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Lincoln, Labor and Intellectual Property Rights

by

Randolph J. May * and Seth L. Cooper **

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"I always thought that the man who made the corn should eat the corn," Abraham Lincoln once quipped. For Lincoln, freedom, labor and property were intimately connected. He defended the right to enjoy property created by both manual labor and the labor of the mind.

Labor Day is the perfect time to recall Lincoln's understanding of the need to protect copyrights and patent rights. Indeed, Lincoln's case for intellectual property is even more compelling in the digital age than in his own.

Intellectual property generates enormous social and economic benefits to individuals and to society. Digital technologies and Internet connectivity have become vital sources of IP, but they also pose unique problems. Online theft of IP is rampant, with estimates that such piracy costs the American economy in excess of \$300 billion annually.

Slogans such as "information wants to be free" may be superficially appealing. But they encourage misguided notions that intellectual property isn't "property" at all. Or that it is second-

The Free State Foundation
P.O. Box 60680, Potomac, MD 20859
info@freestatefoundation.org
www.freestatefoundation.org

class property deserving little protection. For some, the fact that online piracy is so cheap and easy doubtless makes anti-IP rationalizations attractive.

At bottom, dismissive attacks on intellectual property rights amount to attacks on constitutionalism. Article I, Section 8, Clause 8 of the Constitution — the Intellectual Property Clause — grants Congress the 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." The Constitution charges the federal government with protecting copyrights and patent rights.

Lincoln was a strong defender of intellectual property rights. Indeed, he was a patent holder. And, as a lawyer, he was involved in at least five patent cases. Importantly, Lincoln connected IP rights to a person's natural right to the fruits of his or her own labor.

The concept of "free labor" was central to the economic, social, constitutional, and political thinking of Lincoln and other 19th century slavery opponents. Lincoln expressed the free labor axiom when, in 1847, he wrote, "each individual is naturally entitled to do as he pleases with himself and the fruit of his labor." In an 1864 address to a workingmen's association, Lincoln declared, "property is the fruit of labor."

Although not well known today, Lincoln endorsed protection of intellectual property in a handful of lectures and speeches. His 1858 Lecture on Discoveries and Inventions touted achievements in writings, printing press technology, and other inventions that fostered social and economic improvement. Lincoln praised the patent system, which, he said, "added the fuel of interest to the fire of genius, in the discovery and production of new and useful things."

At an 1859 agricultural fair, Lincoln linked free labor to patent rights. He extolled the IP Clause, which he said protected inventions critical to farming. His regard "for the profitable and agreeable combination of labor with cultivated thought" captures the essence of intellectual property. By securing rewards to authors and inventors for their labors in connection with literary works and discoveries, copyrights and patents stimulate self-improvement and independence. And society also benefits through intellectual and material progress.

Today's digital technologies have made the task of protecting intellectual property more difficult, but no less important. On Labor Day, it is a good time to recall Lincoln's commitment to what he called "free labor." And it is useful to recall the way Lincoln connected protection of intellectual property rights to an individual's natural right to enjoy the fruits of his or her labor.

* Randolph J. May is President of the Free State Foundation, an independent free market-oriented think tank located in Rockville, Maryland. *Lincoln, Labor and Intellectual Property Rights* was published in *The Washington Examiner* on September 7, 2015.

** Seth L. Cooper is a Senior Fellow of the Free State Foundation.