

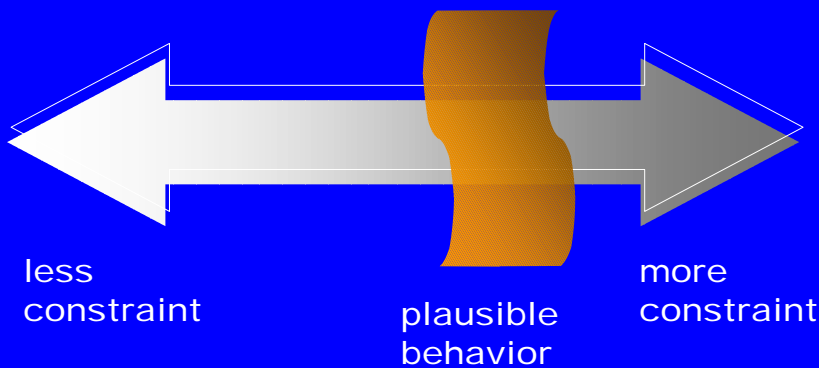
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Internet

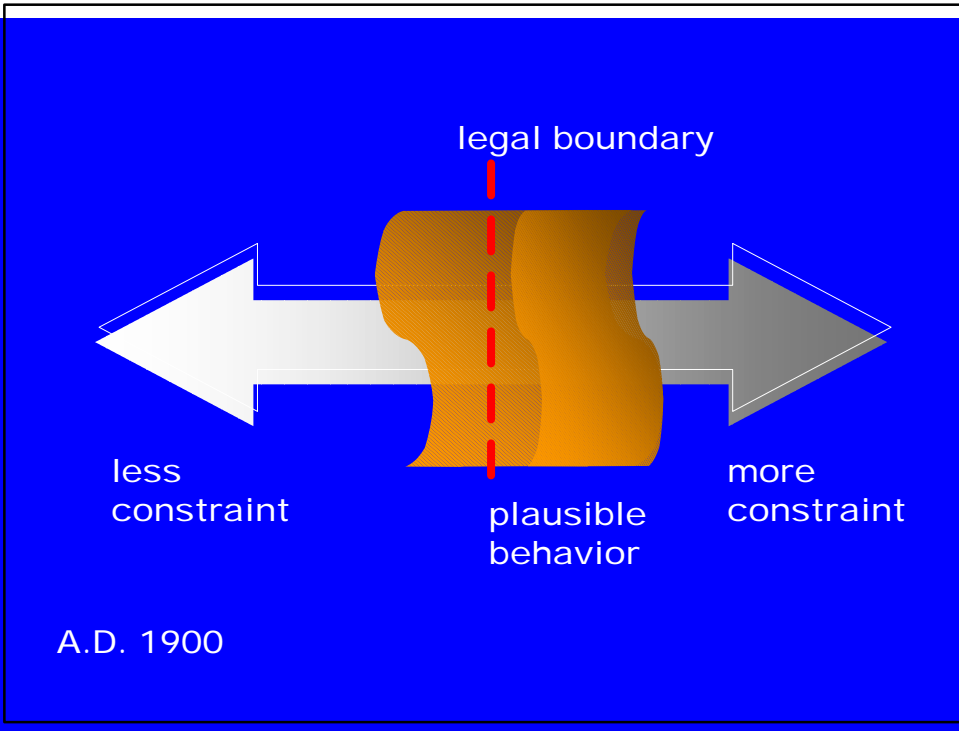
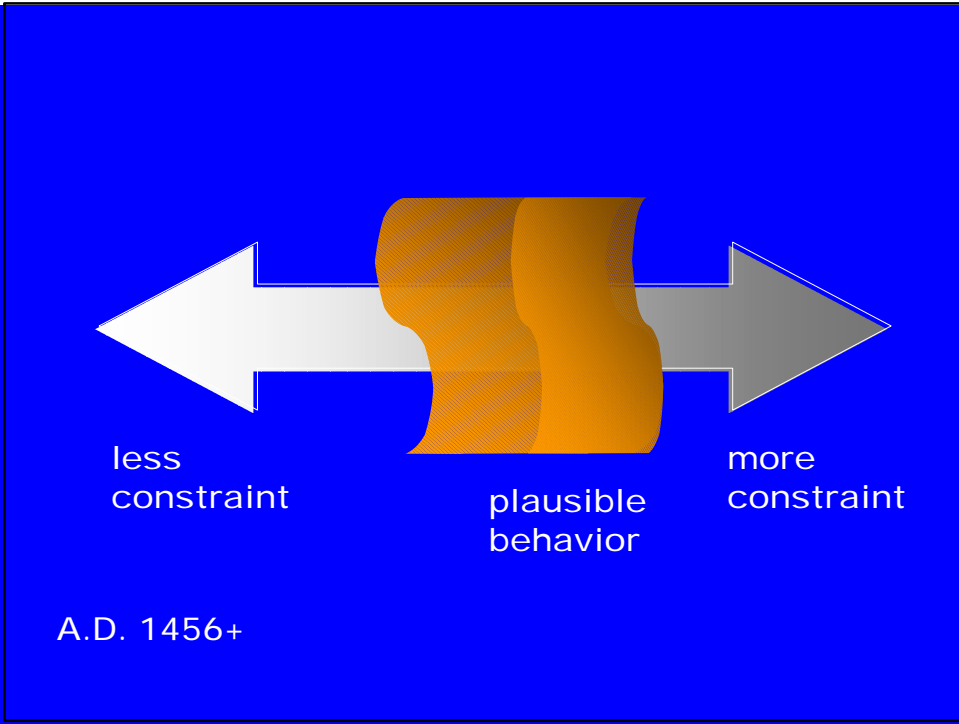
what now?  
what next?

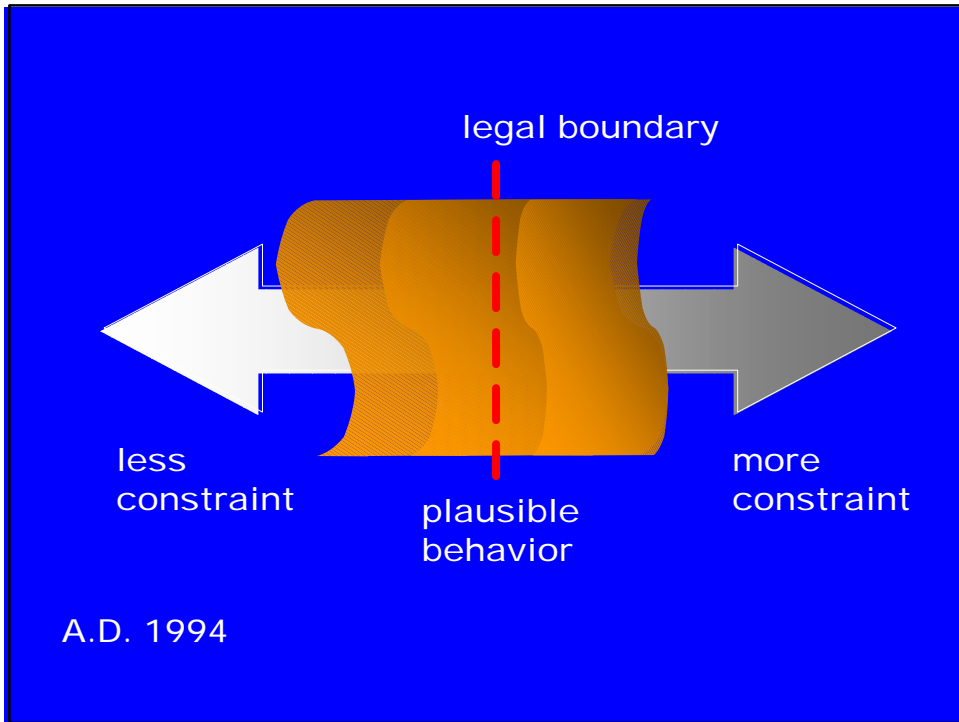


Jon Zittrain  
ilaw 2002  
Tuesday, July 2, 2002



A.D. 1400





## Barlow

"The Economy of Ideas," Wired, 1994

Legal efforts to keep the old boat floating are taking three forms: a frenzy of deck chair rearrangement, stern warnings to the passengers that if she goes down, they will face harsh criminal penalties, and serene, glassy-eyed denial.

