



State Law and Copyright Preemption

Copyright
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Preemption

- Copyright, as federal law, can and often does preempt state law.
- Copyright preemption can strike down statutes and caselaw where state legislatures or state courts attempt to create copyright-like protection.
- Copyright preemption is a surprisingly useful tool in ordinary litigation. A particular example is right of publicity claims. Copyright preemption is often used in right-of-publicity cases by defendants to defeat right of publicity claims – particularly where those claims are outside the norm or where the claim gets close to some copyright-industry type business.