



# Policy and Theory

Trademark & Unfair Competition  
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Konomark  
Most rights sharable

the  
label  
“intellectual  
property”

—

What is  
“intellectual property”?

“intellectual property  
infringement”

  
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infringement”

What is  
“intellectual property”?

Is it  
“property”?

Is it  
“property”?  
*It depends on who you ask.*

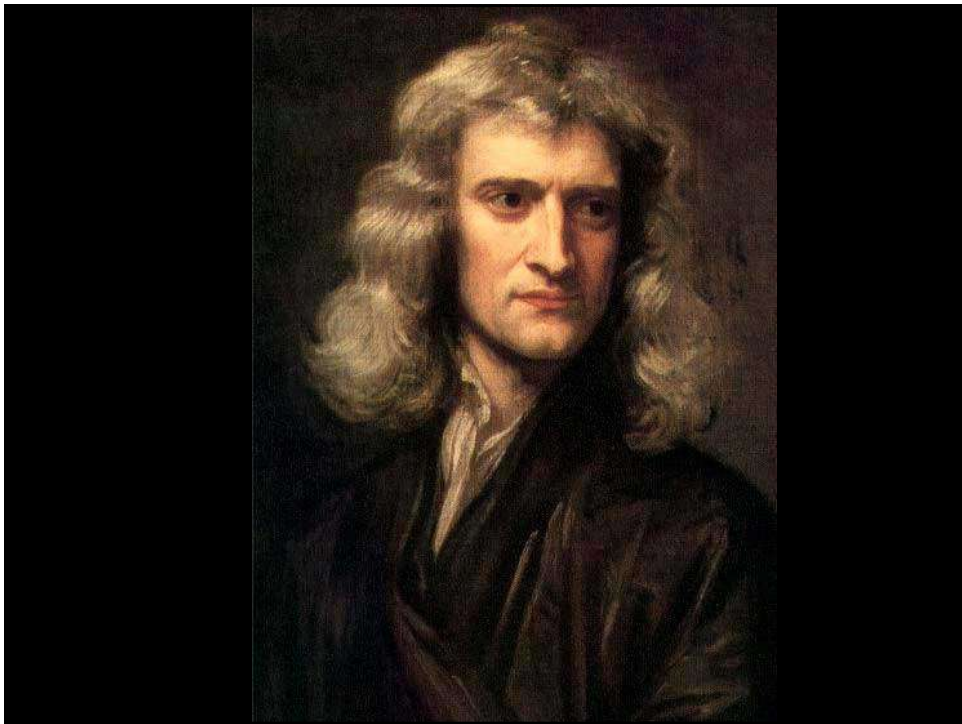
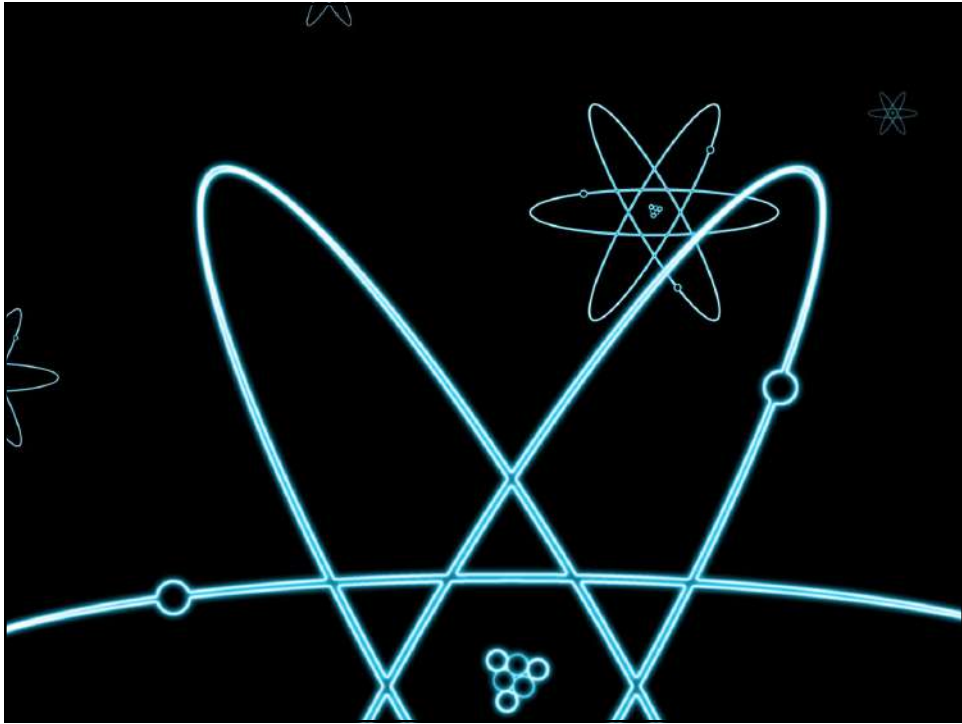
**Is the right to receive  
government welfare  
property?**

