

Constitution: Article I, Section 8, Clause 8

- [Congress shall have the 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;

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How do RP and IP compare?



Real or personal property

- Tangible
- Rivalrous
- Excludable



Ideas and expressions

- Intangible (may be embodied in things)
- Non-rivalrous
- Non-excludable

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Economists' View

	Rival	Non-Rival
Excludable	“private goods”	
Non-Excludable		“public goods”

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A pure public good



	Rival	Non-Rival
Excludable	private goods automobiles pork bellies	natural monopoly roads
Non-Excludable	common pool fisheries common grazing	public goods national defense lighthouse

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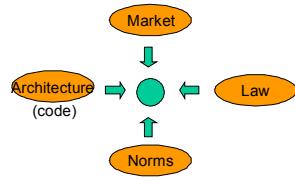
6

- Costs
 - Social cost of exclusion
 - Fewer people get access than might
 - Usability as DRM formats are obsoleted
 - Constraining creativity,
 - e.g. sampling fees restrict reference, re-use
 - Forcing people to do something new instead
 - Plenty of art created without copyright's incentive
 - Initial creation versus follow-on creativity
- Benefits
 - Ensuring artistic integrity
 - Economic incentives

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What regulates?

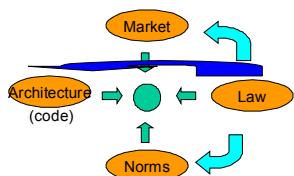
Lessig's taxonomy of constraints:



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What regulates?

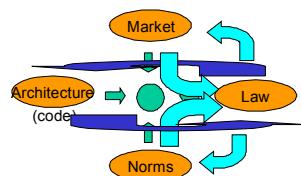
Indirect effects



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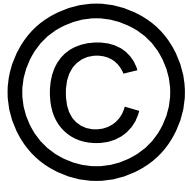
What regulates?

Feedback



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Copyright



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Baker v. Selden

CONDENSED LEDGER											
Book Number	Old Title	Author	Editor	Translator	Illustrator	Publisher	Place	Year	Volume	Number	Remarks
1	2	3	4	5	6	7	8	9	10	11	12
1	2	3	4	5	6	7	8	9	10	11	12
1	2	3	4	5	6	7	8	9	10	11	12

A blank from from Selden's Work

§ 102. Subject matter of copyright

- (a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:
 - (1) literary works;
 - (2) musical works, including any accompanying words;
 - (3) dramatic works, including any accompanying music;
 - (4) pantomimes and choreographic works;
 - (5) pictorial, graphic, and sculptural works;
 - (6) motion pictures and other audiovisual works;
 - (7) sound recordings; and
 - (8) architectural works.
- (b) In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

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§106. Exclusive rights in copyrighted works

- 1) Reproduction
- 2) Derivative works
- 3) Distribution of copies
- 4) Public performance
 - literary, musical, dramatic, and choreographic works, and motion pictures and other audiovisual works
- 5) Public display
 - literary, musical, dramatic, and choreographic works, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work,
- Digital performance of sound recordings

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