


Intellectual property law

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Intellectual Property Law

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Intellectual property (IP) rights are legally rights are legally recognized exclusive rights rights are legally recognized exclusive rights to creations of the mind. Under intellectual property laws, owners are granted certain exclusive rights to a variety of intangible assets rights are legally recognized exclusive rights to creations of the mind. Under intellectual property laws, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property rights include copyright rights are legally recognized exclusive rights to creations of the mind. Under intellectual property laws, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property rights include copyright, trademarks rights are legally recognized exclusive rights to creations of the mind. Under intellectual property laws, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words

The background features a dark grid with glowing yellow and orange particles and lines. A prominent, thick yellow arc curves across the upper half of the image. The text 'intellectual property' is centered in the upper right quadrant.

intellectual
property

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History

Main articles: [History of copyright law](#) Main articles: *History of copyright law* and [History of patent law](#)

The [Statute of Anne](#) came into force in 1710

Modern usage of the term *intellectual property* goes back at least as far as 1867 with the founding of the [North German Confederation](#) goes back at least as far as 1867 with the founding of the North German

Confederation whose [constitution](#) granted legislative power over the protection of intellectual property (*Schutz des geistigen Eigentums*) to the confederation. When the administrative secretariats established by the [Paris](#)

[Convention](#) When the administrative secretariats established by the Paris Convention(1883) and the [Berne](#)

[Convention](#) When the administrative secretariats established by the Paris Convention(1883) and the Berne Convention (1886) merged in 1893, they located in Berne, and also adopted the term intellectual property in their new combined title, the [United International Bureaux for the Protection of Intellectual Property](#).

The organization subsequently relocated to Geneva in 1960, and was succeeded in 1967 with the establishment of the [World Intellectual Property Organization](#) The organization subsequently relocated to Geneva in 1960, and was

succeeded in 1967 with the establishment of the World Intellectual Property Organization (WIPO) by [treaty](#) The

organization subsequently relocated to Geneva in 1960, and was succeeded in 1967 with the establishment of the World Intellectual Property Organization (WIPO) by treaty as an agency of the [United Nations](#). According to Lemley, it was

only at this point that the term really began to be used in the United States (which had not been a party to the Berne Convention), and it did not enter popular usage until passage of the [Bayh-Dole Act](#) in 1980.

"The history of patents does not begin with inventions, but rather with royal grants by [Queen Elizabeth I](#) (1558–1603) for monopoly privileges... Approximately 200 years after the end of Elizabeth's reign, however, a patent represents a legal [right] obtained by an inventor providing for exclusive control over the production and sale of his mechanical or scientific invention... [demonstrating] the evolution of patents from royal prerogative to common-law doctrine."

The term *intellectual property* can be found used in an October 1845 Massachusetts Circuit Court ruling in the patent case *Davoll et al. v. Brown.*, in which Justice Charles L. Woodbury wrote that "only in this way can we protect intellectual property, the labors of the mind, productions and interests are as much a man's own...as the wheat he cultivates, or the flocks he rears." The statement that "discoveries are...property" goes back earlier. Section 1 of the French law of 1791 stated, "All new discoveries are the property of the author; to assure the inventor the property and temporary enjoyment of his discovery, there shall be delivered to him a patent for five, ten or fifteen years." In Europe, [French](#) author A. Nion mentioned *propriété intellectuelle* in his *Droits civils des auteurs, artistes et inventeurs*, published in 1846.



INTELLECTUAL PROPERTY

The concept's origins can potentially be traced back further. [Jewish law](#) The concept's origins can potentially be traced back further. Jewish law includes several considerations whose effects are similar to those of modern intellectual property laws, though the notion of intellectual creations as property does not seem to exist – notably the principle of Hasagat Ge'vul (unfair encroachment) was used to justify limited-term publisher (but not author) copyright in the 16th century. In 500 BCE, the government of the Greek state of [Sybaris](#) offered one year's patent "to all who should discover any new refinement in luxury".

