

“To promote the Progress of Science and useful Arts...”
— United States Constitution, Article I, Section 8

06/16/2026 Document Version: v1.0

Intellectual Blight:

Dormant Ownership, Cultural Withholding, and the Public
Function of Intellectual Property

Property, Stewardship, and Cultural Availability in the Modern IP Regime

A Position Paper by Gaming Brethren Advocates Mutual-aid
Federation & Society (GBAMFS)

Abstract

American intellectual property law was not established to create perpetual inert ownership over culture. Its constitutional purpose was explicitly utilitarian: to “promote the Progress of Science and useful Arts.” Yet contemporary media consolidation has increasingly transformed intellectual property from a productive incentive structure into a defensive capital asset class.

Across film, television, gaming, software, and multimedia preservation, culturally significant works are routinely withheld from the market, rendered inaccessible, technologically abandoned, or reduced to exploitative low-function deployments while ownership remains legally intact. This paper argues that such practices constitute a form of intellectual blight: a condition in which ownership persists while productive public utility collapses.

Drawing conceptual parallels from property-law blight, urban vacancy theory, anti-speculation doctrine, nuisance principles, and public-function jurisprudence, this paper proposes that dormant intellectual property should no longer receive identical legal treatment to actively maintained and publicly accessible works. The paper further argues that current American IP enforcement increasingly protects capital preservation rather than the constitutional purpose of cultural production and dissemination.

The result is a legal regime where ownership itself has become decoupled from stewardship.

I. Introduction:

Intellectual Property Beyond Its Constitutional Purpose

The modern American understanding of intellectual property increasingly treats IP as absolute property rather than conditional public-interest privilege. This shift represents a profound departure from the constitutional foundations of copyright and patent law in the United States.

The Constitution does not establish intellectual property as a natural right. Rather, Article I, Section 8 authorizes limited monopolies only insofar as they “promote the Progress of Science and useful Arts.” The legitimacy of IP protection is therefore instrumental, not intrinsic.

This distinction is critical.

If the purpose of intellectual property is social utility, then a system that enables indefinite suppression, warehousing, or non-use of culturally significant works ceases to operate according to its foundational justification.

In practice, large rights-holders increasingly engage in what may be described as capitalized dormancy:

- acquisition without productive deployment,
- strategic withholding from markets,
- intentional delisting,
- technological abandonment [force obsolescence,]
- rights retention absent commercial availability,
- or degradation of works into low-effort extractive deployments inconsistent with the work’s cultural function.

The problem is especially visible in:

- legacy video games,
- unavailable television archives,
- delisted digital storefront titles,
- orphaned software ecosystems,
- music trapped in licensing deadlock,
- and film catalogs withheld despite persistent public demand.

This paper argues that these phenomena collectively constitute intellectual blight.

II. Porting “Blight” From Property Law Into IP Theory

In traditional property law, blight refers to conditions where ownership exists but socially productive use deteriorates or disappears, producing broader public harm.

Blight doctrine emerged because property rights were never understood as socially isolated absolutes. Municipal governments routinely intervene when abandonment, vacancy, dereliction, or speculative non-use damages surrounding economic and civic ecosystems.

Crucially, blight is not solely physical deterioration.

It is functional deterioration.

A building may remain structurally intact while still constituting urban blight through:

- prolonged vacancy,
- economic dead-zoning,
- speculative warehousing,
- or systemic deprivation of public utility.

The same logic applies to intellectual property.

An intellectual work may remain legally owned while becoming culturally inaccessible, commercially unavailable, technologically unusable, or preservation-hostile. The ownership persists; the social function collapses.

This paper therefore proposes the term:

Intellectual Blight

Defined as:

A condition in which legally protected intellectual property remains under exclusive ownership while its productive cultural, educational, archival, or market utility is substantially suppressed, inaccessible, technologically abandoned, or strategically withheld from the public sphere.

This condition produces harms analogous to physical blight:

- market stagnation,
- cultural decay,

- preservation instability,
- reduced creative recombination,
- artificial scarcity,
- and suppression of downstream innovation.

The central thesis is not that owners lose rights merely through inactivity.

Rather: when inactivity becomes structurally anti-productive to the constitutional purpose of IP itself, continued maximal exclusivity becomes jurisprudentially unstable.

III. IP as Capital Asset Versus IP as Public-Interest Instrument

Modern IP consolidation increasingly reflects financialized behavior rather than creative stewardship.

Large media conglomerates frequently treat intellectual property as:

- balance-sheet collateral,
- merger leverage,
- litigation inventory,
- speculative reserve capital,
- or anti-competitive exclusionary tooling.

Under this framework, public accessibility becomes secondary to asset retention.

The result is a paradox: works may remain culturally valuable while becoming economically invisible.

Examples include:

- unavailable legacy games trapped in publisher ownership,
- streaming-exclusive removals for tax optimization,
- discontinued software requiring obsolete authentication infrastructure,
- television archives unavailable despite digitization feasibility,
- and franchises maintained only through minimal “rights-preserving” activity.

These practices reveal a fundamental contradiction: the law continues granting monopoly protections even where the monopolistic activity no longer serves dissemination, innovation, or cultural continuity.

