



Right of Publicity

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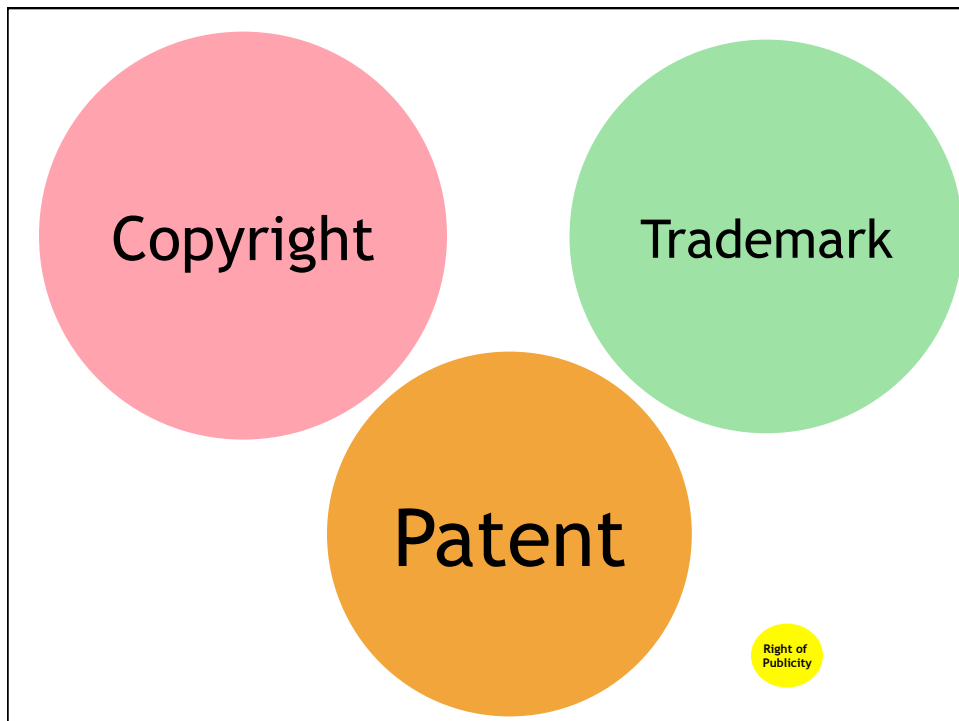
Konomark
Most rights sharable



Right of Publicity



in terms of
importance...



but in terms
of apparent
scope ...

Right of Publicity Infringement

(a/k/a "Appropriation" or "Commercial Misappropriation")

The Elements:

1. A commercial use
2. Of a person's name, likeness, voice, or other indicia of identity

NOTE: This blackletter formulation is overbroad.

The scope of the doctrine is greatly limited by:

- First Amendment freedom of expression
- Copyright preemption
- Ad-hoc "spin"

“The elements of a common law action are the unauthorized use of the plaintiffs identity to the defendant's advantage by appropriating the plaintiffs name, voice, likeness, etc., commercially or otherwise, and resulting injury.”

**Kirby v. Sega of Am., Inc.,
144 Cal.App. 4th 47 (2006)**



“The elements of a common law action are the unauthorized use of the plaintiffs identity to the defendant's advantage by appropriating the plaintiffs name, voice, likeness, etc., commercially or otherwise, and resulting injury.”