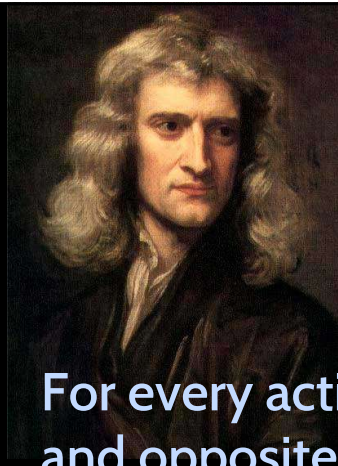
**Is a professional license  
property?**

—

**Is a government pension  
property?**

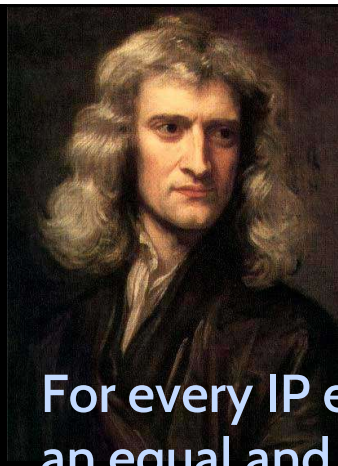
**What's  
“intellectual”  
about it?**





## Newton's Third Law of Motion

For every action, there is an equal and opposite reaction



## Newton's Third Law of IP

(or really *my* Newton's Third Law of IP)

For every IP entitlement, there is an equal and opposite reduction in freedom.



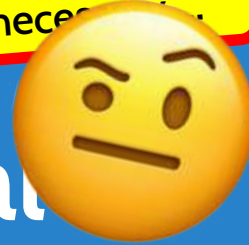
Why is  
intellectual  
property law  
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If it is even  
necessary ...

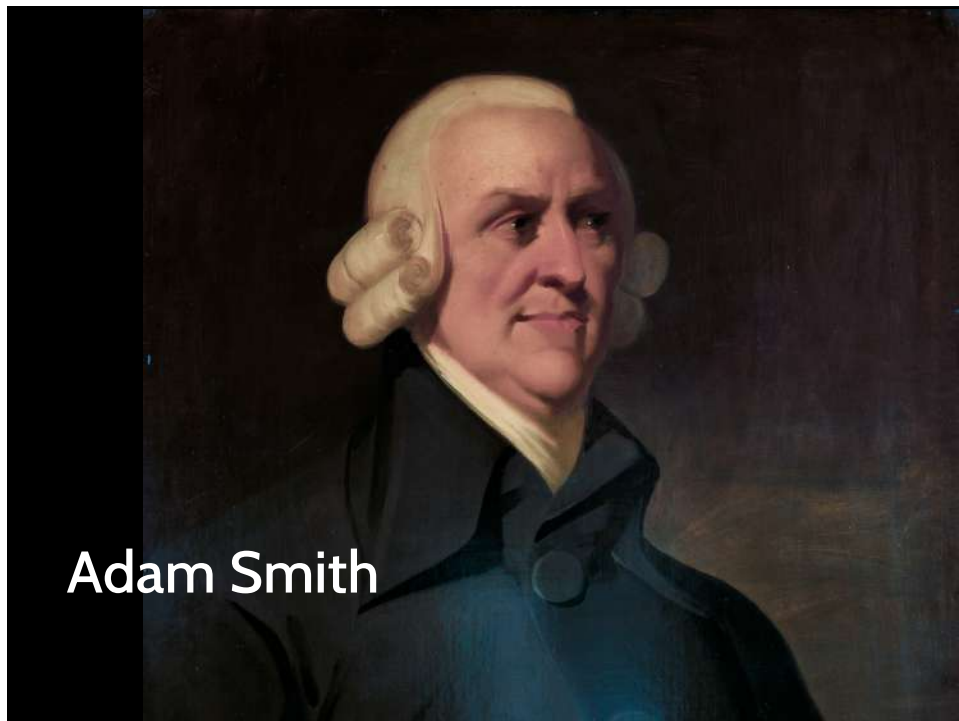
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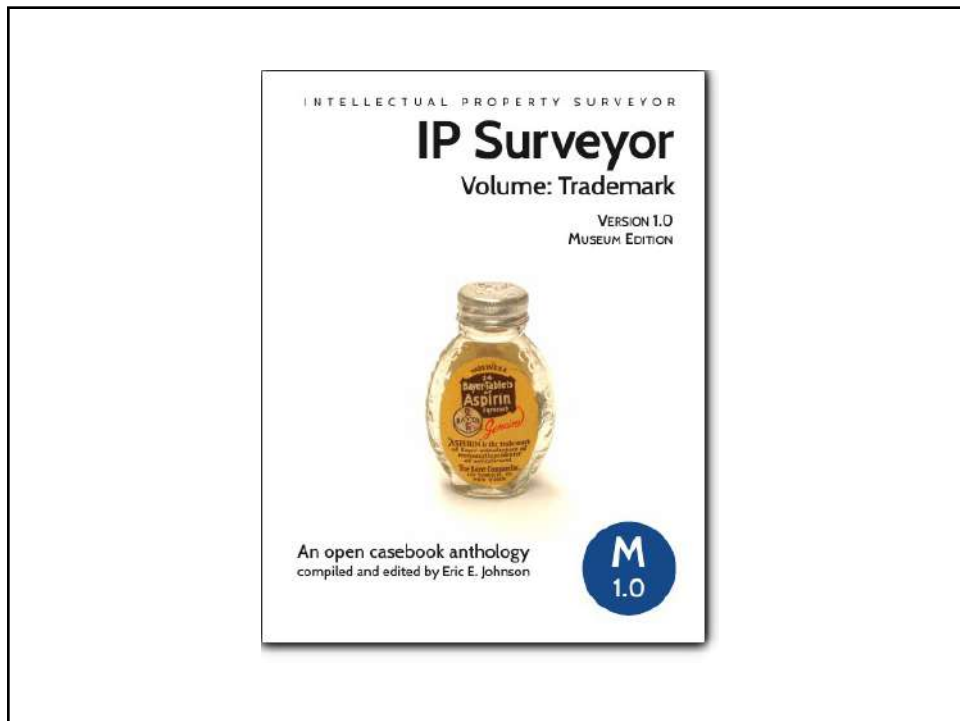
**raison d'être**

