

Introduction to the Activity

The following activity is created with advanced high school students – dual enrollment students in mind. It moves beyond factual recall to ask students to engage in constitutional interpretation, and then application – weighing competing policy interests and taking a position to develop and defend using evidence from the Constitution itself. The activity is in two parts: part 1 – a close reading of the constitution; part 2 – applying the clause to discussion about artificial intelligence. At the end, there are examples of possible optional extension / homework follow-up activities.

Title of the Activity:

Constitutional Interpretation and Artificial Intelligence: The Intellectual Property Clause

Time for Activity: 40-60 minutes depending on class size

Resource: Article I, Section 8, Clause 8 of the US Constitution

Level: Advanced High School Students / Introductory Level Undergraduates

Key Question:

How should the constitutional purpose of intellectual property guide public policy regarding artificial intelligence-generated content?

Learning Objectives:

Students will be able to:

- Analyze the language and purpose of Article I, Section 8, Clause 9 of the U.S. Constitution – the intellectual property clause
- Explain how intellectual property protections are intended to balance private incentives and the public good
- Evaluate whether AI-generated works should receive copyright protection using constitutional reasoning
- Construct and defend a claim supported by constitutional evidence
- Engagement in reading, individual writing, group writing and presentation work

Part 1 – Close Reading, Annotation, and Reflection [approx. 20 minutes]

Text from the Constitution – Article I, Section 8, Clause 8:

“[The Congress shall have Power . . .] 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.”

Instructions for Students:

Read the [clause independently](#).

Then annotate the text while considering the following questions:

- a – What is the stated purpose of the clause?
- b – Why might the Framers have chosen the phrase “limited Times”?
- c – What powers does this clause grant Congress?
- d – Does the clause appear primarily concerned with rewarding creators or promoting public progress? Explain.

After individual reading and writing, in pairs or small groups, compare annotations and develop a **one-sentence summary** about the purpose of the clause.

From small groups/pairs, share the one-sentence summary with the whole class group.

*Teacher to pick up key points for discussion from the small group shares; also to highlight the tension embedded in the clause.

- There should be protections for the creative works of individuals.
- Societies benefit when people create and invent things.
- Society also benefits when creative works and knowledge become public works.

Part 2 – Applying the Clause to Artificial Intelligence [approx. 30-minutes]

Scenario (adaptable, only as an example)

You (students) are policy-makers, and you are considering the question of whether “AI-generated works should receive copyright protection” based on the assumption that artificial intelligence apps can generate artwork, music, videos, writings, even computer code with minimal involvement of humans.

Question posed:

“Should AI-generated works receive copyright protection?”

Teachers to come up with specific examples of possible AI-generated works for students to engage with.

Students in small groups, should:

- use the 3-points below to decide and clarify a position
Positions to take on teacher-created examples, students should determine:
 - Copyright protection should be granted.
 - Copyright protection should not be granted.
 - More information is needed to make a decision.
- prepare justifications for their choices using the language from the Constitution
- draft a recommendation to Congress that:
 - utilize at least two phrases from the text (Constitution)
 - include one argument about innovation
 - include one argument about public interest

Each group presents their policy statement in one-two minutes. [final 10-minutes]

Extension Activity / Homework Follow-Up Activities

Option 1: Critical reflection responsive writing assignment:

Submit a well-developed one paragraph in reply to the following prompt:

“Does granting copyright protection to AI-generated works fulfill the constitutional goal of promoting “the progress of science and useful arts” as stated in Article I, Section 8, Clause 8? Use the clause as evidence in support of your answer.

Option 2: Research assignment:

Research and write a brief policy memo to the following:

Researching a current case involving AI-generated art, music, writing, or software, explain how Congress should respond. Include if / how your recommendation to Congress aligns with the original purpose of the Intellectual Property Clause.