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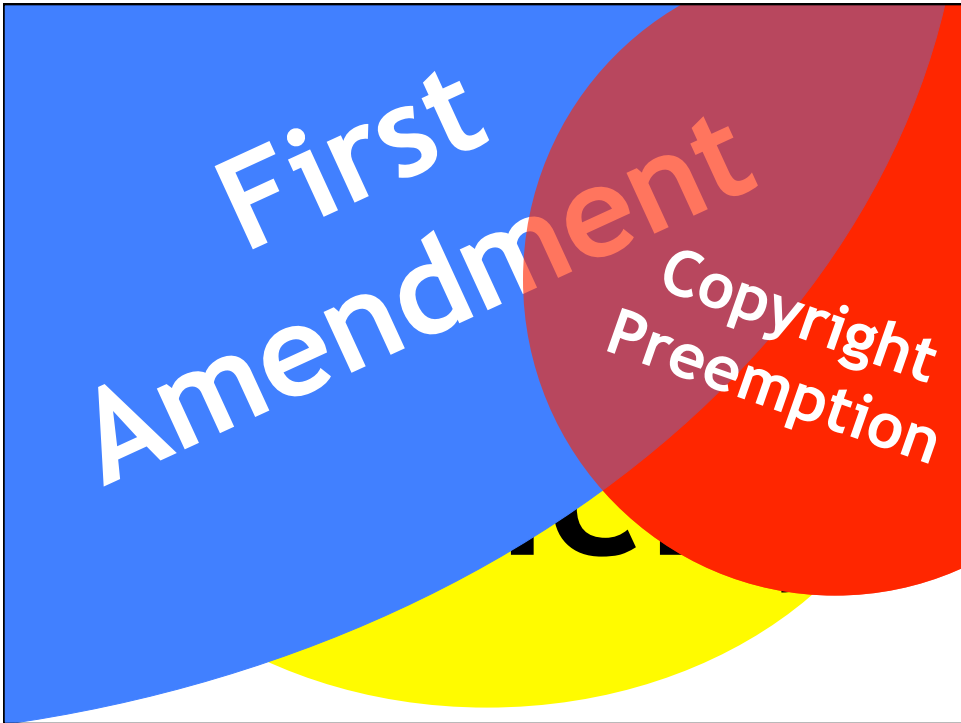
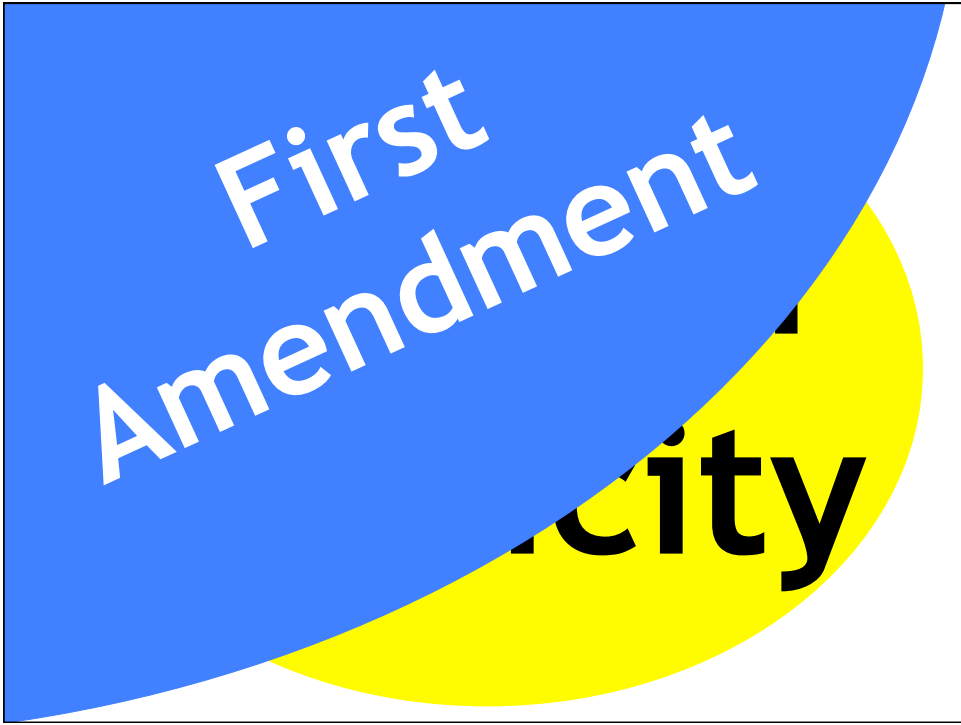
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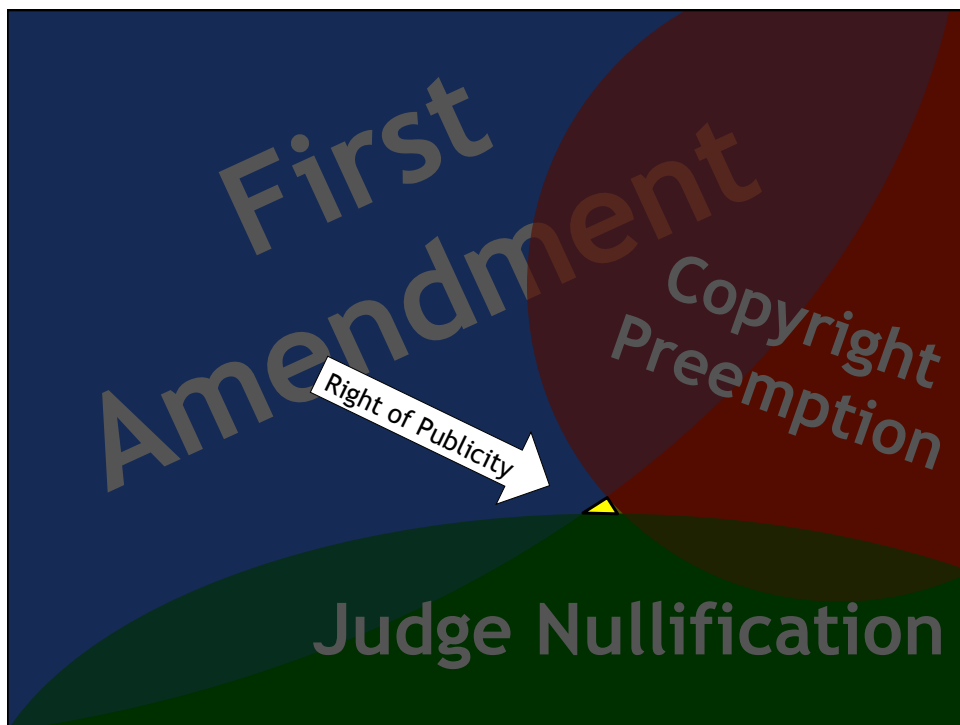
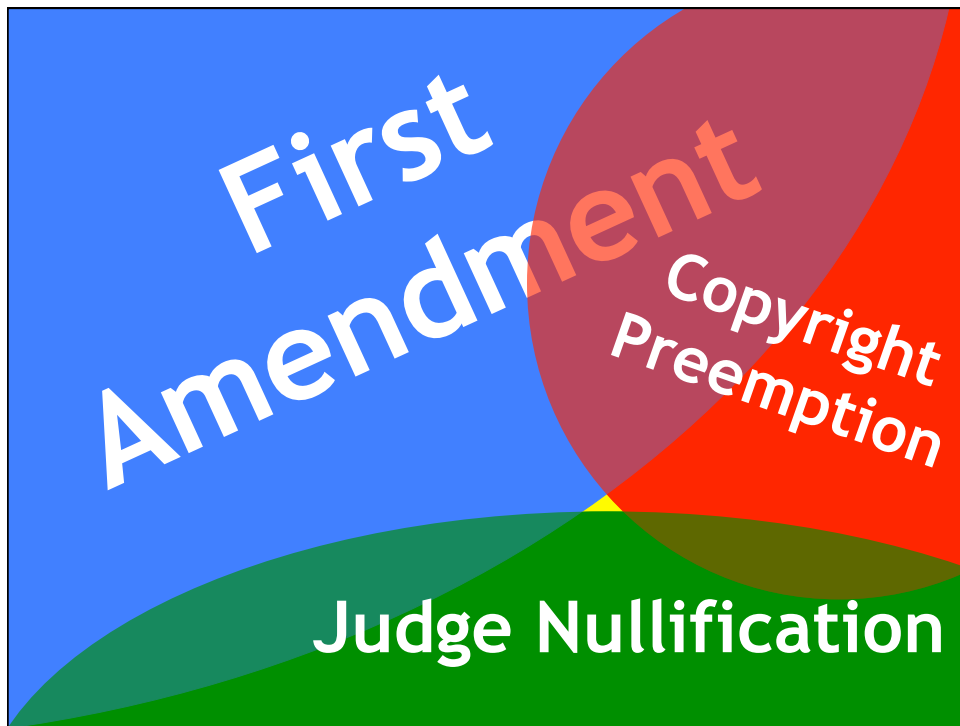
