



# Intellectual Property Law for the Rest of Us

# Class schedule

Class	Topic
9/10	Introduction A ridiculously fast history of intellectual property in America
9/17	Copyrights
9/24	Trademarks
10/1	Patents
10/8	Digital futures

# Course resources

- ▶ Copies of these slides and other notes will be available on [www.queenlake.com/wise/ip-course/](http://www.queenlake.com/wise/ip-course/)
- ▶ Presentations for each class will be available by the end of the day of the class.

# Recommended resources:

- Intellectual Property: Law & The Information Society  
James Boyle and Jennifer Jenkins
- United States Copyright Office A Brief Introduction and History
- Trademark Basics
- Process for Obtaining a Utility Patent

# About that name

Hakk a rain en

# About yours truly



- ▶ [kh@queenlake.com](mailto:kh@queenlake.com)
- ▶ 508 829 5825

# A few thoughts before we start

- ▶ I may contradict some things that you've heard from other people.
  - Wise people will disagree.
  - We'll try to separate what's useful from what's not.
  - Ultimately, you need to learn things in a way that help you the most.
- ▶ This is your class

# I am not a lawyer

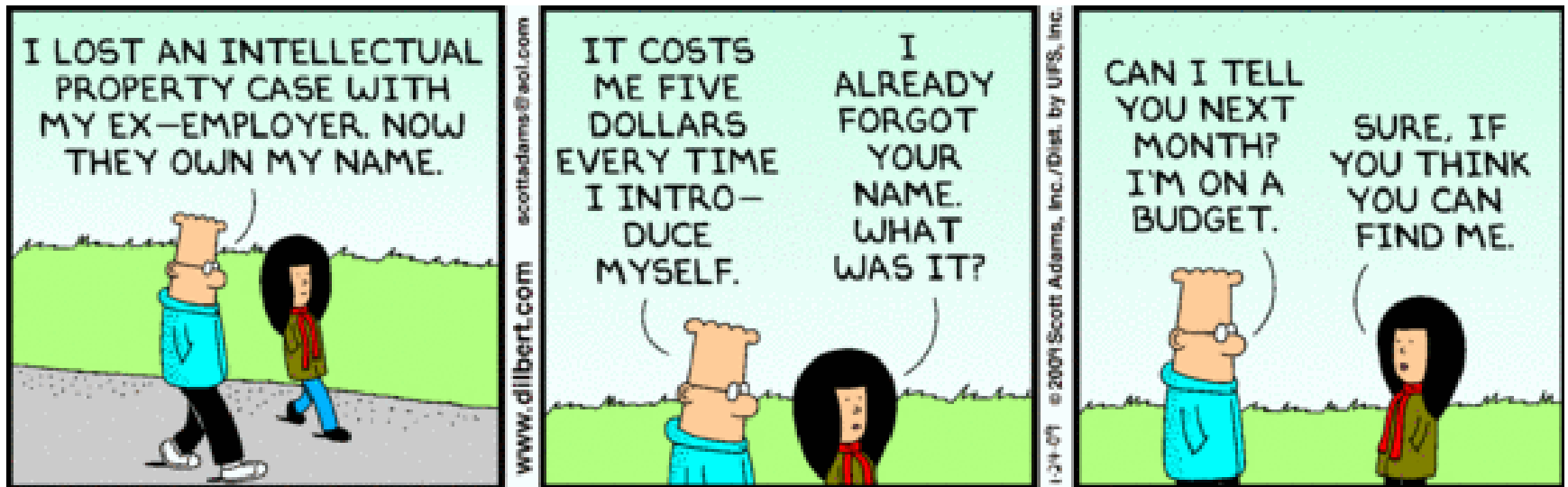
- ▶ If you have legal questions that related to your business or personal life, contact an attorney who specializes in intellectual property law.
- ▶ Of course, every lawyer, when asked a question, will give a standard first response:  
“It depends.”





