinese regulation of almanacs - *authenticity*

privileges

1236: Bonafasus' dyeing

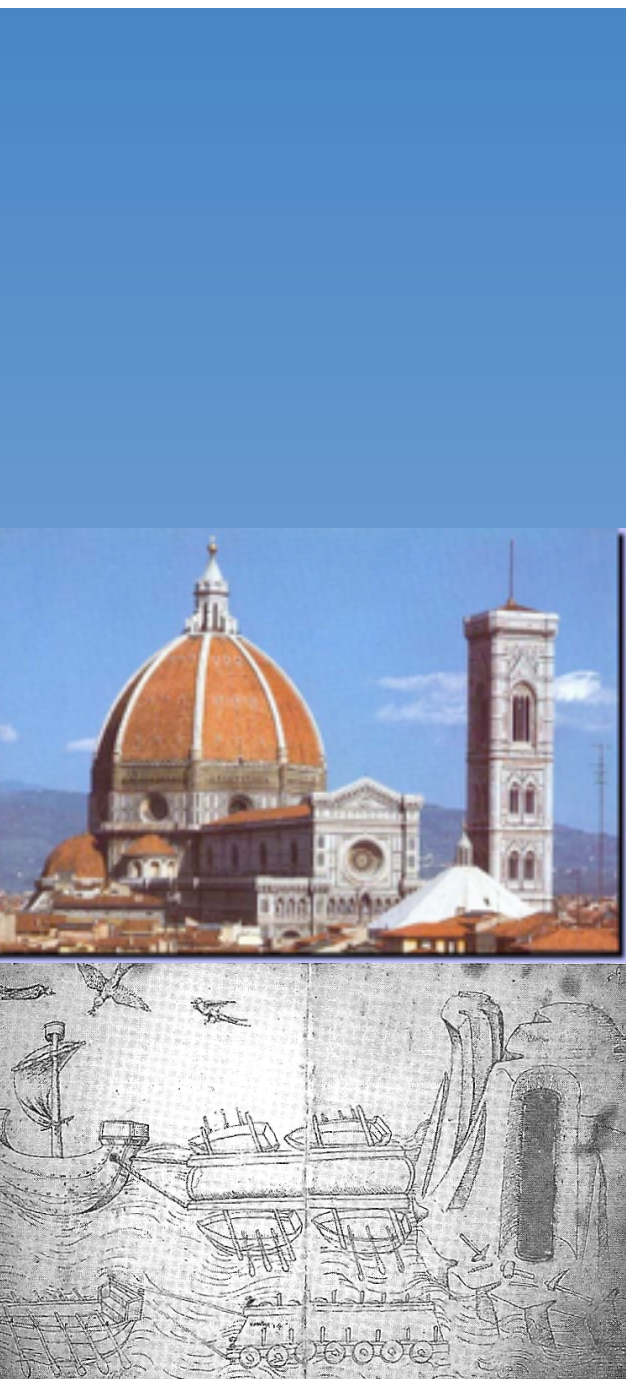
1332: Bartholomeo Verde's windmill

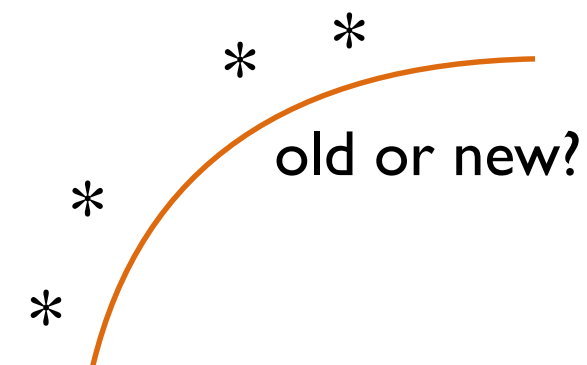
patents

1421: Brunelleschi's boat

1441: Eton stained-glass

1492: Aldus's fonts





patents & print

IP or Open Source?

1486 Marcantonio Sabellico — privilegium [©]

1496 Aldus Manutius — patent, Greek type

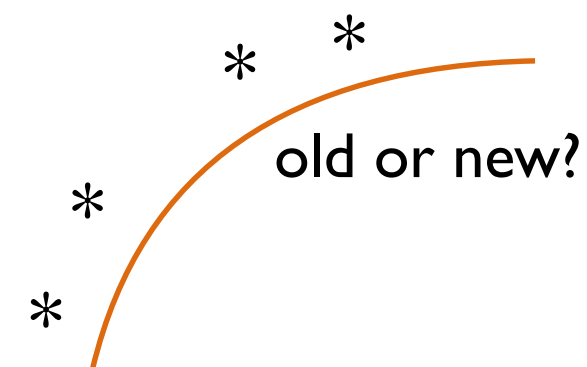
1498 Aldus - © Demosthenes, Plutarch, Xenophon ...

1501 Aldus Manutius — patent, Italic type

1507 Aldus - legal battles for control

1507 *Adagia* I: “Amicorum Communia Omnia”





patent & print



1504: William Facques, "King's printer"

patronage

1504: Guillaume Cop, Paris University

signed almanac

1511: Durer's patent

authenticating?



"While technology might have changed the face of the problem, the underlying causes are the same. People always seek financial gains, even if that means forging or imitating the renowned."

— Alice Park

solutions

legal control

"provided by law that no man should sew a shoe .. or make a cupboard, unless he has been approved by his trade guild

Punishment ... for the man who sells cloth dyed in England from cloth dyed in Venice .. left free to profit from mere textual corruptions .. under the label of good authors"