Intellectual property law cannot be patched, retrofitted, or expanded to contain digitized expression any more than real estate law might be revised to cover the allocation of broadcasting spectrum (which, in fact, rather resembles what is being attempted here). We will need to develop an entirely new set of methods as befits this entirely new set of circumstances.

## Barlow

**Ed Hore, "Will the 'information highway' make IP obsolete?," Lawyers Weekly**

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Since I write a column on intellectual property, my attention was naturally caught by the words "everything you know about intellectual property is wrong" on the cover of the March issue of Wired magazine.

The full title of the article is "The Economy of Ideas; a framework for rethinking patents and copyrights (everything you know about intellectual property is wrong)" by John Perry Barlow, who is, according to a short blurb accompanying the article, "a lyricist for the Grateful Dead."

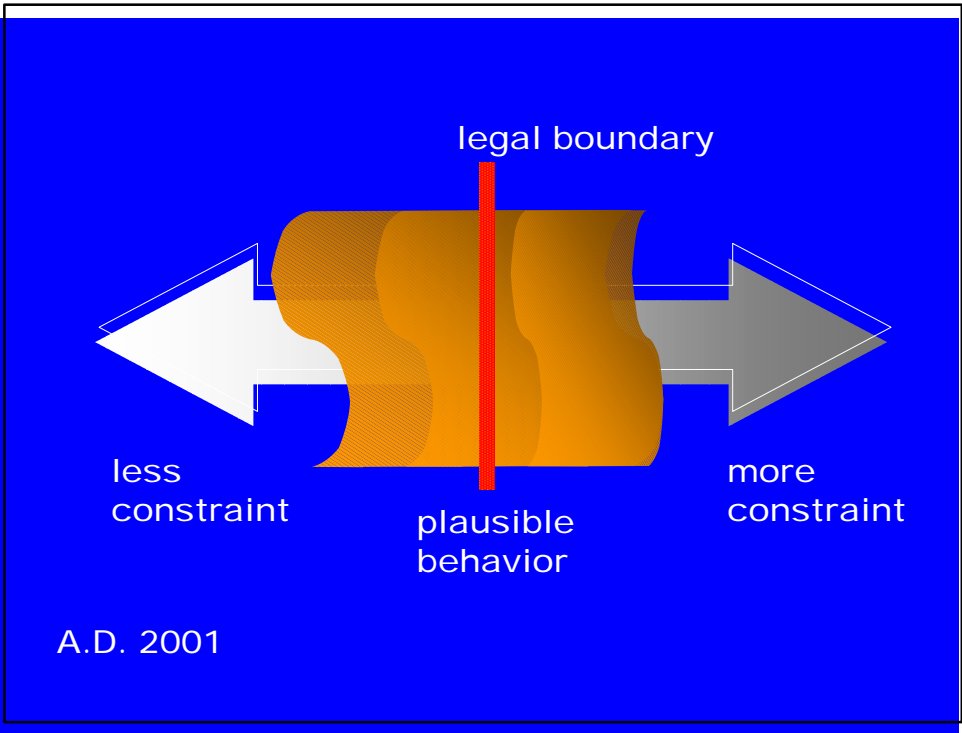
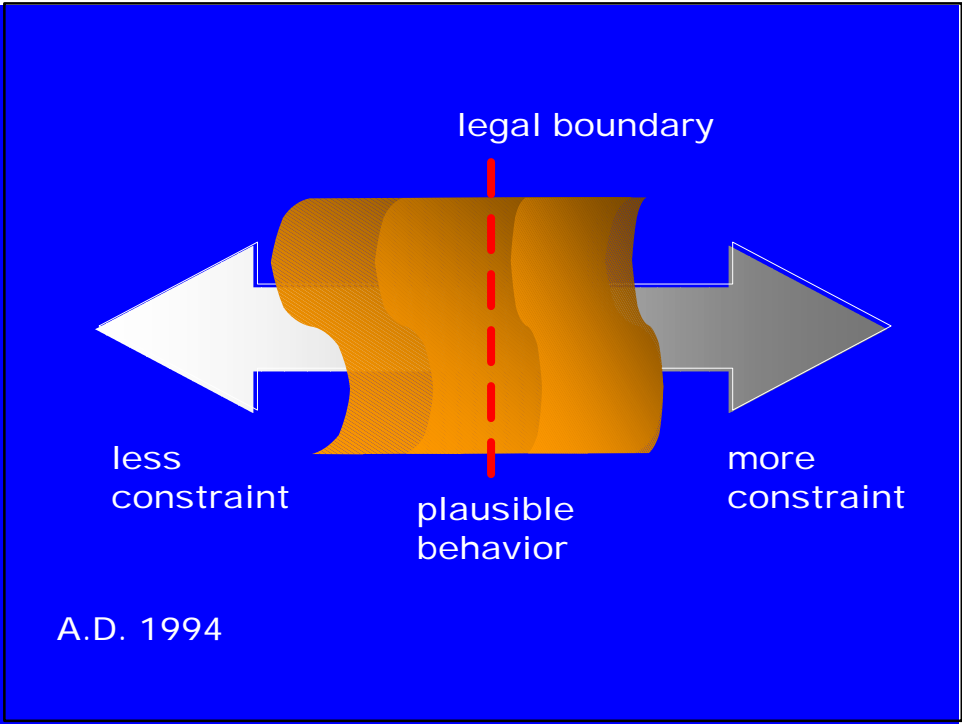
## Barlow