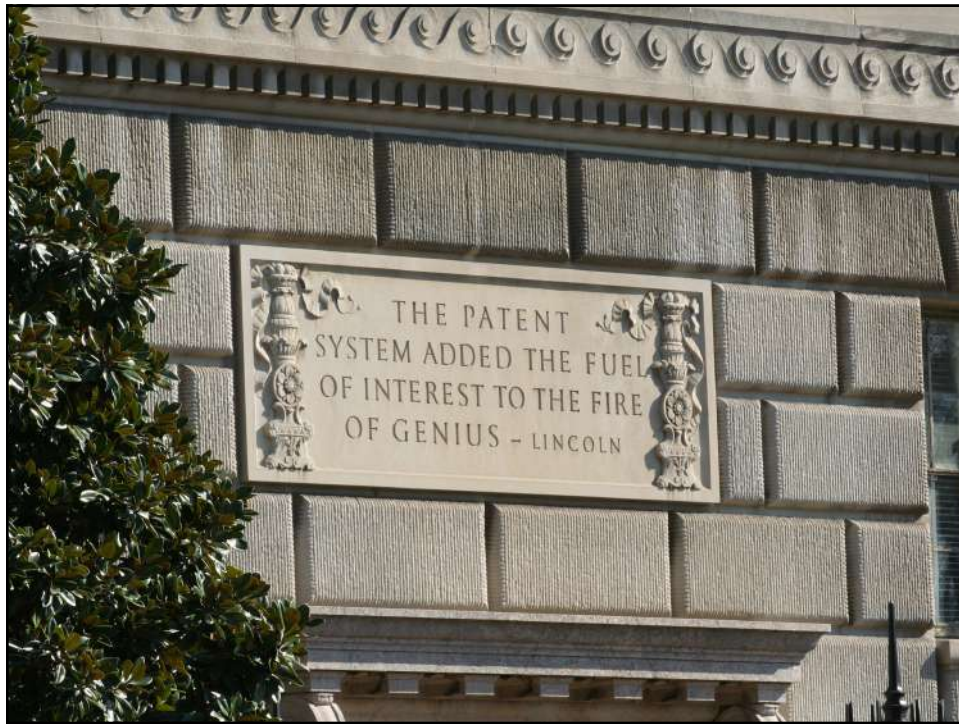
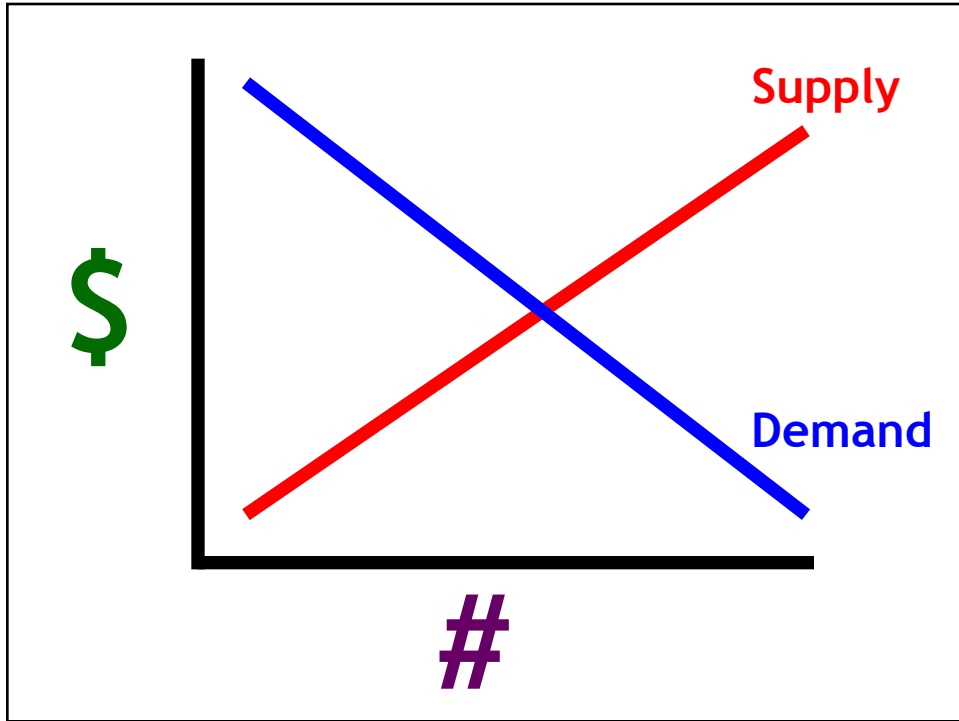
**In the U.S., the main  
justification is an  
economic story  
(for copyrights, patents,  
and trade secrets)**