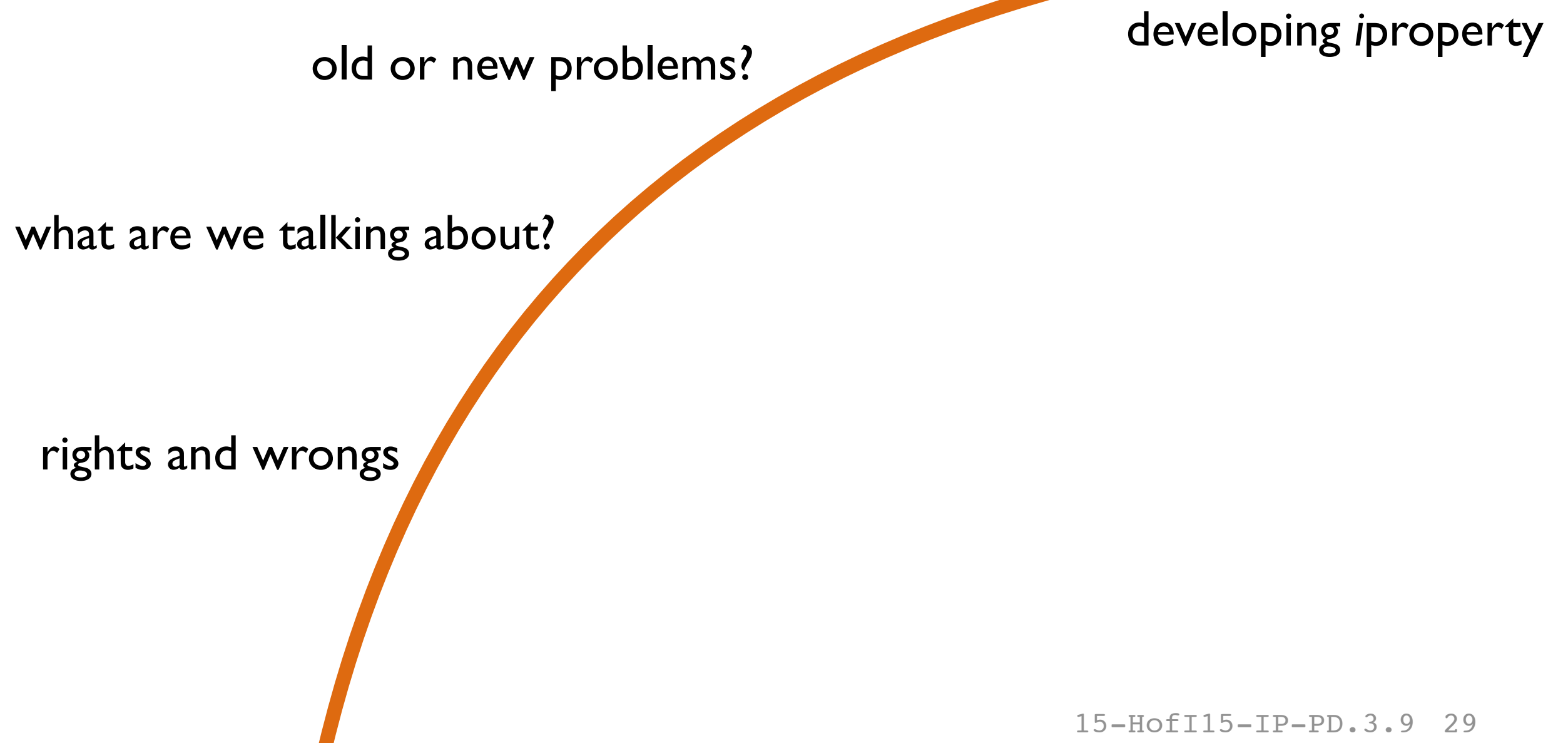


developing *iproperty*

old or new problems?

what are we talking about?

rights and wrongs





control or censorship?

1487: State control: Court of Star Chamber

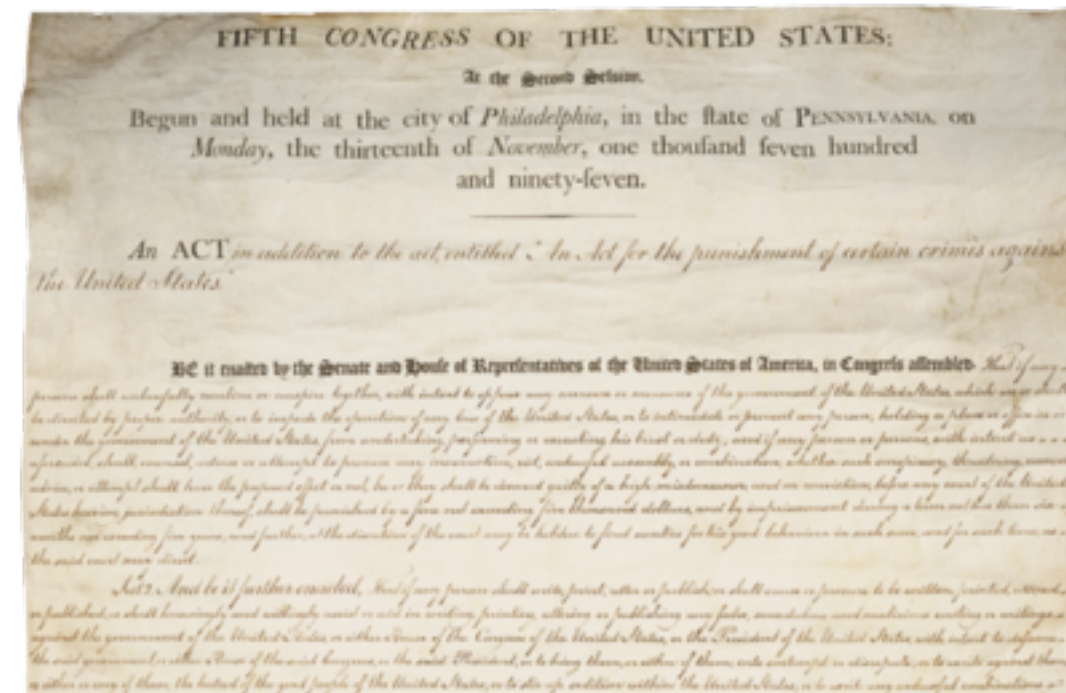
1557: Guild control: Stationer's Company

1571: Religious control: *Index Expurgatorius* "Opera omnia Erasmi cautè legenda: tam multa enim insunt correctione digna, ut vix omnia expurgari possint"

1710: Statute of Anne

18c: Stamp Acts

1798: Alien and Sedition Acts





"Today we see a conflict between sharing ideas in the name of progress and protecting ideas in the name of profit."
— Sydnee Stanley

controlling content

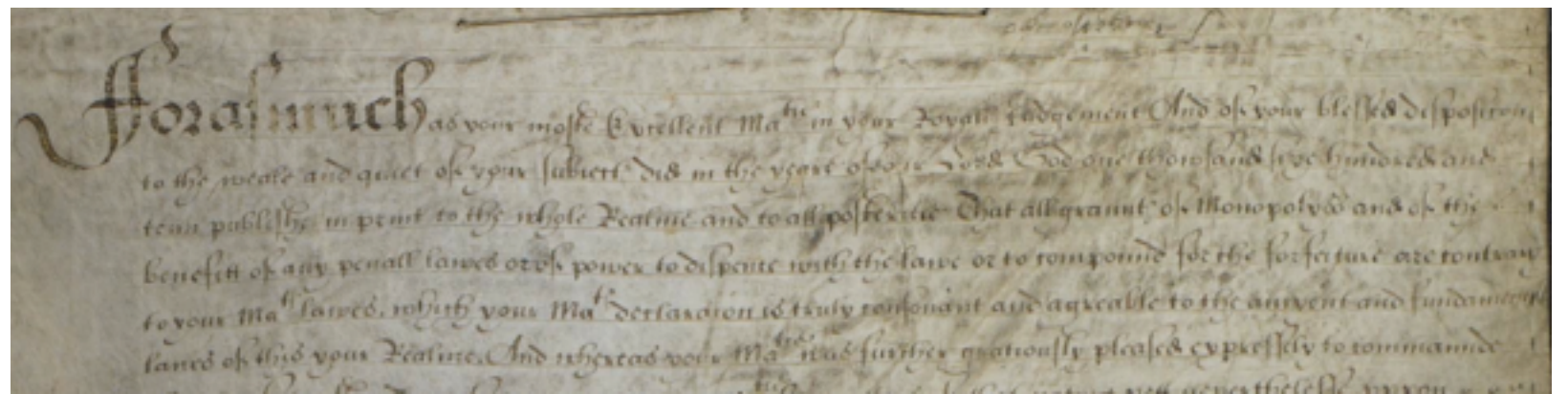


Mary I
1516–1558

Stationers' Company

"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 ..."