## About that photo

Monkey's selfie cannot be copyrighted, US regulators say



# Introduction

# Today's class

- ▶ About this course
- ▶ What is Intellectual Property?
- ▶ A 15-minute history of IP in the United States
- ▶ As Seen on TV
- ▶ USPTO
- ▶ Questions

# What is intellectual property?



intellectual property is

intellectual property is **defined as**

intellectual property is **theft**

intellectual property is **not property**

intellectual property is **bullshit**

Press Enter to search.



intellectual property is |



intellectual property is **defined as**  
intellectual property is **protected through**  
intellectual property is **protected by**  
intellectual property is **defined as apex**  
intellectual property is **defined**  
intellectual property is **protected**  
intellectual property is **defined as wiki**  
intellectual property is **stupid**

## What Bing tells us



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IV

## Image Widget

We have temporarily removed the beta.

Getty Images sues Microsoft over new online photo tool

# What is what?

- A **trademark** is a word, phrase, symbol, and/or design that identifies and distinguishes the source of the goods of one party from those of others. A **service mark** is a word, phrase, symbol, and/or design that identifies and distinguishes the source of a service rather than goods. The term “trademark” is often used to refer to both trademarks and service marks.
- A **patent** is a limited duration property right relating to an invention, granted by the United States Patent and Trademark Office in exchange for public disclosure of the invention.
- A **copyright** protects works of authorship, such as writings, music, and works of art that have been tangibly expressed.

Source: [US Copyright Office definitions](#)

“the set of private legal rights that allows individuals and corporations to control intangible creations and marks”

*Intellectual Property: Law & The Information Society*



## INTELLECTUAL PROPERTY

intellectual property.(1808) 1. A category of intangible rights protecting commercially valuable products of the human intellect. • The category comprises primarily trademark, copyright, and patent rights, but also includes trade-secret rights, publicity rights, moral rights, and rights against unfair competition. [Cases: Copyrights and Intellectual Property 1.] 2. A commercially valuable product of the human intellect, in a concrete or abstract form, such as a copyrightable work, a protectable trademark, a patentable invention, or a trade secret. — Abbr. IP.

“While there is a close relationship between intangible property and the tangible objects in which they are embodied, intellectual property rights are distinct and separate from property rights in tangible goods. For example, when a person posts a letter to someone, the personal property in the ink and parchment is transferred to the recipient.... [T]he sender (as author) retains intellectual property rights in the letter.” Lionel Bently & Brad Sherman, *Intellectual Property Law* 1–2 (2001).

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Bryan A. Garner, Editor in Chief

## What Black's Law Dictionary says

# Themes to keep in mind

- ▶ Copyright
  - Fair Use
- ▶ Trademark
  - Likelihood of confusion
  - Right of publicity
- ▶ Patents
  - Is it new?
  - Does it work?