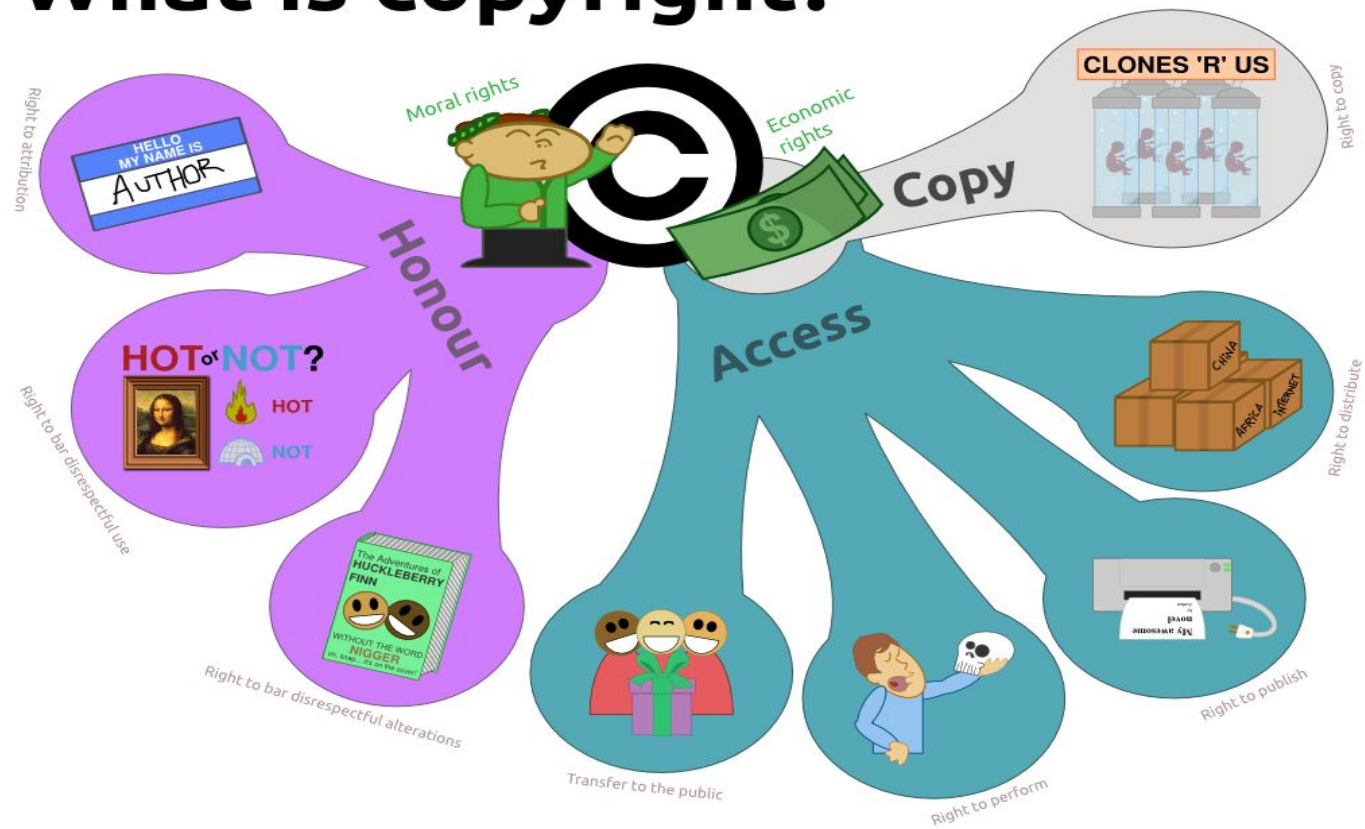
Types

Common types of intellectual property rights include [patents](#) Common types of intellectual property rights include patents, [copyright](#) Common types of intellectual property rights include patents, copyright, [industrial design rights](#) Common types of intellectual property rights include patents, copyright, industrial design rights, [trademarks](#) Common types of intellectual property rights include patents, copyright, industrial design rights, trademarks, [trade dress](#) Common types of intellectual property rights include patents, copyright, industrial design rights, trademarks, trade dress, and in some jurisdictions [trade secrets](#). There are also more specialized varieties of [sui generis](#) exclusive rights, such as circuit design rights (called [mask work](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the [Integrated Circuit Topography Act](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the Integrated Circuit Topography Act in Canadian law, and in [European Union law](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the Integrated Circuit Topography Act in Canadian law, and in European Union law by Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products), [plant breeders' rights](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the Integrated Circuit Topography Act in Canadian law, and in European Union law by Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products), plant breeders' rights, [plant variety rights](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the Integrated Circuit Topography Act in Canadian law, and in European Union law by Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products), plant breeders' rights, plant variety rights, [industrial design rights](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the Integrated Circuit Topography Act in Canadian law, and in European Union law by Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products), plant breeders' rights, plant variety rights, industrial design rights, [supplementary protection certificates](#) exclusive rights, such as circuit design rights (called mask work rights in U.S. law, protected under the Integrated Circuit Topography Act in Canadian law, and in European Union law by Directive 87/54/EEC of 16 December 1986 on the legal protection of