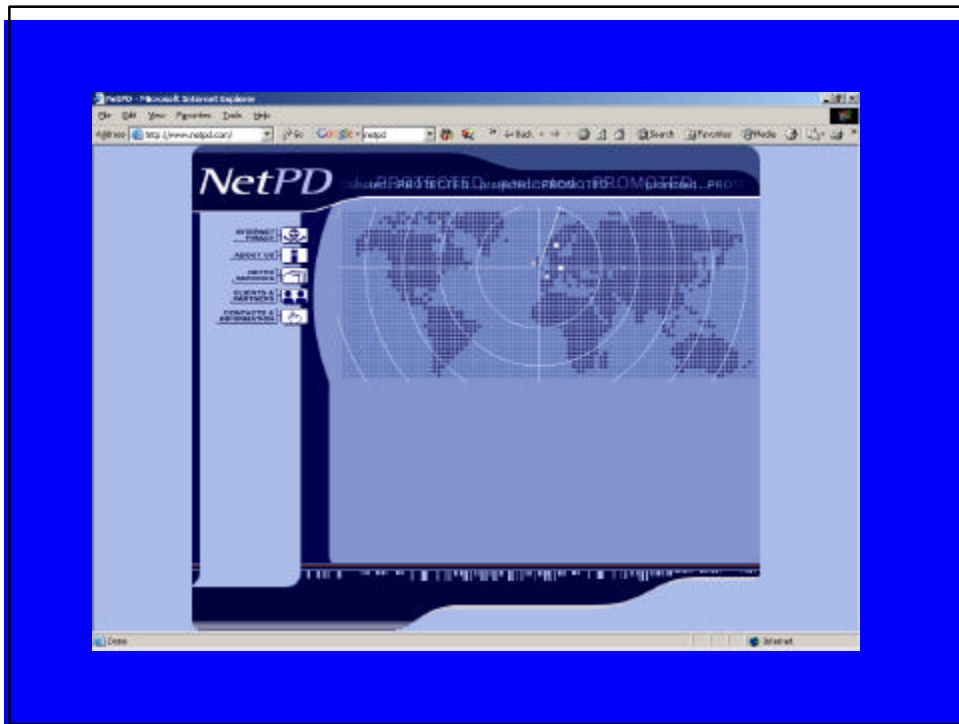
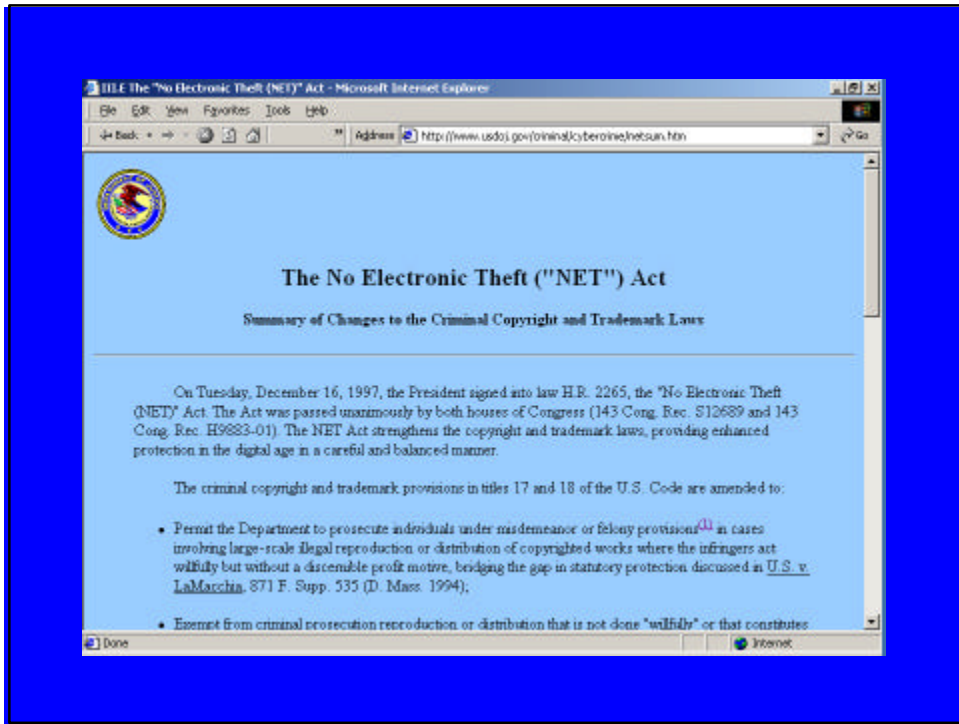
**Ed Hore, "Will the 'information highway' make IP obsolete?," Lawyers Weekly**

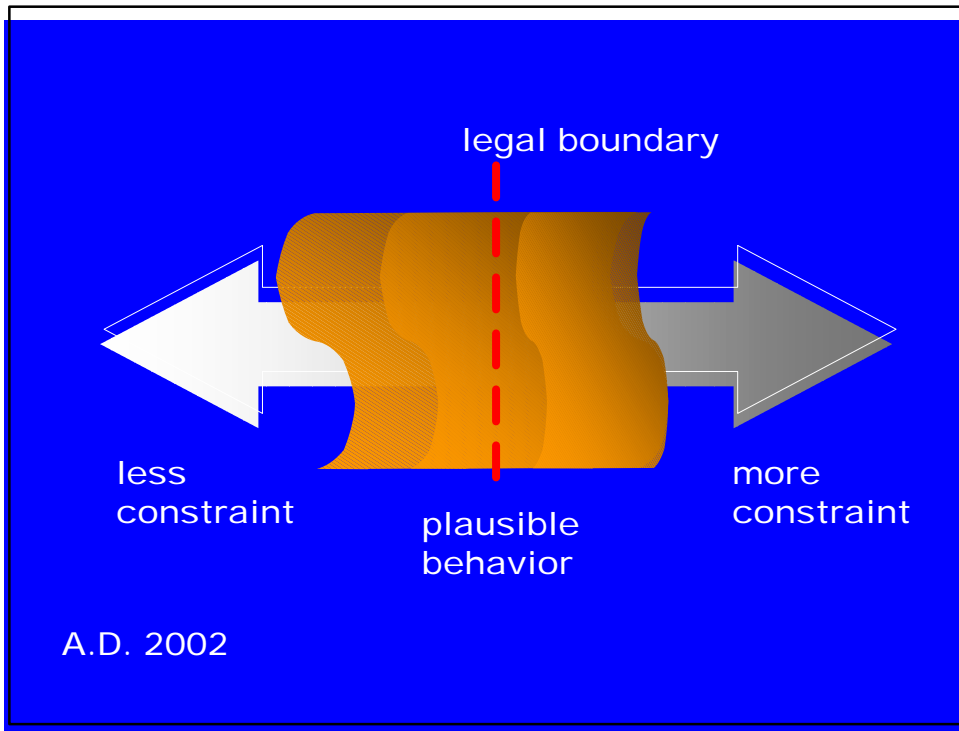
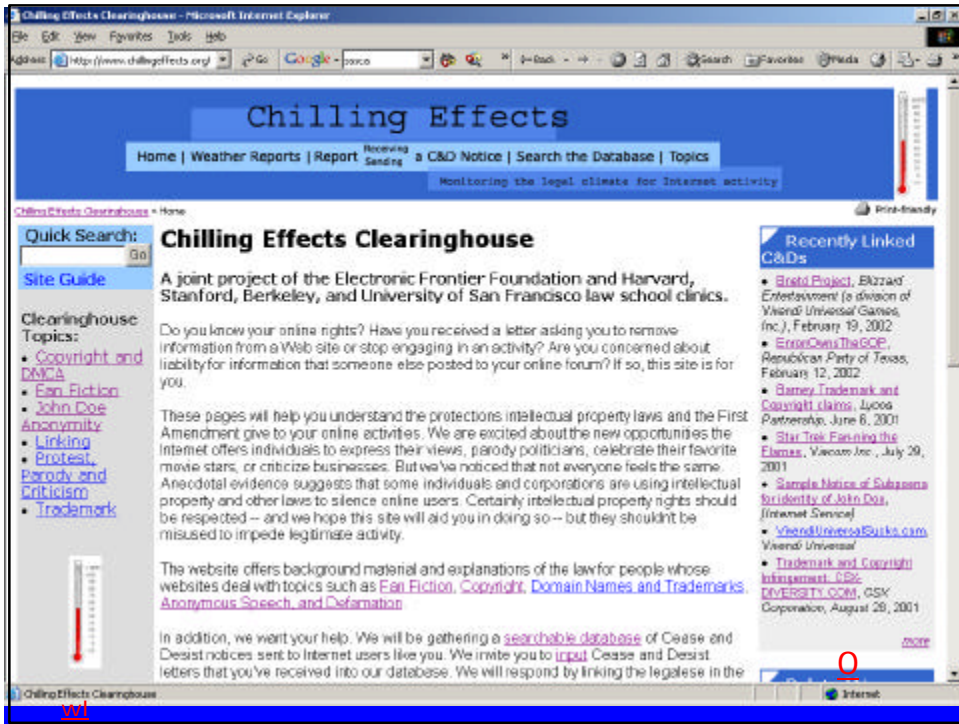
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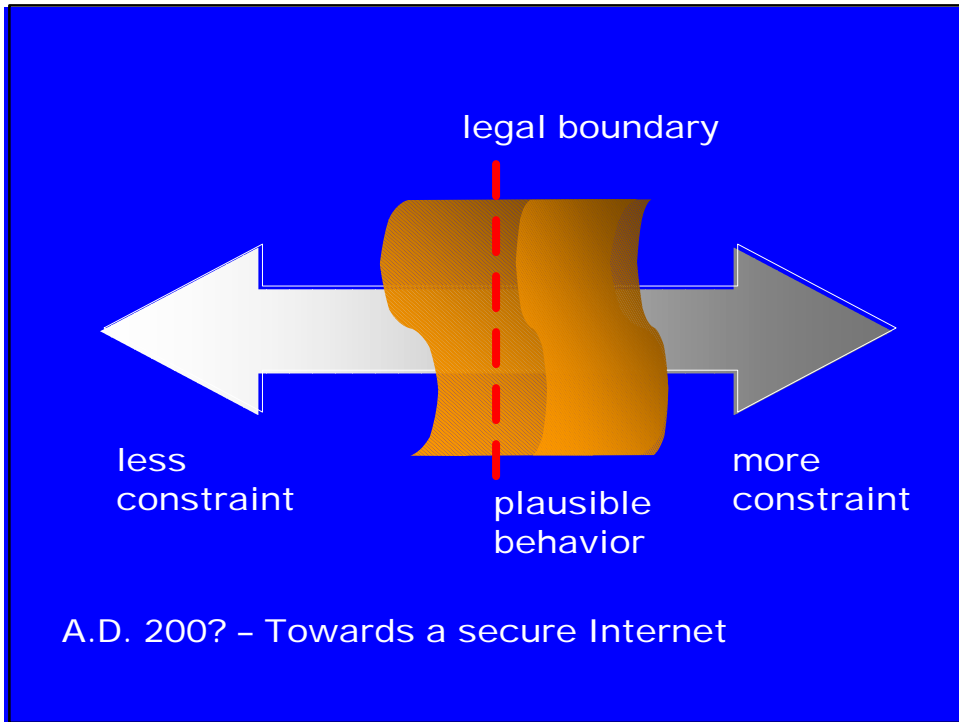
The thesis of the article, as far as I can make out, is that copyright and patent laws are outmoded because they are based on physical embodiments of ideas, and are meaningless in the age of high-tech when everyone sends digitized information back and forth over the Internet (or information superhighway or whatever you call it).