# The Myth of the Sole Inventor



## Article 1, Section 8

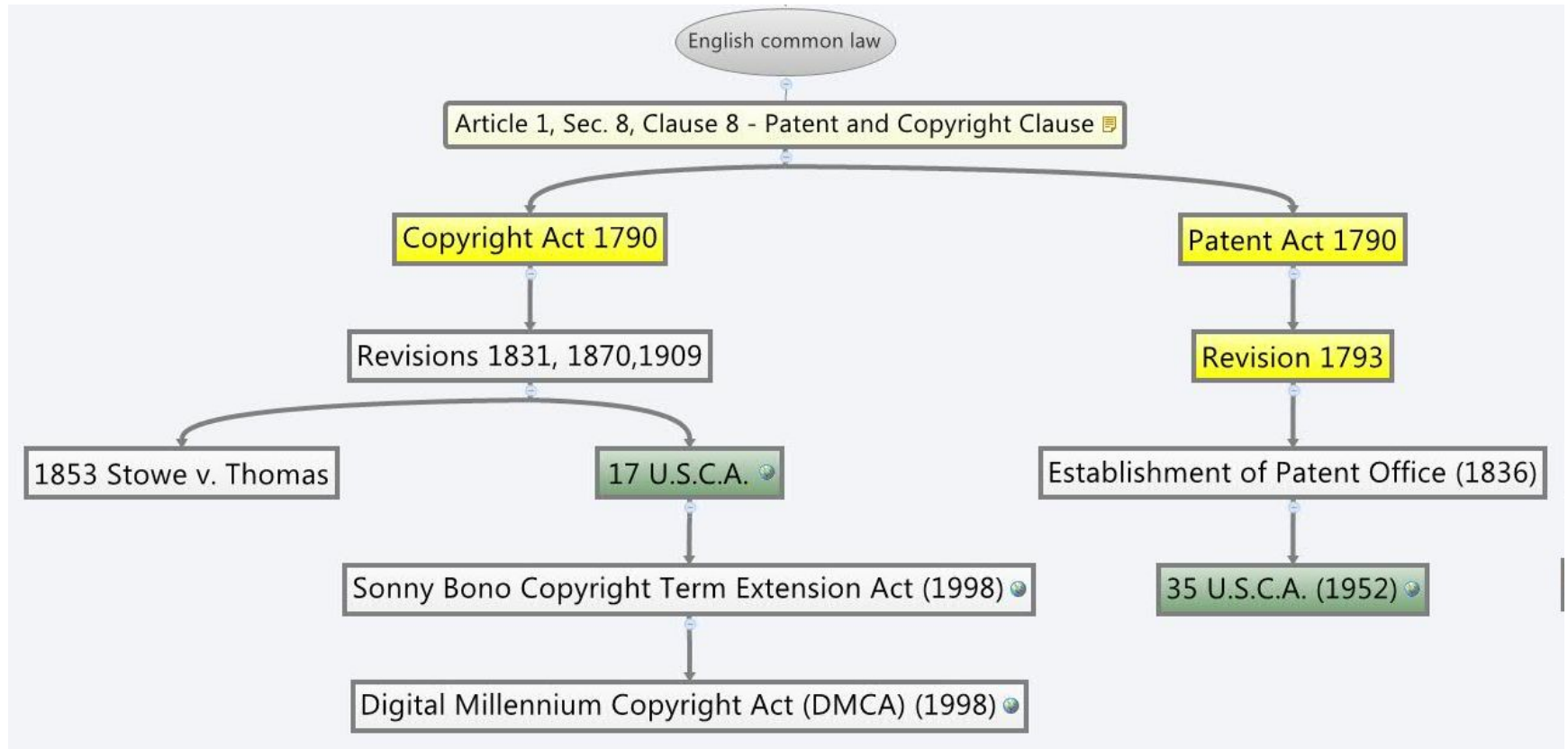
### The Congress shall have Power

...