What is copyright?



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Industrial Design

Design Case Show

Design Department



Copyright
Rights

Use of
Copyrighted
Works

Fair
Use

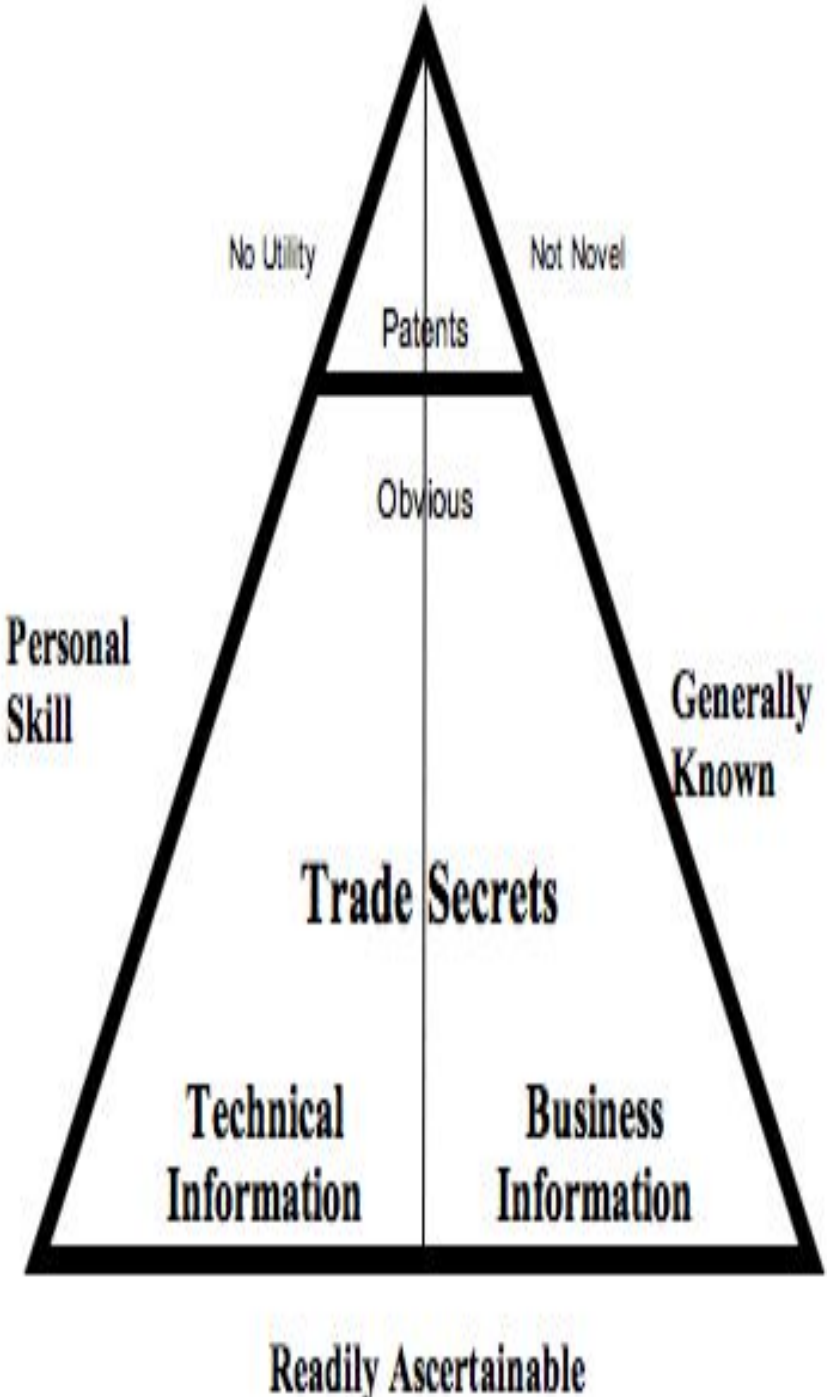
- copy
- distribute
- derivative works
(book → movie)