In the end I concluded only that Mr. Barlow must have consumed more than his share of prohibited substances while writing all those Grateful Dead lyrics.





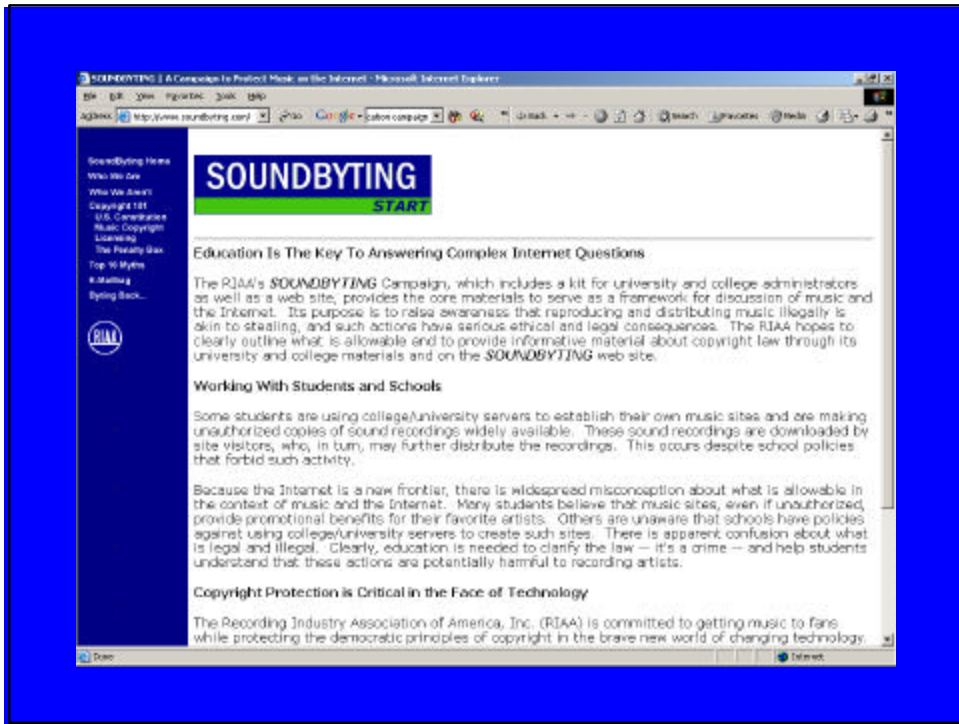


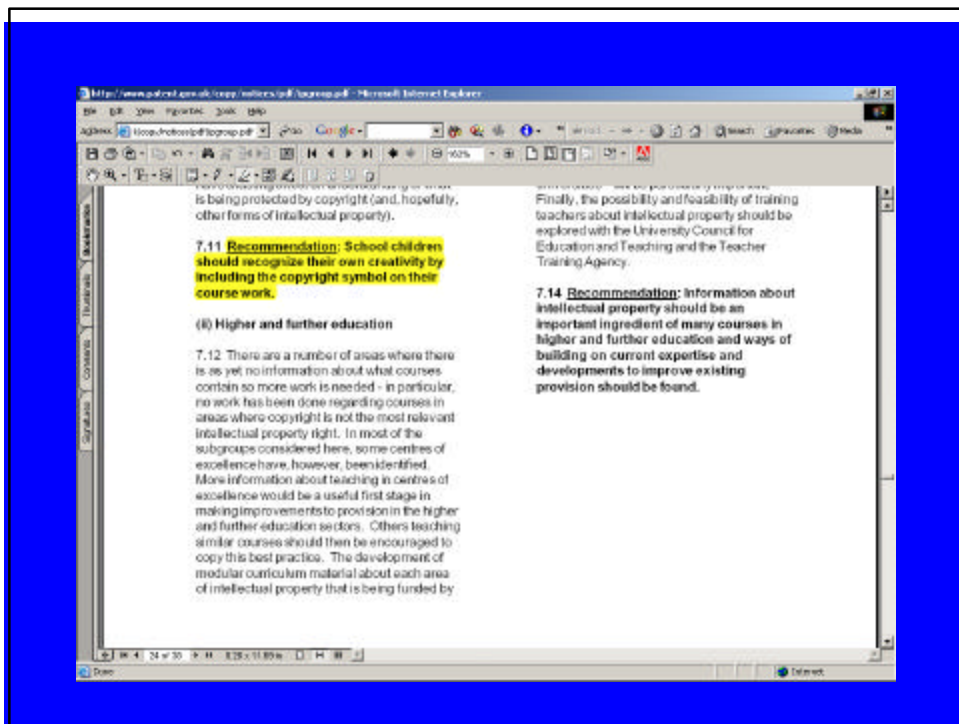
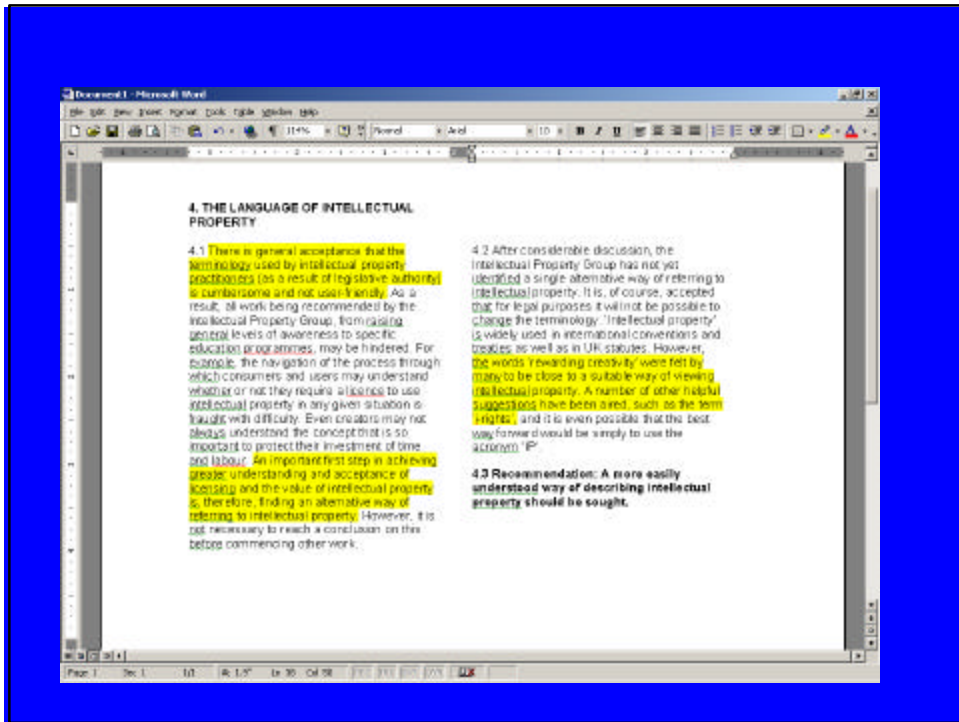