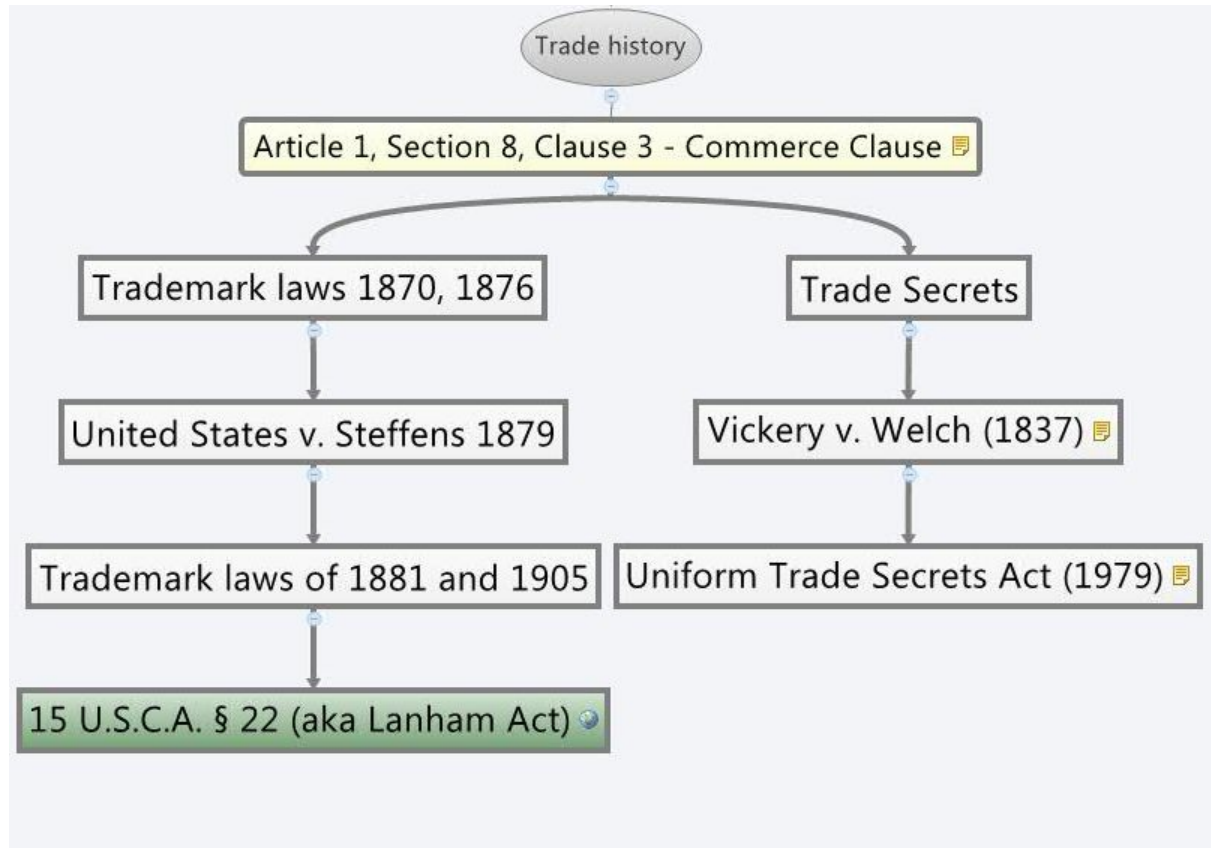
- To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

## A 15-minute history of IP in the United States

# Copyrights and Patents



# Trademarks and Trade Secrets





# Trade secrets and branding



# 1853 Stowe v. Thomas

- ▶ Harriet Beecher Stowe claimed that a German translation of Uncle Tom's Cabin infringed on her copyright. The court said that it did not, that the translation was a new, derivative work. This led to changes in the copyright law which extended protections to translated works.



# Article 1, Section 8, Clause 3 - Commerce Clause

gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

# Prolific Hair Growth System

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**prolific™**  
**Hair Growth System**

Do you come out of the shower each day with less hair than when you went in? Thinning hair and bald spots can make you feel self-conscious, embarrassed & exposed. Well, now there's something you can do about it. And your success is guaranteed.

**Prolific** is a non-prescription, hair loss solution that's scientifically proven to help both men and women regenerate their hair. **Prolific** cleanses your hair and scalp and helps stop hair loss by blocking Dihydrotestosterone (DHT), the hormone that causes it. Then it stimulates new hair growth by waking up dormant hair follicles. In fact, **Prolific's** active ingredients are clinically proven and protected by a United States Patent (U.S. Patent # 5,972,345).