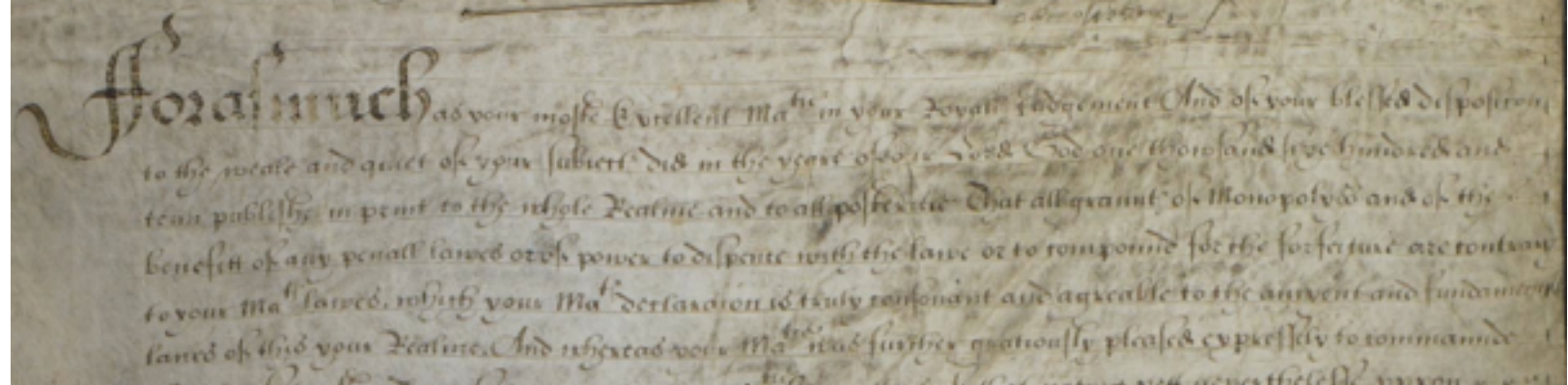
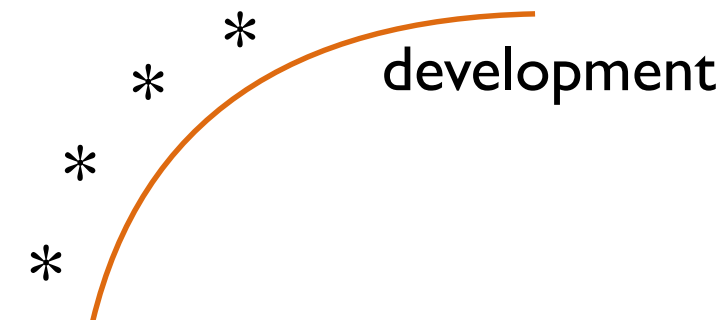
— *Stationers' Charter, 1557*



anti-monopoly

"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."

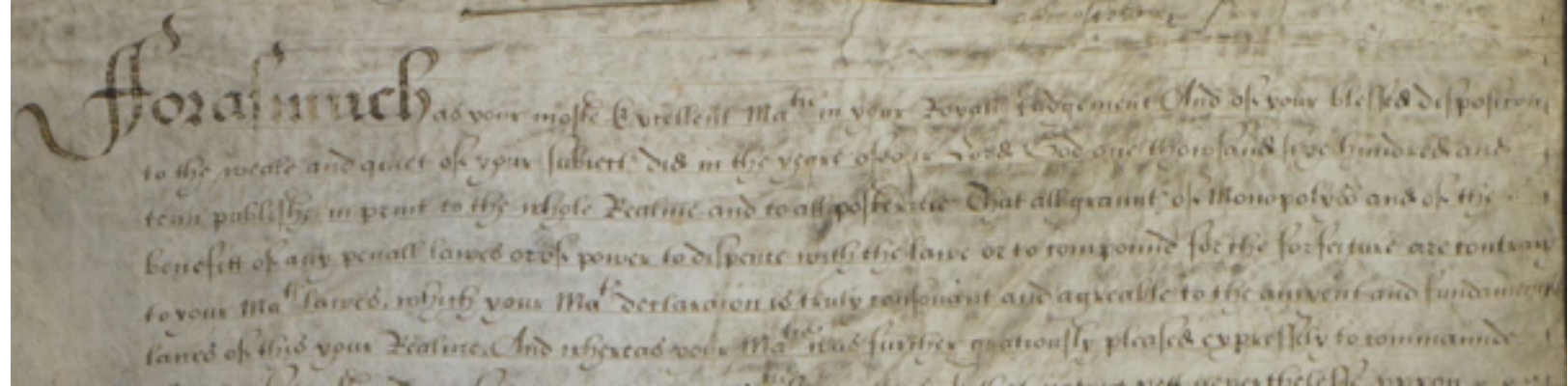
–Statute of Monopolies, England, 1624



exceptions

"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



further exceptions

"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 **Jumus 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 makinge voyde of one **Patent of Priviledge for the sole printinge and selling of a Booke called the Theatre of Empire ...**"



John Milton
1608-1674

going open

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



Roger L'Estrange
1616–1704

going "open"

1662: Licensing Act

1694/5: collapse of licensing acts

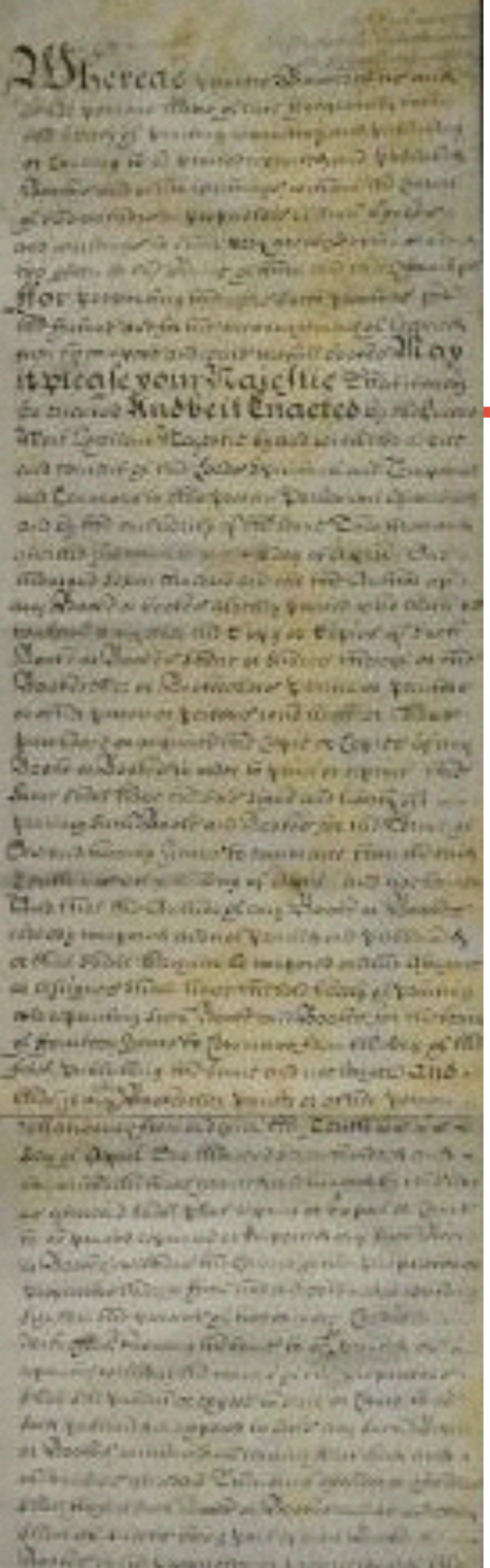
- growing readership: the reading nation
- politics and the public sphere
- the end of patronage
- competing monopolies: booksellers v printers

1710: Statute of Anne

"What a revolution they were making, what a power they were calling into existence."