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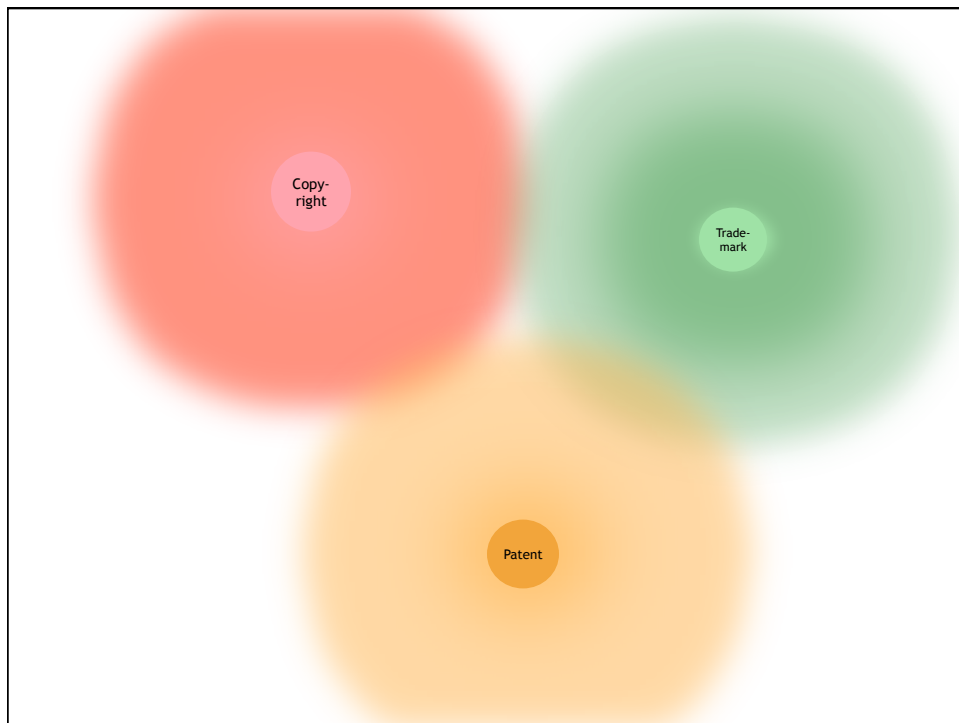
Reality check:
The blackletter
scope is much
broader than the
real scope.







bark/bite
vs.
bite/bark



Right of Publicity

First
Amendment

Copyright
Preemption

Judge Nullification