To understand how **Prolific** works, it's important to understand DHT. The human body produces an enzyme called 5-alpha reductase. When the Androgen hormone in

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**2** **3** **4**

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# The USPTO web site

**United States Patent and Trademark Office**  
An Agency of the Department of Commerce

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About USPTO | Patents | Trademarks | IP Law & Policy | Products & Services | Careers | Investors | News & Notices | eBusiness/Alerts | FAQs | For Kids

**USPTO Roundtable on Electronic Communication**

The USPTO will host a roundtable discussion on the Trademark Operations goal of decreasing the use of paper. The roundtable will be held Dec. 3 from 1 - 3 p.m. at the USPTO Alexandria, Virginia campus. The event will also be webcast.

[Read More](#)

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- Patent Prosecution Highway**
- Ombudsman Pilot Program**

[More about Patents](#)

**Trademarks**

- Trademark Basics**  
Read Basic Information and View Instructional Videos
- Search Marks**  
Search pending and registered marks (TESS)
- File Exams Online**  
File examination and other documents online (TEAS)
- Check Status**  
Check the status of an application or registration (TABS)
- View and Order Documents**  
View and download application and registration records (TOD) and order certified copies
- Maintain/Renew a Registration**  
File documents to keep a registration active
- View Fee Schedule**  
Check the current trademark fees
- Trademark Trial and Appeal Board**  
Visit TTAB Home Page
- Assignments**  
Visit Assignments Home Page
- Madrid Protocol**
- Trademark User Feedback**

[More about Trademarks](#)

**IP Law & Policy**

- IP Policy and Enforcement**  
USPTO leads efforts to develop and strengthen both domestic and international IP protection
- Training and Education**  
The Global IP Academy (GIPA) offers IP related programs around the world
- Office of the General Counsel**  
General Counsel, Office of the Solicitor, Office of General Law, Office of Enrollment and Discipline
- Interested in Copyrights?**  
The USPTO advises the Administration on copyright protection and policy
- Protecting Intellectual Property**  
Strategy Targeting Organized Piracy (STOPP) helps businesses protect their IP at home and abroad
- Rulemaking**  
The USPTO continues to propose new initiatives to make its operations more efficient

[More about IP Law & Policy](#)

**USPTO Data Visualization**

New "dashboard" provides current metrics for patent pendency, quality and more. Director Kappos explains the dashboard in his blog.

[Read more](#)

**"Director's Forum" Blog**

The "Director's Forum" Blog offers an opportunity for the USPTO's stakeholders and the general public to interact with USPTO Director David Kappos.

[Read more](#)

**USPTO 2010-2015 Strategic Plan Now Available**

The USPTO Strategic Plan for fiscal years (FY) 2010-2015 sets forth the agency's mission-focused goals, as well as the proposed objectives to meet those goals. The plan is designed to strengthen the capacity of the USPTO, improve the quality of issued patents and registered trademarks, and shorten the time it takes to get a patent.

[Read More](#)

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- Accessibility
- Privacy Policy
- Terms of Use
- Security
- Emergencies/Security Alerts
- Federal Activities Inventory Reform (FAIR) Act
- Notification and Federal Employee Antidiscrimination and Retention (NFEAR) Act
- Budget & Performance
- Freedom of Information Act (FOIA)
- Department of Commerce
- Regulations.gov
- STOPP/Alerts.gov
- Strategy Targeting Organized Piracy (STOPP)
- Information Quality Guidelines
- Department of Commerce
- USPTO Webmaster

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# And for the kids ...

**uspto.GOV**

The United States Patent and Trademark Office  
an agency of the Department of Commerce

LEGAL DISCLAIMER



**Welcome to  
USPTO KIDS!**



# The Copyright Office website



HOW DO I...?



Register a Copyright



Record a Document



Search Records



Learn about Statutory Licensing

**My brain hurts!**



# Questions?



COPYRIGHT'S ALL ABOUT **BALANCE**:  
BALANCING CREATORS' AND THE  
PUBLIC'S NEED FOR **FREE**  
**EXPRESSION...**



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WITH COPYRIGHT  
LAWYERS' NEED FOR  
PAYCHECKS!



## Next week

The who, what, when, where, why,  
and how of copyright