



Marginalia

Federal Preemption

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Kononmark
Most rights sharable

Federal Preemption

- Both patent and copyright law have preemption effects
- States are generally not allowed to create patent or copyright rights ...
 - The big exception used to be pre-1972 sound recordings. But those are now under federal law, too.
- ... 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).