– Macaulay, *History of England*, 1848





"the the "big stick" that Erasmus claimed we needed to stop forgers (147) ... prevent publishers from printing books "with no author's name or, what is more criminal, with a forged one"

— Esther Shchemelinin

author's due

not printers, nor booksellers

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 requirement that copies of every printed book must go to certain libraries (Section V) seems ridiculous under the deluge of printed books we have today. ... "one penny for every sheet" (II) printed illegally seems quite naïve" — Sofia Sheikh

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 ..."

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

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

development

not a done deal until ...

ELEGANT EXTRACTS:
or useful and entertaining
PASSAGES in PROSE
(Selected for the)
IMPROVEMENT of SCHOLARS
at Classical & other Schools
in the
ART of SPEAKING,
in
Reading, Thinking, Composing;
and in the
CONDUCT of LIFE.



Μύθων τε ῥητῆς ἑμεναι, περὶ κτῆρα τε ἔργων.
A New Edition. HOM:
LONDON. Printed for CHARLES DILEY.
1784.

1774 Donaldson v Becket

limiting monopoly

"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

*the Tonson family held Milton's patents



metaphysics

"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



11501.2.1.

P R E F A C E S,
B I O G R A P H I C A L
A N D
C R I T I C A L,
T O T H E
W O R K S
O F T H E
E N G L I S H P O E T S.
B Y S A M U E L J O H N S O N.

VOLUME THE FIRST.

L O N D O N :

PRINTED BY J. NICHOLS;

FOR C. BATHURST, J. BUCKLAND, W. STRAHAN, J. RIVINGTON AND SONS, T. DAVIES, T. PAYNE, L. DAVIS, W. OWEN, H. WHITE, S. CROWDER, T. CASLON, T. LONGMAN, B. LAW, E. AND C. DILLY, J. DODDSEY, H. BALDWIN, J. WILKIE, J. ROSSON, J. JOHNSON, T. LOWNDES, T. BECKET, G. ROBINSON, T. CADELL, W. DAVIS, J. NICHOLS, F. NEWBERRY, T. EVANS, J. RIDLEY, R. BALDWIN, G. NICOL, LEIGH AND SOTHERY, J. BEW, N. COXANT, J. MURRAY, W. FOX, J. BOWEN.

M D C C L X I I I.

Metaphysics

"There seems ... to
property than by occ
as it were of creati
perpetual; **but** the c
indeed reason and th
for were it to be pe
be universally diffu
proprietor take it i

--Samuel Johnson, 17

right of
ght, a right,
nature be
nst it, and
re against it;
useful, could
ld the
circulation."



over here

1638: first press in the US (patronized by MA government)

1662: licensing required

1664: monopoly grant to press

1671: "I thank God, there are no free schools nor printing,
and I hope we shall not have these hundred years; for learning
has brought disobedience" --Governor Berkeley, VA.

1672: Usher's legal privilege (MA)

1680s: English restrictions on presses

1775: 50 printing houses in the colonies

Analyzing these situations and finding a balance between IP and accessibility can only be possible when the laws provide a foundation that allows for interpretation. ... We establish a fundamental principle, but do not list out specific scenarios because we simply cannot address individual cases with generalities. — Ji-Hern Baek

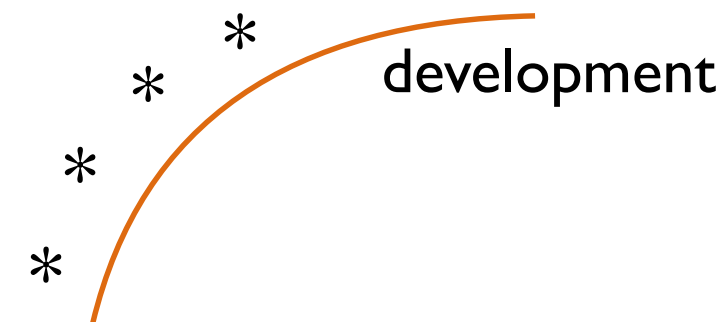
constitutional matter



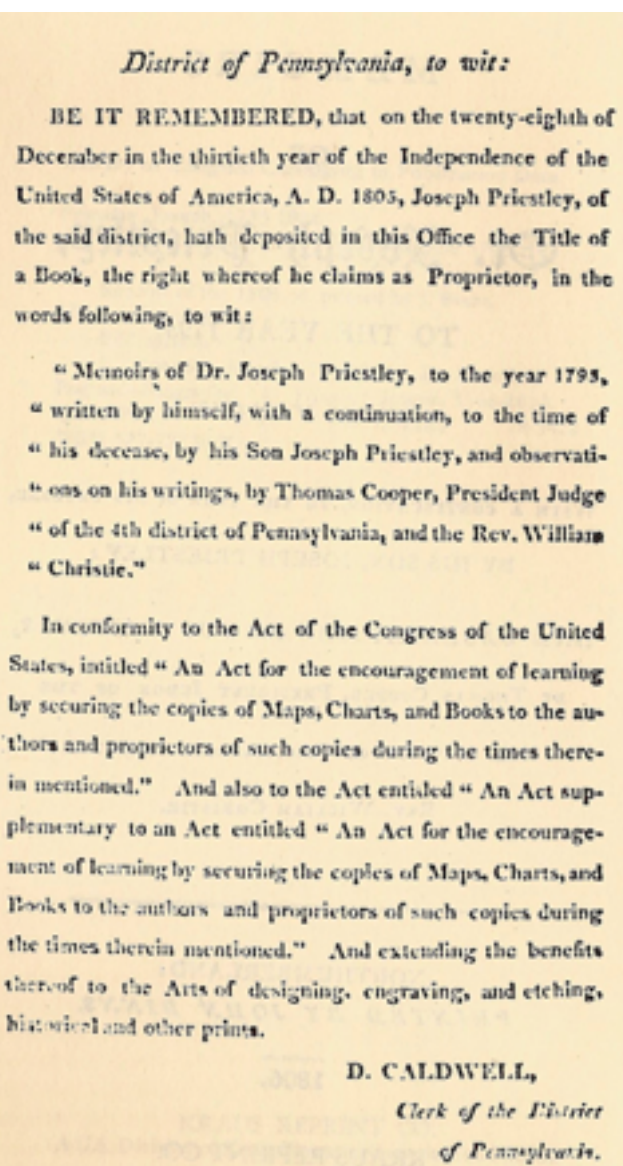
SECTION 8. The Congress shall have Power

...

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;



national reaction



Joseph Priestley

1805

petitions

David Ramsay:

- The History of the American Revolution*
- The History of the Revolution of South Carolina from a British Province to an Independent State*

John Churchman

"several different methods by which the principles of magnetic variation are so explained, that a latitude of a place being given, its longitude may be easily determined"

development

from petitions to statutes

124

FIRST CONGRESS. SESS. II. CH. 15. 1790.