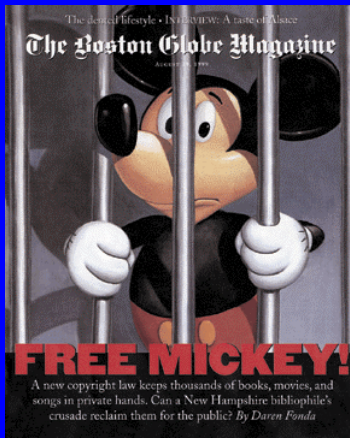
## Shaping the orange blob

- Laws
- Norms



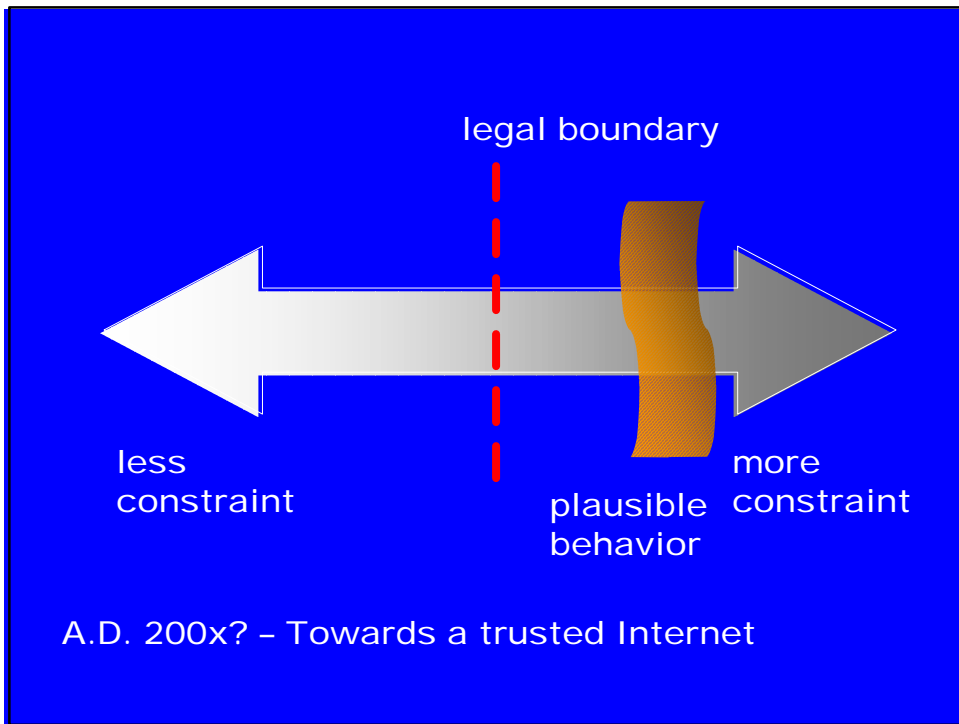






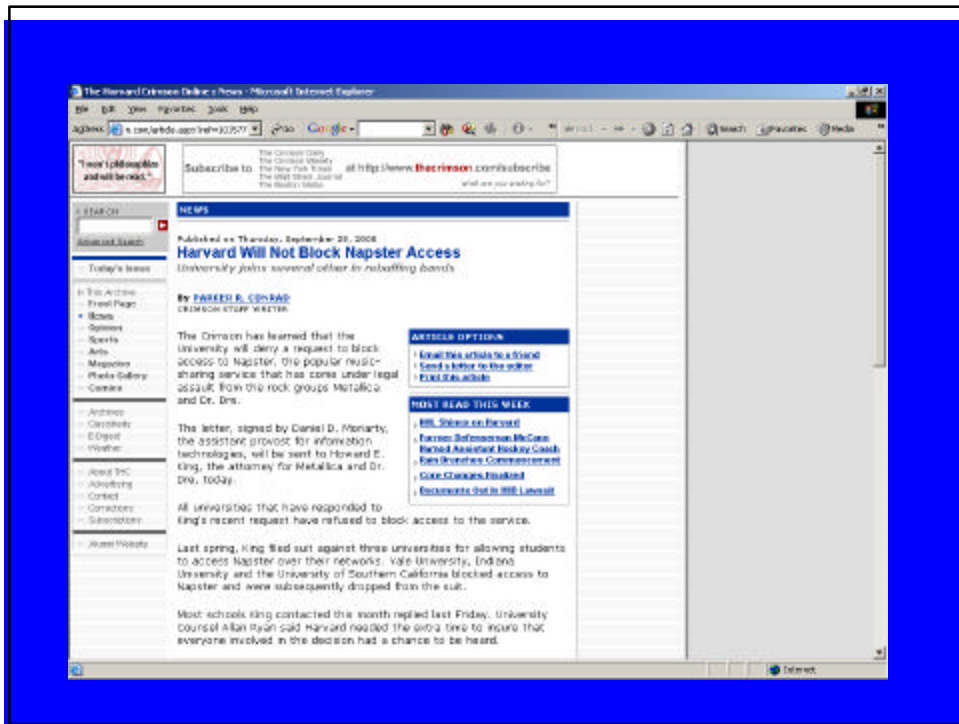
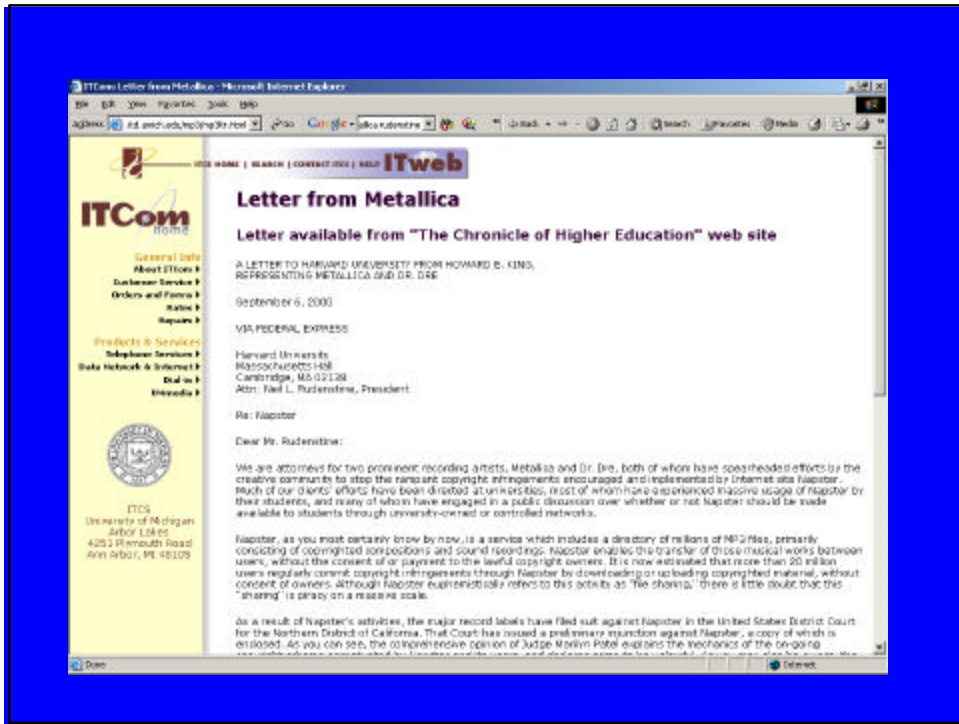
## Shaping the orange blob

