As philosopher Ludwig Wittgenstein once posited, “the limits of my language mean the limits of my world.” Copyright law circumscribes our linguistic and artistic palettes by subjecting entire wings of Jorge Luis Borges’ metaphoric Library of Babel to monopolization and by restricting the reproduction and manipulation of cultural content. This Paper highlights the critical role of copyrighted content in the development of identities and how our relationship with intellectual property affects both self-expression and self-definition. Thus, the Paper takes a modest first step towards identifying these personhood interests, examining the way in which the law has failed to account fully for these interests and providing a Hegelian basis for the future consideration of these interests.

The Paper begins by tracing the public, semiotic use of cultural content in identity formation and copyright’s careful regulation and control of such activities. Using four case studies involving national and state flags, the most famous prayer of the past century, an international sporting event and visions of the All-American woman, the Paper illustrates how intellectual property laws can mediate nationalistic, spiritual, sexual, racial and gender-based identities by regulating core activities related to personal development and self-definition. And while intellectual property laws have the power to circumvent traditional First Amendment protections and patrol uses of cultural, patriotic and religious symbols, modern copyright law has paid insufficient attention to how such semiotic uses of cultural content can impact one’s relationship with one’s body, one’s social community, one’s country and even one’s God.

Meanwhile, copyright law has traditionally protected the non-semiotic (i.e., non-public) possession and private use of cultural content from liability, thereby enabling individuals to advance personal development through the unauthorized use of copyright works in at least some capacities. But, as the Paper argues, the days when such activities fell outside of the penumbra of copyright’s liability regime are rapidly coming to an end. Technological and legal developments have increasingly allowed copyright law to penetrate the private sphere, allowing putative rightsholders to regulate and control access to intellectual property in arenas previously shielded from the gaze of the legal system. Using the examples of private sharing of family photo albums, the private use of photocopied scholarly articles by students and the private enjoyment and study of motion pictures by cinephiles, the Paper highlights the danger of this expansion for its potential impact on activities that form identities, shape familial bonds and advance personal development. It also examines the implications of the potential passage of the Anti-Counterfeiting Trade Agreement on previously protected private possession and use of copyrighted content. All told, the Paper argues that, in the twenty-first century, control of IP—intellectual property—is central to the understanding of IP—identity politics.