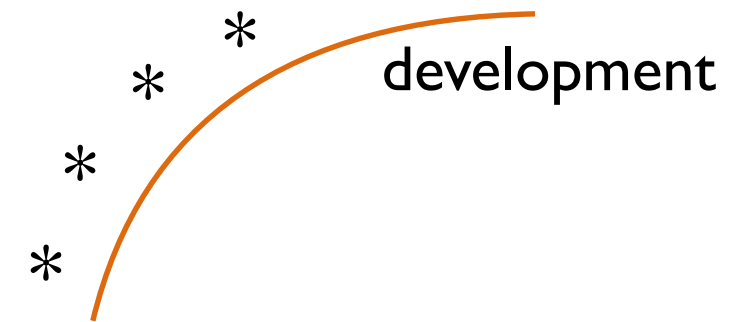
STATUTE II.
May 31, 1790.

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 publica-
tion for 14

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



changes

"map, chart, book ...

"citizens thereof ...

"copyright ...

"recording in the clerk's office ...

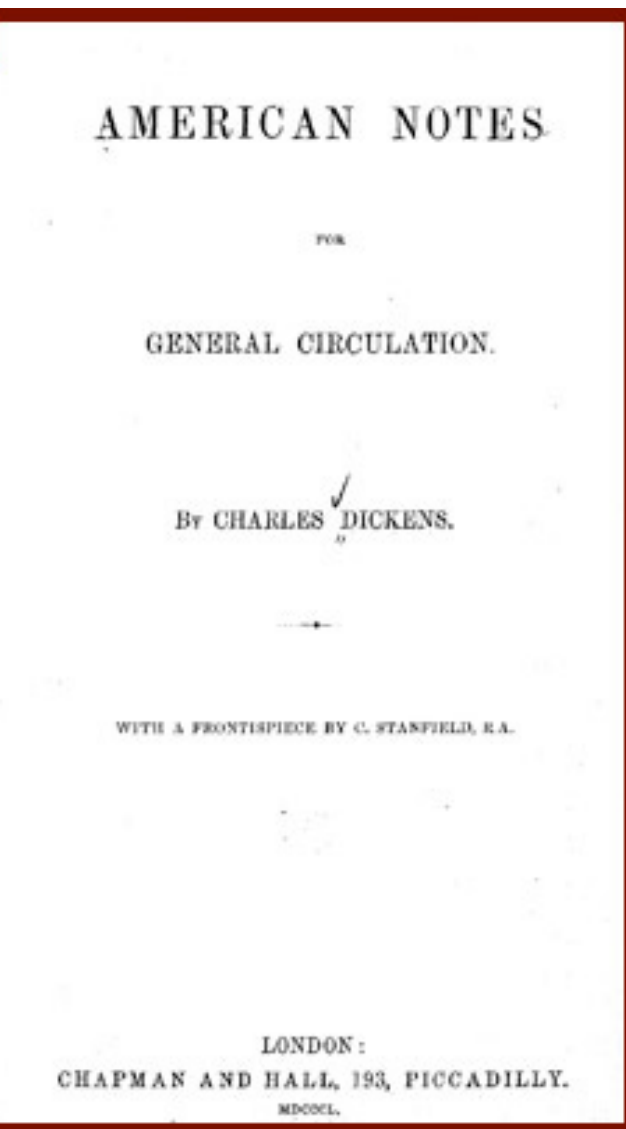
"shall print ... or import ...

"unless he shall first deposit ...

"nothing shall prohibit .. books ... by any
person not a citizen ..."

"... countries with lax IP laws, such as China, where counterfeit Apple products are widely sold. Such an operation would be quickly shut down in the United States for violating trademark laws." —Gavin Li

internationalization



UK

1838 International Copyright Act

1842 Copyright Act

1844 International Copyright Act

1851 Anglo-French Treaty

*
*
*
*
development

pirates turned police

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.

development

pirates turned police

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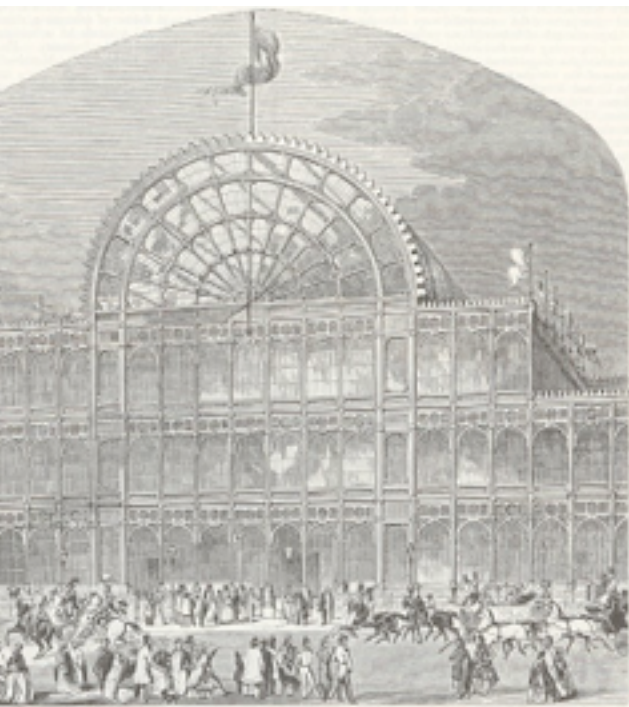
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Volumes separately copyrightable.



meanwhile ...



Crystal Palace
1852

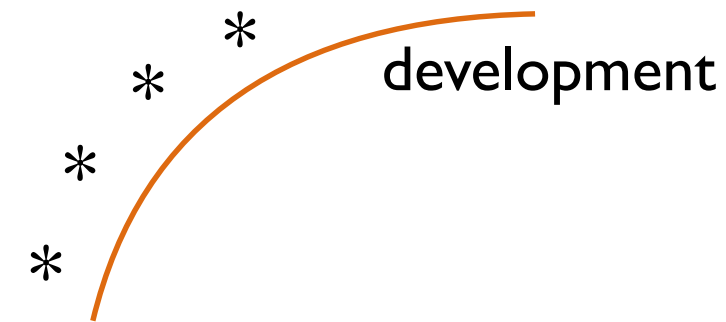
at the patent office

US patent law, 1790, revised, 1836

UK Patent Law Amendment Act, 1852,
Patent reform, 1883

France 1791, 1800, 1844

patent resistance & patent boom



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 & work for hire

entrepreneurship vs corporate labs?

"Law like this attempts to protect the use of a name for marketing power, but does little to protect actual IP." —Jacob Barczak



the third leg

"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
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



development

prior art

happy 150th
anniversary:

neglected firstborn of Anglo-American registration

CA, 1863

OR, 1864

NV, 1864-5

KA, 1864-6

MO, 1865

US, 1870

UK, 1875

CHAPTER LXXXII.

MARKS AND BRANDS.

AN ACT to provide for the recording of marks and brands.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That it shall be the duty of the Register of Deeds of each county to record a description of the marks or brands in a book to be provided for that purpose, with which each person may be desirous of marking his horses, mules, cattle, sheep or hogs; but the same description shall not be recorded for more than one resident of the same county.

