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*The Psychology of Intellectual Property*

In this project, I investigate the psychological literature on creativity, exploring how artists—ultimately protected by copyright—and scientists—ultimately protected by patent—go about creating their works. I am particularly interested in how the creativity process is similar for artists and scientists and also different for the two groups. I use these similarities and differences to explore the very different thresholds that copyright and patent law have set for artistic and scientific creations, respectively. Copyright law merely requires artistic works to pass a low threshold of originality (liberally construed) to gain copyright protection, while patent law requires scientific inventions to pass the high hurdle of novelty, nonobviousness, and utility to secure patent protection. I suggest that the psychological differences between artistic and scientific creation provide a new explanation for the differences in protectability for copyright and patent. This project ultimately looks at copyright law and patent law side by side to glean why their laws appear to be different in so many ways when they stem from the same constitutional power to “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.”