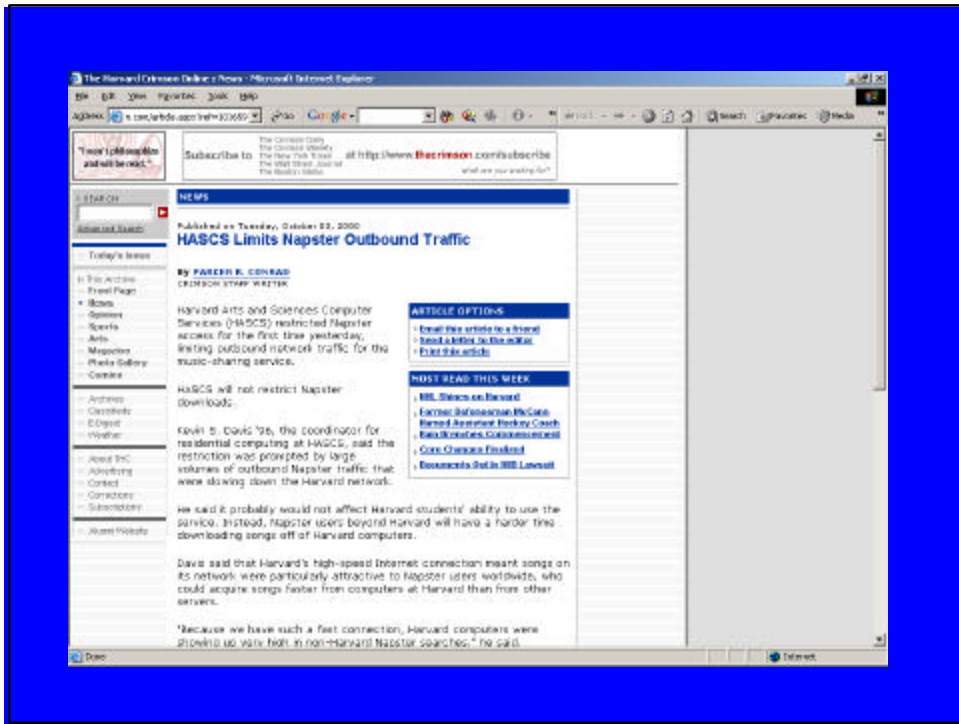
- Laws
- Norms
- Code



## Shaping the orange blob

- Laws
- Norms
- Code
  - change the network





## Shaping the orange blob

- Laws
- Norms
- Code
  - change the network
  - change the nodes




11:55 a.m. Jan. 17, 2002 PST  
*This is the e-mail Bill Gates sent to every full-time employee at Microsoft, in which he describes the company's new strategy emphasizing security in its products.*

**From:** Bill Gates  
**Sent:** Tuesday, January 15, 2002 5:22 PM  
**To:** Microsoft and Subsidiaries: All FTE  
**Subject:** Trustworthy computing


Every few years I have sent out a memo talking about the highest priority for Microsoft. Two years ago, it was the kickoff of our .NET strategy. Before that, it was several memos about the importance of the Internet to our future and the ways we could make the Internet truly useful for people. Over the last year it has become clear that ensuring .NET is a platform for Trustworthy Computing is more important than any other part of our work. If we don't do this, people simply won't be willing -- or able -- to take advantage of all the other great work we do. **Trustworthy Computing is the highest priority for all the work we are doing. We must lead the industry to a whole new level of Trustworthiness in computing.**

**See also:**  
 • [Gates Finally](#)

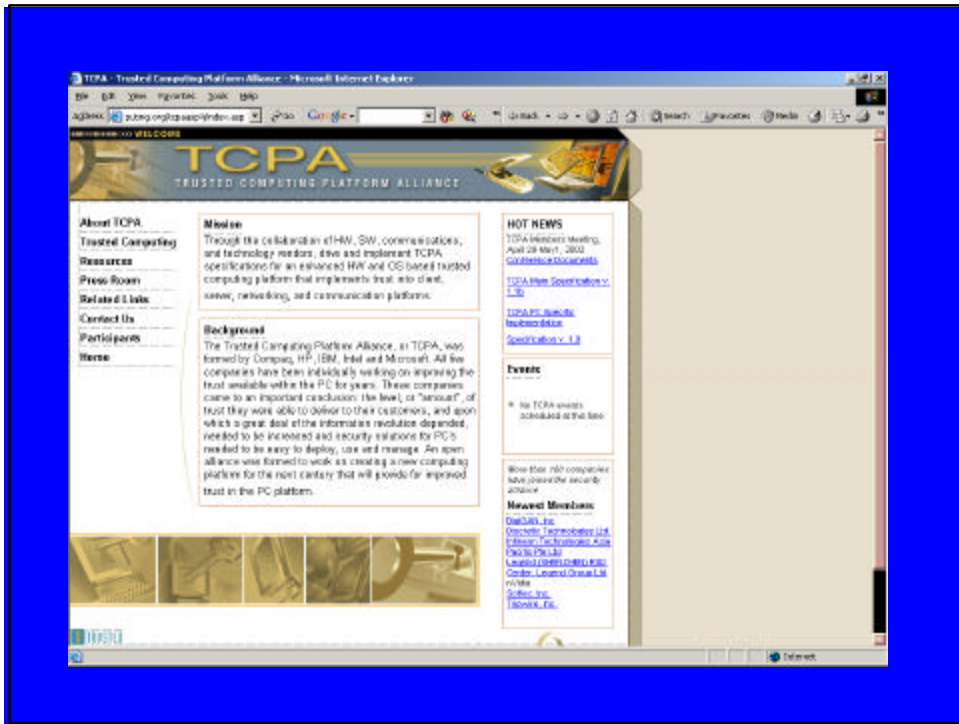
When we started work on Microsoft .NET more than two years ago, we set a new direction for