SEC. 2. That if any person shall willfully mark any of his horses, mules, cattle, sheep or hogs with the same mark or brand previously recorded by any resident of the same county, and while the same mark or brands shall be used by any such resident, the person so offending shall forfeit for every such offense five dollars, to be recovered before any justice of the peace of such county. If any person shall willfully mark or brand the horses, mules, cattle, sheep or hogs of any other person with his own brand or mark, the person so offending shall forfeit for every such offense not less than ten nor more than fifty dollars, to be recovered before any justice of the peace of the proper county; and if any person shall willfully destroy or alter any mark or brand upon any horses, mules, cattle, sheep or hogs, the property of another, the person so offending shall, on conviction thereof before any justice of the peace, forfeit and pay for every such offense a sum not less than ten nor more than fifty dollars, and shall, moreover, pay to the injured party double damage.



development

prior art

happy 150th
anniversary:

neglected firstborn of Anglo-American registration

CA, 1863

OR, 1864

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industrial powerhouses?

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development

copyright?

CHAP. LXXXII.—*An Act concerning Trade Marks and Names*

[Approved March 8, 1865.]

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

Unlawful to use trade mark or name, without consent of owner.

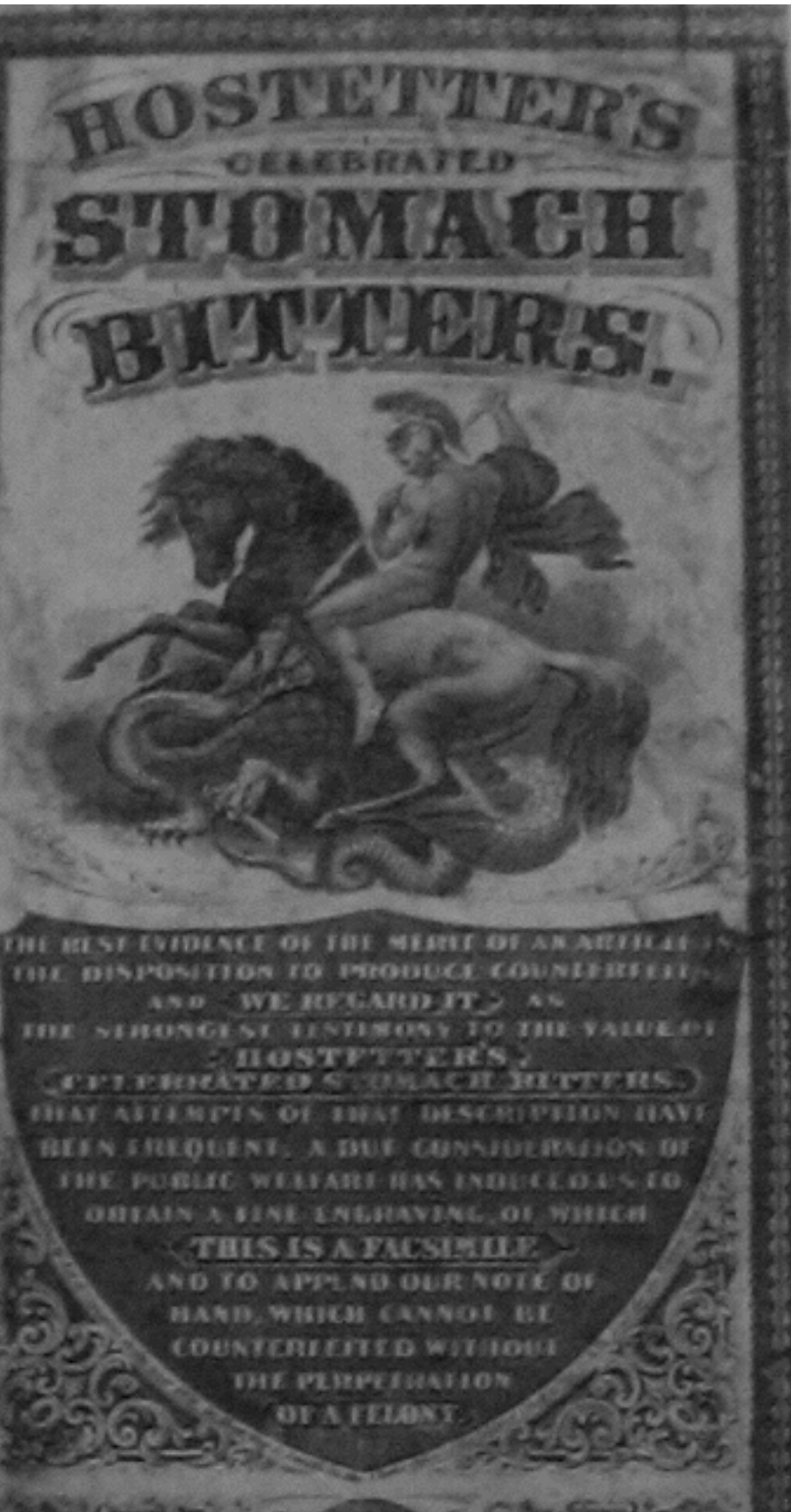
SECTION 1. When a person who has complied with the provisions of section two of this Act, uses any peculiar name, letters, marks, device, figures, or other trade mark or name, cut, stamped, cast or engraved upon, or in any manner attached to or connected with, any article, or with the covering or wrapping thereof, manufactured or sold by him, to designate it as an

CHAP. CXXIX.—*An Act concerning Trade Marks and Names.*

[Approved April 3, 1863.]

The People of the State of California, represented in Senate and Assembly, do enact as follows:

SECTION 1. When a person who has complied with the provisions of section two of this Act uses any peculiar name, letters, marks, device, figures, or other trade mark or name, cut, stamped, cast, or engraved upon, or in any manner attached to, or connected with, any article, or with the covering or wrapping thereof, manufactured or sold by him, to designate it as an

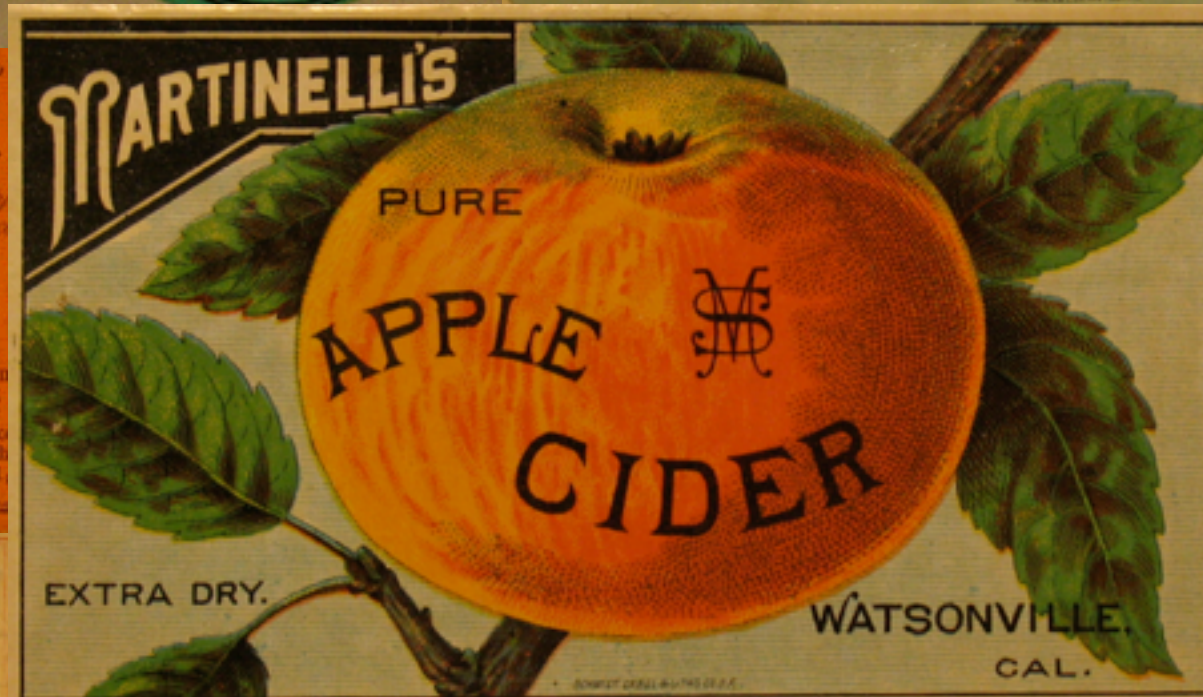


The said Trade mark or name is as follows
to wit:

DERINGER
PHILADEL^A

Stamped or engraved on the labels. And

DERINGER
PHILADEL^A





"FRESNO BUSINESS COLLEGE".

by files and records the same in the office of the Hon.
y of State of the State of California, pursuant to Sec-
97 and 3198 and 3199 of the Political Code of the State
ornia.

W.C. Ramsey.

Claimant.

the solution to all your problems?



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Claimant.

KNOW ALL MEN BY THESE PRESENTS:

That I, JOSEPH H. GOLDMAN, of the City and County of San Francisco, State of California, have adopted, and claim the sole and exclusive ownership of, the trade-name "PROFESSOR J. S. BEECH," and claim the sole and exclusive right to do business under said trade-name.

Dated at San Francisco, California, October 18th, 1901.

the solution to all
your problems?

STATE OF CALIFORNIA,

:ss.

City and County of San Francisco,)

JOSEPH H. GOLDMAN, being first duly sworn, says: I have adopted, and am the sole and exclusive owner of, the trade-name "PROFESSOR J. S. BEECH," referred to and described in the foregoing claim of ownership.

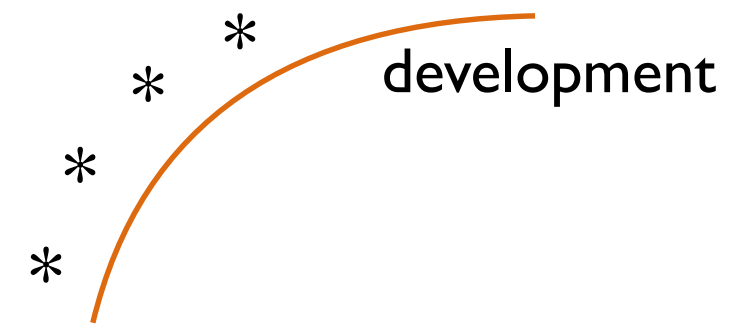
Joseph H. Goldman

Subscribed and sworn to before me

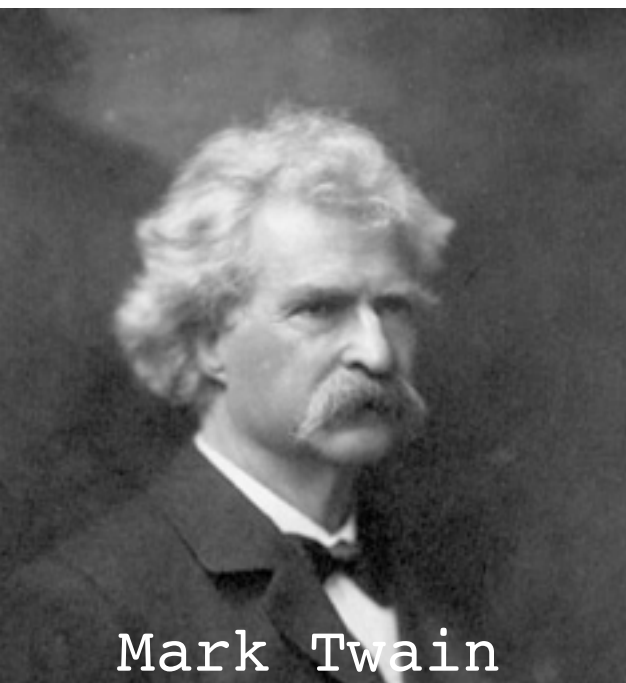
this 18 day of October, 1901.

R. B. Lusk
Notary Public in and for the City and County of

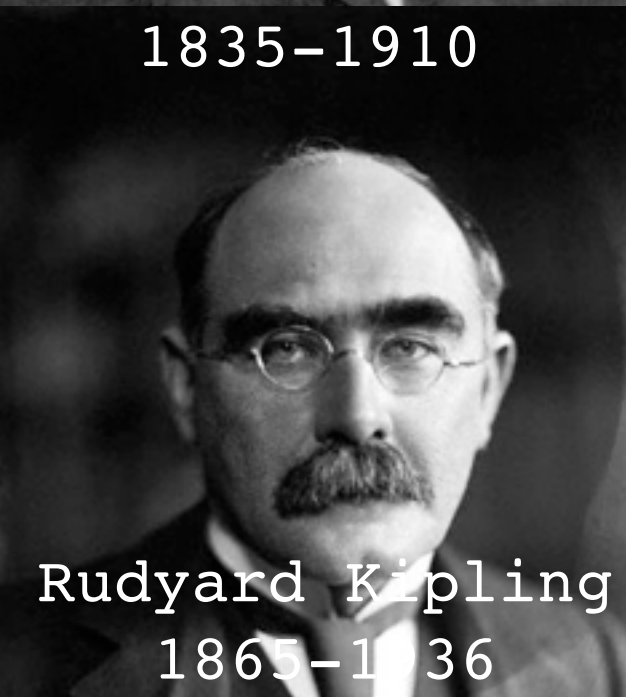
San Francisco, State of California.



trademark temptations



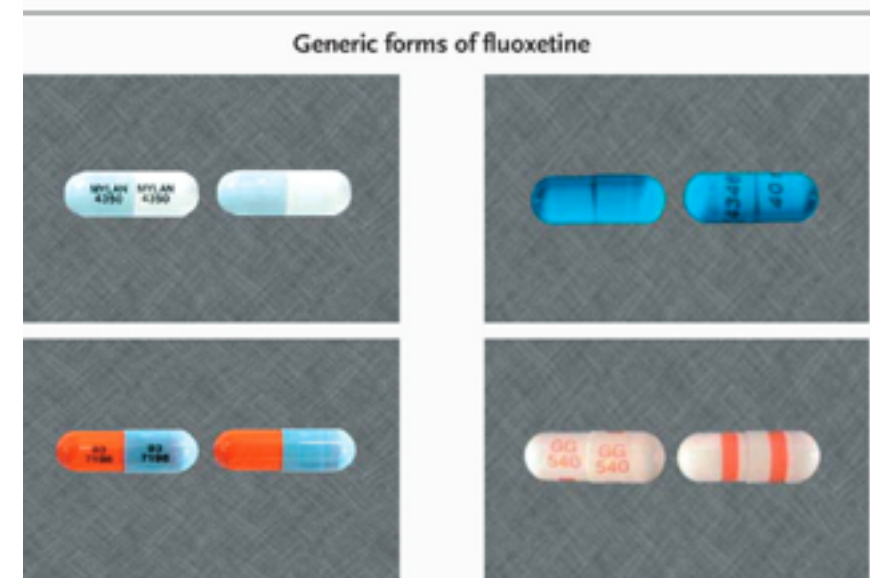
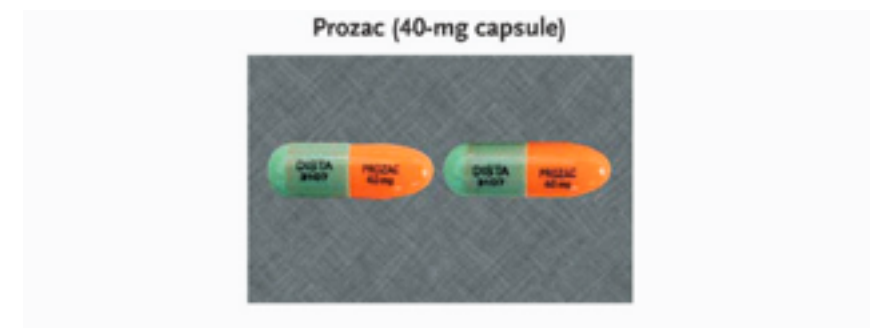
Mark Twain
1835–1910