**Adam Smith**







*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;*

**But the  
economic story  
for trademarks is  
completely  
different!!**

**But the  
economic story  
for trademark**

**at least as to the means  
although the far ends are the same**

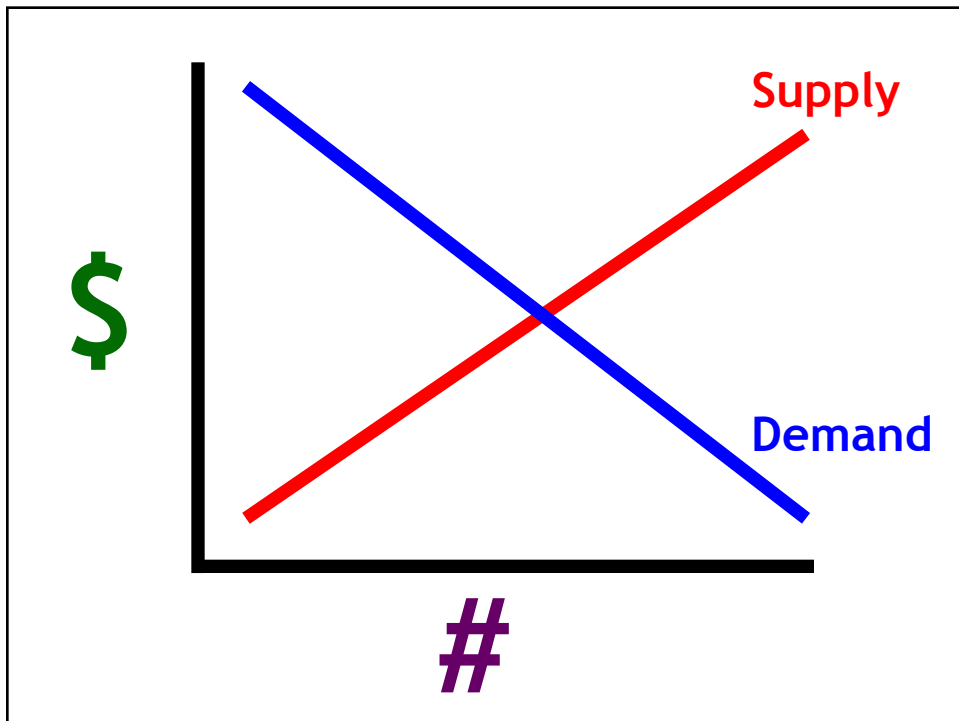
**are completely  
different!!**

**source →**

- reliable information for consumers
- earned reputation for sellers
- a market that works

**So it can still be said to be about harnessing incentives to the creation of value. But it's about information that makes the market work, not incentivizing the production of public goods.**







**source**

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