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0.1 Contract & patent

Once there is a patent, voluntarily-accepted user restrictions may not be enforceable. Or, at least, an attempt on the patentee's part to condition access of certain types on obtaining such restrictions, may be imperssible. See 30 BNA PTCJ 104 (5/30/85)(Restrictions voided on availability of desposited yeast strains.) Filed under Yeast case.

0.2 PreE

The following seem to have been held "equivalent to copyright" by a court which apparently flirts with both interpretations of section 301 (namely, both the elements test and with the qualitative test): unauthorized licensing, injury to reputation through inferior quality of the product licensed, and interference w contact relationships. NOTE THAT IMPACT ON REPUTATION IS HELD PREEMPTED> Not preE: Breach of contract; false labeling.

See the case: 30 BNA 108 (5/30) filed under case name: Meyers v Waverly Fabrics. Ct App of NY 5/7/85.

0.3 Genericness

The generaicness tests suggest that AVOIDING INACCURATE INFORMATION REGARDING THE PRODUCER OF A PRODUCT IS LESS IMPORTANT THAN ENCOURAGING ACCURATE INFORMATION ABOUT THE PRODUCT ITSELF. For a typical ex., see Christian Science Bd of Dir v Evans, NJ App Div 3/1/85. 30 BNA PTCJ 29 (5/9/85)

0.4 Author Disfavored Works: Any constitutional status?

In a 1971 Private Law, the Mother Church of Christian Science got the copyright in Eddy's book extended. They were afraid of "unauthorized distortions" - which, I think, meant they were afraid of commentaries, annotated versions, revised editions alleged to be "truer" to Eddy's original manuscripts, etc., coming out of The Independent Christian Science Church of Plaintifield NJ, and similar offshoots. In a suit in USCD for D of Columbia, a dissident group is claiming the Private Law was unconsittutional, in violation of the First am.(BNA suggests they're arguing "the challenged law represents an unconsitutional intrusion into a religious dispute" and that the Mother Church is defending on the ground that the law has a "valid secular purpose; " I'd argue that there is a free speech issue as well.) 30 BNA PTCJ 29 (5-9-85)- Filed w CHR SCIENCE case.

0.4.1 Felisia

Try to get the names of the District Court participants & get ct papers from them. BNA wd be a place to start.

0.5 Dissemination and patent

I need to research dissemination & patent more generally. The following case suggests two things of interest: (1) that distributing knowledge of the THING and not of the SECRET is enough to start the one-year clock ticking, witvin which application for patent must be made. (This is roughly consistent w my natural rights approach; the court's approach in KEWANEE which allowed state control regardless of whether the THING was in public use isn't explicable in terms of nat rts... I think it's simply explicable in terms of the large disruption of state schemes of governance that wd be entailed by invalidating suits against breach of contract and breach of confidence whenever the def can show the effect of the breach was to encourage copying.)

(2) In the case, it was also suggested that it matters TO WHOM the dissemination is made- dissemination to people "most likely to avail themselves of its content" may be the type that counts.

Now, while all this might be explicable in terms of a "don't extend the patent term" rationale, it might also resonate in natural rights terms. Whether or not it does serve Nat Rts type goals would probably be revealed by figuring out what happens if there's no dissemination at all. Does that count as "Concealing" etc. (see the discussion of concealment in the workshop paper.)