This effectively converts copyright from a temporary public bargain into perpetual exclusionary capital.

IV. The Stewardship Problem

Property systems traditionally distinguish between ownership and stewardship.

Even strong property-rights frameworks impose obligations:

- zoning compliance,
- nuisance restrictions,
- maintenance standards,
- environmental controls,
- abandonment doctrines,
- and public accommodation requirements.

Intellectual property law, by contrast, imposes comparatively weak stewardship obligations despite IP's immense role in national cultural infrastructure.

This omission becomes increasingly untenable in the digital era.

Video games, film, and software are not merely entertainment commodities. They are:

- historical artifacts,
- educational materials,
- artistic works,
- technical records,
- and components of collective cultural memory.

When ownership permits permanent disappearance, the legal regime effectively authorizes cultural erasure through non-use.

No analogous tolerance exists in most physical infrastructure domains.

V. Toward an Anti-Blight Framework for Intellectual Property

This paper proposes exploration of an anti-blight framework within American IP law.

Potential mechanisms may include:

1. Market Availability Requirements

Exclusive protections could weaken after prolonged periods of commercial unavailability.

2. Preservation Safe Harbors

Libraries, archives, museums, and nonprofit preservation organizations should receive expanded exemptions where owners fail to maintain accessibility.

3. Dormancy Thresholds

Extended non-use could trigger compulsory licensing review mechanisms.

4. Cultural Significance Review

Works of major historical importance may warrant special preservation obligations analogous to landmark protections.

5. Anti-Destruction Principles

Owners should not possess unrestricted authority to permanently erase culturally significant works solely for accounting or strategic purposes.

These proposals do not abolish ownership.

They merely reconnect exclusivity to function.

VI. Conclusion:

From Ownership to Stewardship

The central question is not whether creators deserve rights.

They do.

The question is whether exclusivity detached from public utility remains constitutionally justifiable under the American theory of intellectual property itself.

A legal framework that protects indefinite withholding, technological abandonment, and cultural suppression increasingly resembles speculative vacancy doctrine more than innovation policy.

Property law long ago recognized that ownership without stewardship can produce blight.

Intellectual property law has yet to fully confront the same reality.

Until it does, American culture will continue to experience a paradoxical form of scarcity amid abundance: vast creative catalogs legally owned, yet functionally absent.

The issue is no longer piracy versus ownership.

It is stewardship versus stagnation.

Author Attribution

Prepared and published by Gaming Brethren Advocates Mutual-aid Federation & Society (GBAMFS).

Primary conceptual framework, thesis direction, argumentative positioning, and editorial intent developed by:

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This document was developed through an iterative human-directed synthesis process utilizing OpenAI language-model systems under direct author supervision and structured prompting.

All core propositions, thematic objectives, conceptual framing, and final publication decisions originated from the author and publishing organization. AI-assisted systems were used as editorial, structural, and synthesis tools in support of pre-conceived analytical objectives.

Publication Date: 06/16/2026

Published by GBAMFS

<https://gbamfs.org>

“By Gamers, For Gamers.”

Methodological Disclosure

This publication was developed as a public-interest position paper intended to bridge academic legal theory, media preservation discourse, consumer-rights advocacy, and technology-policy analysis.

The document synthesizes concepts derived from:

- constitutional IP theory,
- property-law blight doctrine,
- stewardship theory,
- preservation ethics,
- digital ownership discourse,
- cultural infrastructure analysis,
- and multimedia market behavior.

The purpose of this publication is analytical and policy-oriented. It does not constitute legal advice.

AI-Assisted Editorial Disclosure

Portions of this document were generated, refined, or structurally assisted using OpenAI large-language-model systems operating under direct human guidance.

The author provided:

- the central thesis,
- conceptual objectives,
- domain-specific framing,
- argumentative direction,
- thematic constraints,
- and editorial approval over all finalized material.

AI systems were utilized as synthesis and drafting instruments rather than autonomous authors.

All outputs were reviewed, curated, modified, and approved prior to publication.

Preservation and Public-Interest Statement

GBAMFS maintains that digital media, interactive software, film, television, and related multimedia works constitute components of modern cultural infrastructure.

This publication reflects the organization's broader position that preservation accessibility, consumer rights, historical continuity, and technological stewardship are increasingly inseparable from contemporary public-interest policy.

Citation and Redistribution

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Organizational Information

Gaming Brethren Advocates Mutual-aid Federation & Society (GBAMFS)
By Gamers, For Gamers.

<https://gbamfs.org>

Independent advocacy for:

- consumer rights,
- game preservation,
- digital ownership,
- media accessibility,
- arts cultural education, and promotion
- and technology literacy.

Recommended Citation

GBAMFS. “Intellectual Blight: Dormant Ownership, Cultural Withholding, and the Public Function of Intellectual Property.” Published 06/16/2026.

Editorial Note

This paper intentionally adopts a hybrid format combining:

- public-facing accessibility,
- policy-paper structure,
- legal-theoretical analysis,
- and academically influenced argumentative rigor.

The objective is not merely scholarly commentary, but actionable public discourse concerning the stewardship obligations attached to modern intellectual property regimes.