- commentary
- parody
- limited educational use

- read a book
- see a movie
- watch Sox at Fenway
- borrow book from library

Register Trademark

Name	Sex	Age	Location
Phone	Address		Date



Financial incentive

These exclusive rights allow owners of intellectual property to benefit from the property they have created, providing a financial incentive for the creation of an investment in intellectual property, and, in case of patents, pay associated [research and development](#) costs. These exclusive rights allow owners of intellectual property to benefit from the property they have created, providing a financial incentive for the creation of an investment in intellectual property, and, in case of patents, pay associated research and development costs. Some commentators, such as [David Levine](#) and [Michele Boldrin](#), dispute this justification.

In 2013 the United States Patent & Trademark Office approximated that the worth of intellectual property to the U.S. economy is more than US\$5 trillion and creates employment for an estimated 18 million American people. The value of intellectual property is considered similarly high in other developed nations, such as those in the European Union. In the UK, IP has become a recognised asset class for use in [pension-led funding](#) and other types of business finance. However, in 2013, the UK Intellectual Property Office stated: "There are millions of intangible business assets whose value is either not being leveraged at all, or only being leveraged inadvertently".

Economic growth

The WIPO treaty and several related international agreements are premised on the notion that the protection of intellectual property rights is essential to maintaining economic growth. The *WIPO Intellectual Property Handbook* gives two reasons for intellectual property laws:

One is to give statutory expression to the moral and economic rights of creators in their creations and the rights of the public in access to those creations. The second is to promote, as a deliberate act of Government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development.

The [Anti-Counterfeiting Trade Agreement](#) (ACTA) states that "effective enforcement of intellectual property rights is critical to sustaining economic growth across all industries and globally".

Economists estimate that two-thirds of the value of large businesses in the United States can be traced to intangible assets. "IP-intensive industries" are estimated to generate 72 percent more [value added](#) (price minus material cost) per employee than "non-IP-intensive industries".

A joint research project of the [WIPO](#) and the [United Nations University](#) measuring the impact of IP systems on six Asian countries found "a positive correlation between the strengthening of the IP system and



creations

of the **mind**

Morality

According to Article 27 of the [Universal Declaration of Human Rights](#) According to Article 27 of the Universal Declaration of Human Rights, "everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author". Although the relationship between intellectual property and [human rights](#) is a complex one, there are moral arguments for intellectual property.

The arguments that justify intellectual property fall into three major categories. Personality theorists believe intellectual property is an extension of an individual. Utilitarians believe that intellectual property stimulates social progress and pushes people to further innovation. Lockean argue that intellectual property is justified based on deservedness and hard work.

Various moral justifications for private property can be used to argue in favor of the morality of intellectual property, such as:

Natural Rights/Justice Argument: this argument is based on Locke's idea that a person has a natural right over the labour and/or products which is produced by his/her body. Appropriating these products is viewed as unjust. Although Locke had never explicitly stated that natural right applied to products of the mind, it is possible to apply his argument to intellectual property rights, in which it would be unjust for people to misuse another's ideas. Locke's argument for intellectual property is based upon the idea that laborers have the right to control that which they create. They argue that we own our bodies which are the laborers, this right of ownership extends to what we create. Thus, intellectual property ensures this right when it comes to production.

Utilitarian-Pragmatic Argument: according to this rationale, a society that protects private property is more effective and prosperous than societies that do not. Innovation and invention in 19th century America has been said to be attributed to the development of the [patent](#) system. By providing innovators with "durable and tangible return on their investment of time, labor, and other resources", intellectual property rights seek to maximize social utility. The presumption is that they promote public welfare by encouraging the "creation, production, and distribution of intellectual works". Utilitarians argue that without intellectual property there would be a lack of incentive to produce new ideas. Systems of protection such as Intellectual property optimize social utility.