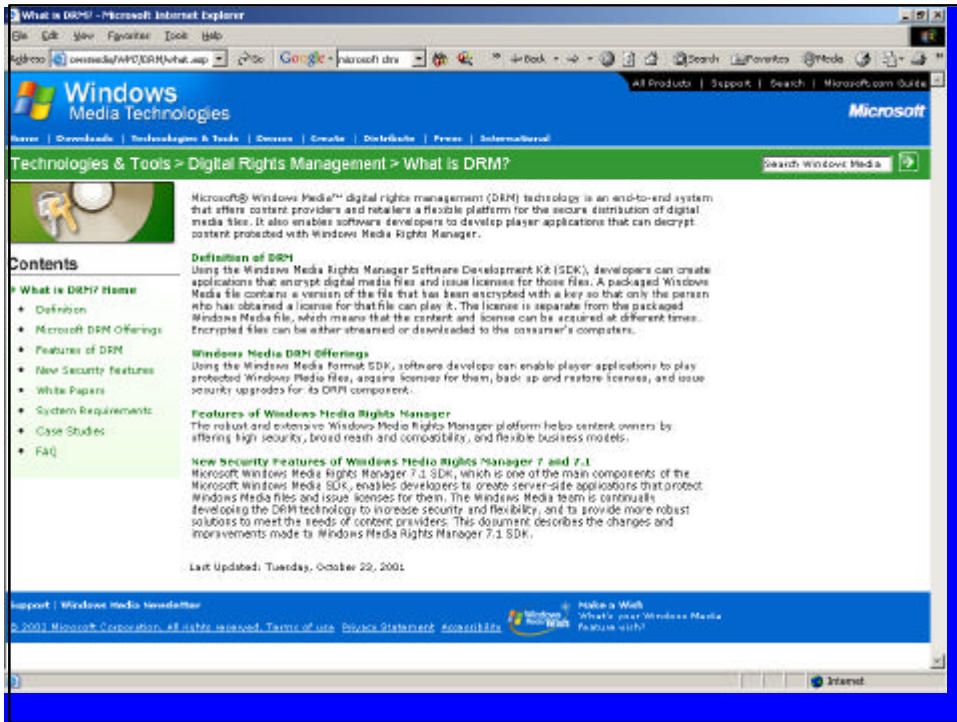
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 Today's Headlines  
 9:55 a.m. March 6, 2002 PST  
[The Real Reason 3G is](#)



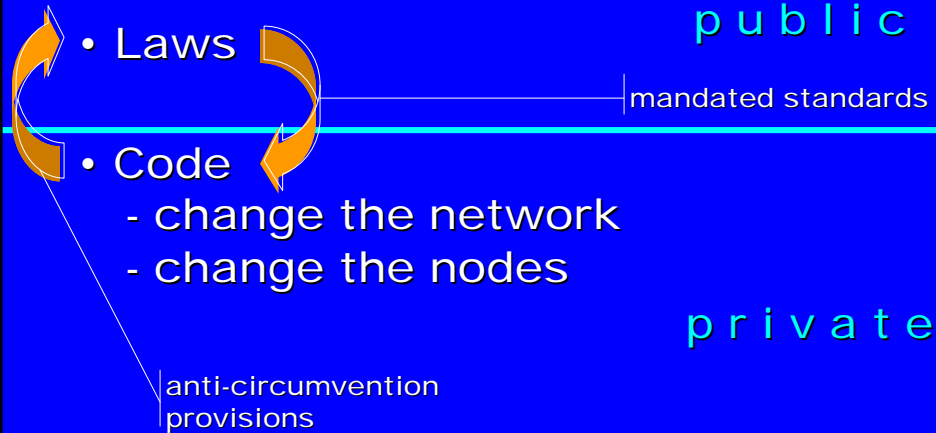




## Shaping the orange blob

- Laws
- Norms
- Code
  - change the network
  - change the nodes

# Shaping the orange blob



Slashdot | SSSCA Hearing - Microsoft Internet Explorer

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bugs  
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### SSSCA Hearing

Posted by [michael](#) on Friday March 01, @09:34AM  
from the big-news dept.

[larsencc](#) writes: "According to [this article](#) on [CNET](#), a Senate Bill will likely force the issue of adding copy protection to hardware. They are giving the industry 12 to 18 months to come up with a voluntary solution to the "problem" of copies, and if not... Well, you just have to read the article. Insane." Wired also has a [story](#). The IP list published two interesting documents: an [account of the hearing](#) by an attendee, and a [letter from Intel](#) published immediately after the hearing. Read the letter carefully - note that the disagreement between the tech industry and Hollywood is not over whether or not copy protection will be implemented into every electronic device, but only [whether or not this should be written into law](#). If the SSSCA isn't passed, Intel (and others) get a lot of leverage over Hollywood. If it is, Intel's leverage disappears. But since both sides want to build copy protection into everything, they only differ over the process, we're in trouble either way.

< [Augmented Reality: Enhanced Perception](#) | [Linux Web Browsers Compared](#)