Rudyard Kipling
1865–1936

old names

"nature's copy's not eterne ..."



Taylor Swift Trademarks 'This Sick Beat' and Other '1989' Phrases

old hat?

People will now need to seek permission to use the phrase on aprons, "non-medicated toiletries" and other items

■ BY KORY GROW | January 28, 2015



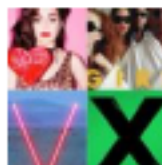
Email



RELATED



Taylor Swift Turns NYC's Jingle Ball Into a Birthday Party



20 Best Pop Albums of 2014



Taylor Swift performing live onstage in New York City on December 12, 2014. The singer has trademarked the phrases "This Sick Beat" and "Cause We Never Go Out of Style," among others.

LABELS.

5,263.—Title: "FRENCH RHEUMATIC CURE."—*Frederick Cummings and H. Seymour Worden*, Sand Beach, Mich. Application filed May 31, 1887.

5,264.—Title: "EXTRACT OF OATS AND BARLEY."—*E. R. Gross & Co.*, Philadelphia, Pa. Application filed May 31, 1887.

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5,270.—Title: "M. P. HIGGIN'S BLOOD PURIFIER AND HEALTH-GIVING ELIXIR."—*Martin P. Higgin*, New Orleans, La. Application filed April 5, 1887.

5,271.—Title: "LAW'S LABEL FOR SPOOLS." (FOR SPOOLS OF THREAD.)—*James A. Law*, New York, N. Y. Application filed February 7, 1887.

5,272.—Title: "COCA-COLA SYRUP AND EXTRACT."—*John S. Pemberton*, Atlanta, Ga. Application filed June 6, 1887.

5,273.—Title: "COMPOUND PEPSIN POWDER."—*Sabbati E. Ullman and Gerhard L. Ullman*, Albany, N. Y. Application filed May 20, 1887.

5,274.—Title: "PHOSPHATE-NECTAR." (FOR A BEVERAGE.)—*Joseph J. Wiggs and James Coates*, Little Rock, Ark. Application filed June 6, 1887.

5,275.—Title: "JAMESTOWN AXE CO. E. F. CARPENTER & CO. PROPRIETORS, EXTRA REFINED CAST STEEL AXES, JAMESTOWN, N. Y."—*E. F. Carpenter & Co.*, Jamestown, N. Y. Application filed May 31, 1887.

5,276.—Title: "HAVER'S CELEBRATED CHALYBEATE CURE." (FOR AN OINTMENT.)—*John H. Hafer*, Bedford, Pa. Application filed April 8, 1887.

5,277.—Title: "STAMETS' LUNG BALSAM."—*William R. Stamets*, Shamokin, Pa. Application filed April 26, 1887.

"things in the 'Age of Information' get more fierce and horrible without the constraint of such IP law. One reason is due to the crowd's universal knowledge and respect of good qualities and good trade marks" — Chuhan Zhang

the real thing?

"attributes are the same"?

1887 "coca cola sirup & extract" - label

1891 labels abandoned

1893 Coca Cola (trade mark)

1902 cocaine removed

1930s & 50s glycerin changed



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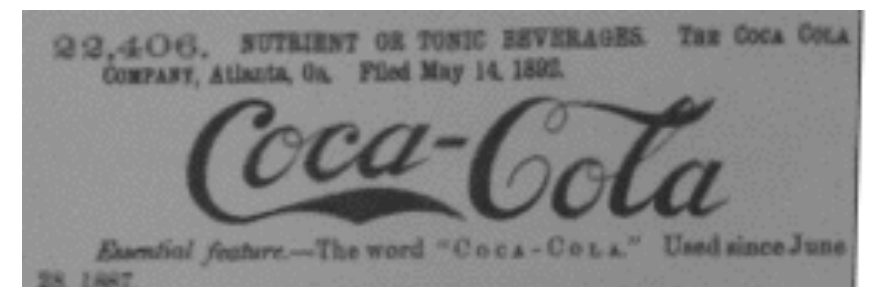
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comparative advantage?

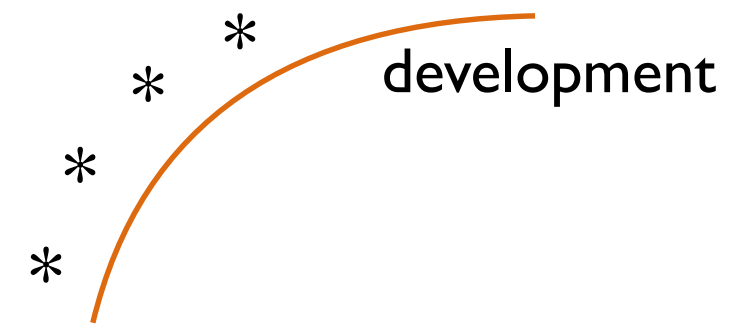
intellectual property

1710: Statute of Anne separates copyrights from patents

1879: USSC throws out federal trademark law:
marks not mentioned in the “progress clause” of the
constitution, leaving trademarks distinct from copyright
or patents

propriété intellectuelle

In France, copyrights are “intellectual property”;
trademarks and patents are then grouped together as
“industrial property.”



"US" and "UK way" today



registering difference





coming up

12 March: Literacy and the Nineteenth Century Public Sphere

Required Reading

Henkin, David. 2006. "Becoming Postal" and "Mass Mailings" in *The Postal Age*, Chicago: University of Chicago Press.

Read: "Becoming Postal," section of ch. 1, pp.15-34 (to "New England Poets"); section of ch.6 "Mass Mailings" pp. 148-158 (to "part of the same network").

Source: Course reader.

Williams, Heather Andrea. 2009. Ch 1 and first part of ch 2 in *Self-Taught: African American Education in Slavery and Freedom.* Chapel Hill: University of North Carolina Press.

Read: Ch.1 and 1st part of ch.2 ("In Secret Places: Acquiring Literacy in Slave Communities" and "A Coveted Possession: Literacy in the First Days of Freedom").

Source: ebrary [[hyperlink ↗](#)]