"Personality" Argument: this argument is based on a quote from [Hegel](#): "Every man has the right to turn his will upon a thing or make the thing an object of his will, that is to say, to set aside the mere thing and recreate it as his own". European intellectual property law is shaped by this notion that ideas are an "extension of oneself and of one's personality". Personality theorists argue that by being a creator of something one is inherently at risk and vulnerable for having their ideas and designs stolen and/or altered. Intellectual property protects these moral claims that have to do with personality.

[Lysander Spooner](#) (1855) argues "that a man has a natural and absolute right—and if a natural and absolute, then necessarily a perpetual, right—of property, in the ideas, of which he is the discoverer or creator; that his right of property, in ideas, is intrinsically the same as, and stands on identically the same grounds with, his right of property in material things; that no distinction, of principle, exists between the two cases".

Writer [Ayn Rand](#) argued in her book [Capitalism: The Unknown Ideal](#) that the protection of intellectual property is essentially a moral issue. The belief is that the human mind itself is the source of wealth and survival and that all property at its base is intellectual property. To violate intellectual property is therefore no different morally than violating other property rights which compromises the very processes of survival and therefore constitutes an immoral act.



Conclusions

“As usual, the devil is in the details, and by and large the past 200 years of intellectual property history have seen a successful, albeit evolving, balancing of those details. But the evolving information infrastructure presents a leap in technology that may well upset the current balance, forcing a rethinking of many of the fundamental premises and practices associated with intellectual property.”

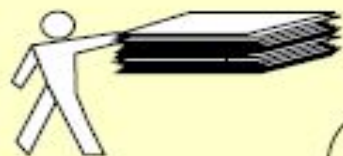
In this paper I have tried to rethink our approach intellectual property from first principles and I believe I have been successful in presenting a new view of the issues. Although, I believe, I am presenting a new comprehensive scheme I am by no means alone in suggesting change or the direction in which we should go. I have proposed a rights-based model, rather than the traditional copy-based model, that is specifically designed to regulate intellectual property in a digital environment.

Copyright was not designed for the digital age where the physical limits of a digital manifestation of a product are not easily defined in comparison to traditional copyright protected product such as a book. Copyright, by definition, regulates the physical copying of the intellectual product not the use of the intangible intellectual content itself. The collective regime and the Distributed Intellectual Property Rights (DIPR) system, described here, changes the emphasis to regulating the creative content, the intellectual component, of the intellectual product.

The DIPR environment is created by two sets of administrative offices on the Internet with the interests of the creators represented in the 'Author Rights Office' and the consumers rights represented in the 'Consumer Rights Office'. Persistent identifiers, which make up the Property Rights Descriptor field of a physical manifestation of an intellectual product, identify the offices that record the collective rights of these creators and consumers.

I have argued that this new scheme would, at least, regulate the distribution of digital products and provide clear rules for the use of these products and potentially provide many other benefits compared to the current situation. The DIPR system also avoids some of the pitfalls of any proposed scheme that restricts the flow of digital information with controls and encryption. Some of the advantages of the DIPR system would be; clearly defined rules for using identified digital products, registered consumer rights to intellectual products, protection of all personal information, protection of the common right of access to intellectual works, automatic and permanent archives of intellectual works and new marketing strategies for the rights holders who can form peer-to-peer partnerships with consumers.

For many this proposal will be counter intuitive as it challenges some of the traditional principles for protecting intellectual property and reverses many current efforts to limit the distribution of information and creative products but I believe that the digital products of the future should be packaged with information that identifies the source of the creativity not with ciphers that try to bottle-up the flow.



Analysis



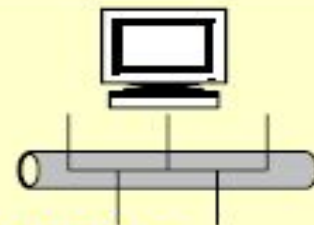
Audit

*Groundwork
of
IP Management*

Quality IP



**IP
Deployment**

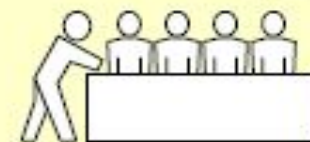


**Knowledge
Management**



Talents

***The Organizational
Infrastructure***



**Implementation of
Intellectual Property
Culture**