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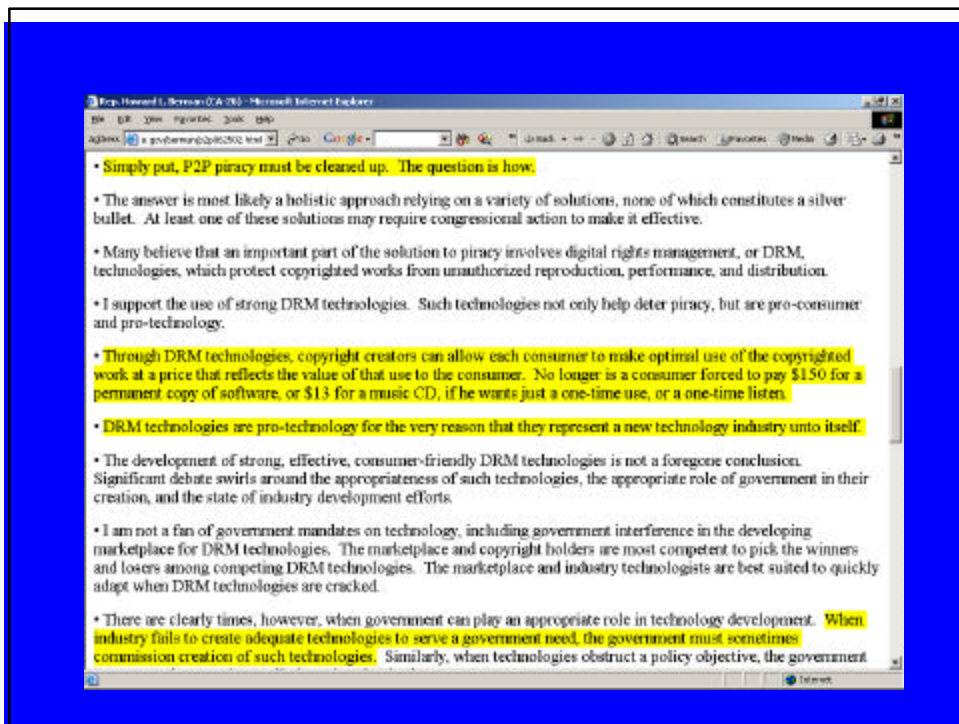
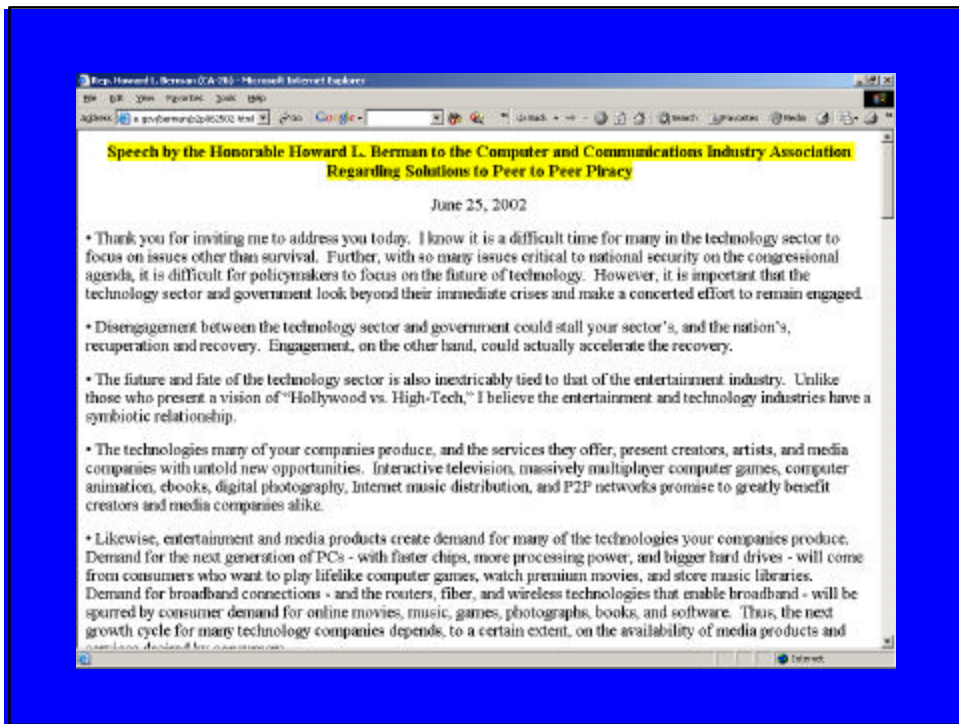
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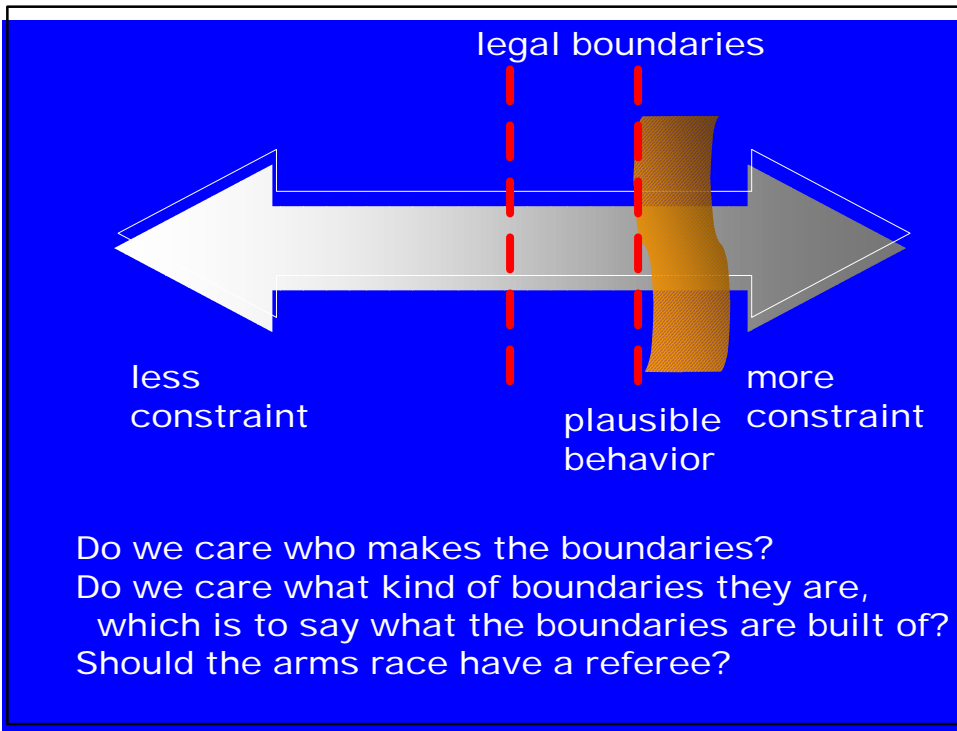
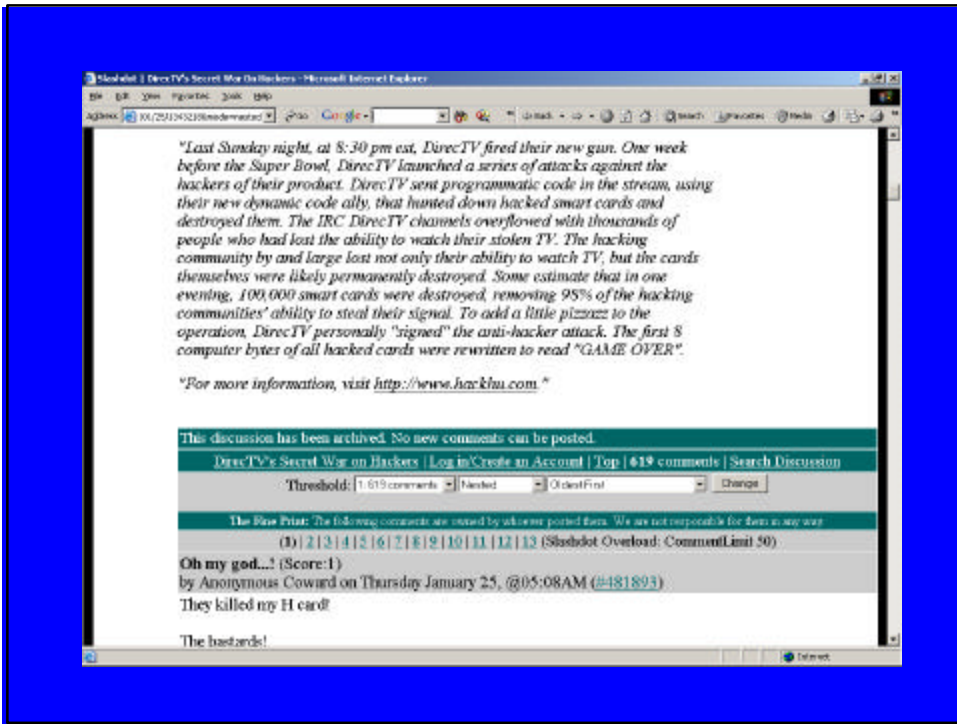
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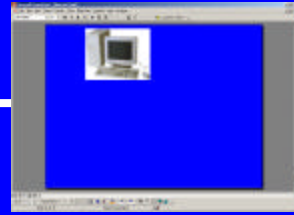
- No matter who is at fault for the failure to arrive at a consensus on DRM solutions, continued delay will result in increasing pressure to legislate. Regardless of who is actually doing the foot-dragging, the failure of the marketplace to create adequate solutions will convince more and more Members of Congress that government intervention is necessary.
- While the development and deployment of DRM technologies should be encouraged, DRM technologies do not represent a complete solution to P2P piracy. DRM solutions will not address the copyrighted works already "in the clear" on P2P networks. DRM solutions will never be foolproof, and as each new generation of DRM solutions is cracked, the newly-unprotected copyrighted works will leak onto P2P networks.
- Shutting down all P2P systems is not a viable or desirable option. P2P systems have many positive uses and could actually benefit those copyright creators who choose to utilize them. Shutting down all P2P networks would stifle innovation. P2P networks must be cleaned up, not cleared out.
- The day for cleaning up P2P networks through court action may now be past. While the 9th Circuit could shut Napster down because it utilized a central directory and centralized servers, the new P2P networks have engineered around that court decision by incorporating varying levels of decentralization. It may be that truly decentralized P2P systems cannot be shut down, either by a court or technologically, unless the client P2P software is removed from each and every file trader's computer.
- Copyright infringement lawsuits against infringing P2P users have a role to play, but are not viable or socially desirable options for addressing all P2P piracy. The costs of an all-out litigation approach would be staggering for all parties. Litigation alone cannot be relied on to clean up P2P piracy.
- One approach for dealing with P2P piracy that has not been adequately explored is whether it could be addressed, at least partially, through technological self-help measures.
- Copyright owners could employ a variety of technological tools to prevent the distribution of copyrighted works over a P2P network. Interdiction, decoy, redirection, file-blocking, and spoofing technologies can help prevent unauthorized P2P distribution.

File: Howard L. Screen (CA 9) - Microsoft Internet Explorer

Address: a.governmentof200502.html

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- Copyright owners could employ a variety of technological tools to prevent the distribution of copyrighted works over a P2P network. Interdiction, decoy, redirection, file-blocking, and spoofing technologies can help prevent unauthorized P2P distribution.
- Technological self-help measures are not particularly revolutionary. Satellite and cable companies periodically employ electronic countermeasures to thwart the theft of their signals and programming. Software companies have experimented for decades with a variety of technologies that disable software being used in violation of a license.





can the open coexist  
with the closed?

