

A Short History of “Intellectual Property” in Relation to Copyright

Justin Hughes

Following work published in 2006, this article explores the history of the phrase "intellectual property" as it was used in the 19th century and early 20th century by jurists speaking French, Spanish, Italian, and English. During this period "intellectual property" was used by many commentators to refer to copyright alone; indeed, in Spanish, the phrase unambiguously meant just copyright. The article sketches out how officials in WIPO's predecessor organization rechristened it an "intellectual property" entity and helped establish the modern, umbrella sense of the term for patents, copyrights, trademarks, etc. Finally, the manuscript explores how the property-or-not debate has animated discussions of copyright theory throughout the history of copyright law – with little progress and little recognition of our intellectual ancestors.