



Marginalia

Federal Preemption

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Konomark
Most rights sharable

Federal Preemption

- Both patent and copyright law have preemption effects
- States can't create patent or copyright rights ...
 - Copyright for pre-1972 sound recordings are an exception. That's a matter of state law.
- ... or similar rights against copying, at least where there's no deception or consumer confusion
 - E.g., Boat hull protection by Florida state law was struck down as preempted in *Bonito Boats v. Thunder Craft Boats*, 189 U.S. 141 (1989).