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**George Washington: Indispensable to Intellectual Property Rights in America**

by

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George Washington – Revolutionary War hero and first President of the United States – is widely known as the Indispensable Man. Less widely known is Washington's indispensable role regarding intellectual property rights protection. Presidents' Day is a perfect time to recall Washington's role in securing copyrights and patent rights under the Constitution.

Intellectual property is the source of incredible social and commercial value. Thanks to digital technology and the Internet, IP is more critical to America's economic prosperity than ever. At the same time, online theft of IP, including international piracy, costs the American economy more than \$300 billion every year.

Trite slogans such as "information wants to be free" have misled some Americans into believing IP isn't "property" at all and hardly worth protecting. Some mistakenly regard IP as an obscure legal anomaly. The relative ease of online IP theft likely has fueled such wrong-headed rationales for digital piracy.

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Yet the history of IP in America bears the imprint of the Father of Our Country. In the founding era, copyrights and patent rights were widely viewed as property rights, rooted in a person's natural right to enjoy the fruits of his labor. George Washington regarded protection of property rights a matter of justice. He also considered protections for copyrights and patent rights necessary for sustaining the new nation's economic independence.

Washington's consistent support for IP even precedes the Constitution's adoption. In the early 1780s, he became an acquaintance of author Noah Webster. Washington's letters of introduction helped Webster successfully lobby the Virginia legislators for a state copyright law in 1785. Washington's friend James Madison supported the measure in Virginia's legislature.

Also in the mid-1780s, Washington endorsed builder James Rumsey's efforts to patent a mechanical propeller boat. Washington wrote to his governor about the invention's potential for navigation, and Rumsey received a patent in Virginia and other states.

Washington's service as President of the Constitutional Convention of 1787 is well known. Less so is that Washington sought out counsel from both Madison and Webster in Philadelphia. Copyright was doubtless a discussion topic that summer and fall. For all their differences in character and experience, Washington shared with Webster and Madison a conviction that the union needed to be strengthened. They also shared a conviction that IP needed federal protection.

During the Convention, Madison made a proposal that would become the Constitution's "IP Clause," which provides that "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." Washington's name lent critical strength to the effort to ratify the Constitution, IP Clause and all.

President Washington took with utmost seriousness his oath to uphold and defend the Constitution. He knew the first President would set crucial precedents. To Washington, it was thus imperative that the legislation he signed comport with the Constitution. Consistent with his dedication to constitutional principles, Washington made federal protection for IP rights a reality.

In his first Annual Message to Congress (1790), President Washington called for laws protecting intellectual property rights: "I cannot forbear intimating to you the expediency of giving effectual encouragement, as well to the introduction of new and useful inventions from abroad, as to the exertions of skill and genius in producing them at home." He also called for "the promotion of science and literature." His confidante Madison helped the first Congress enact the Copyright Act of 1790 and the Patent Act of 1790. Washington signed these first federal laws protecting IP.

Intellectual property is especially vital to our economy in the Digital Age. Yet protecting IP is more challenging than ever. George Washington's Birthday is perfect time to recall the indispensable role played by the Indispensable Man in establishing intellectual property rights as an important part of American constitutionalism.

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