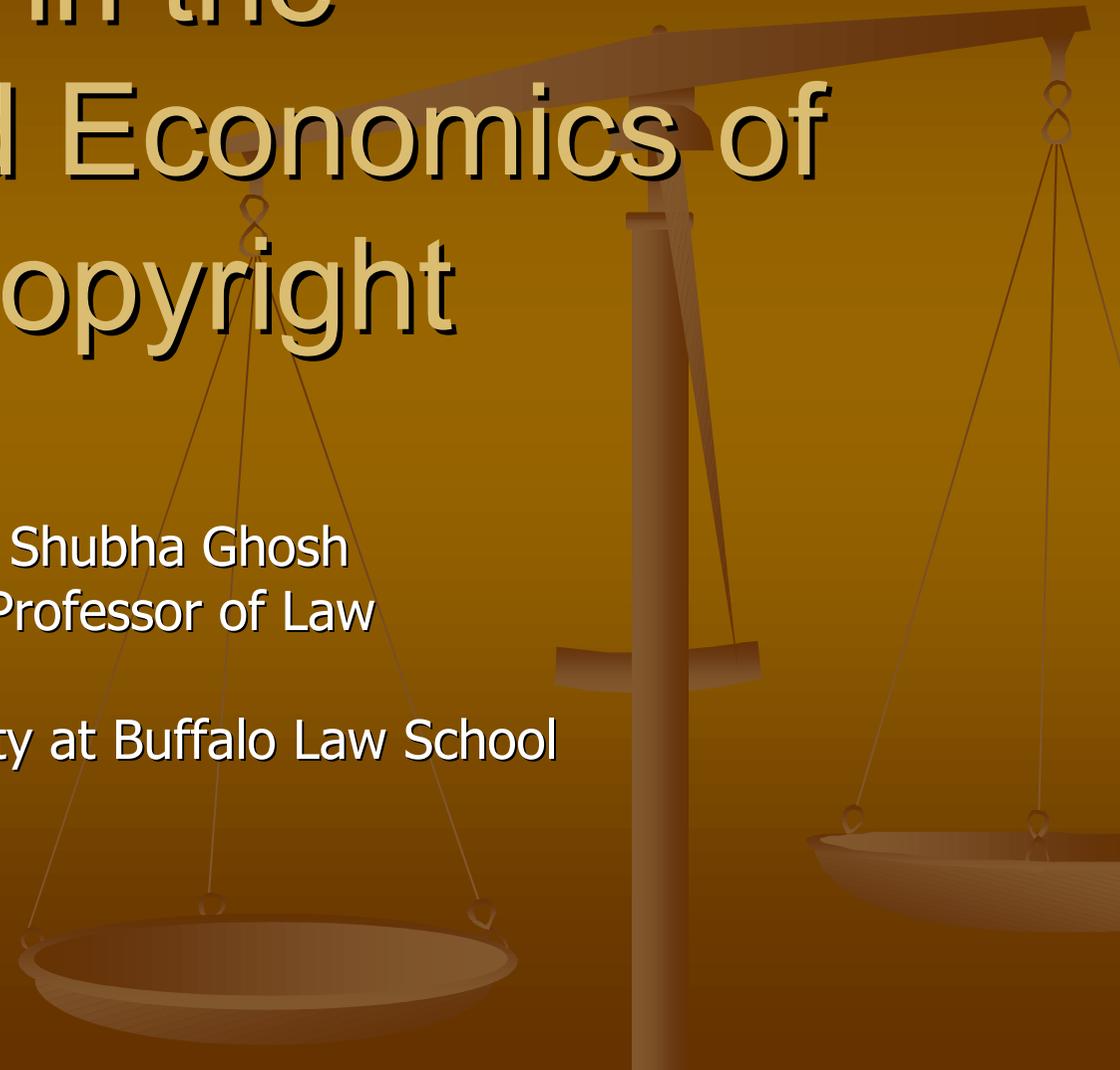


Distributive Justice Goals in the Law and Economics of Copyright



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Non-economists on Copyright

- Diversity
- Individual expression
- Free speech

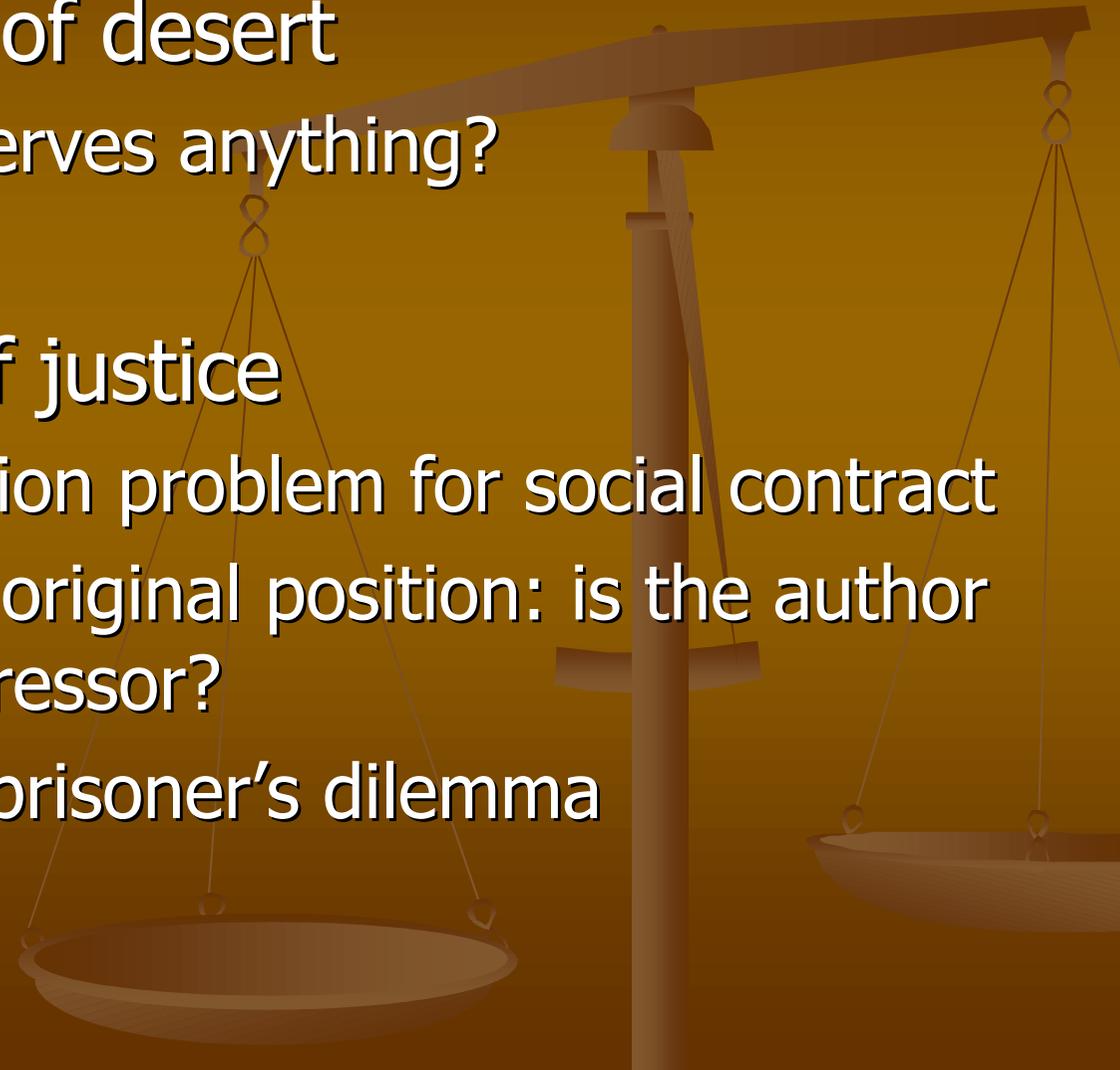


Economic Efficiency and Copyright

- Technical efficiency: inappropriate for copyright
- Allocative efficiency
 - Quantity versus quality tradeoff
 - Producer versus consumer rivalry
- Dynamic efficiency: progress in patent versus progress in copyright

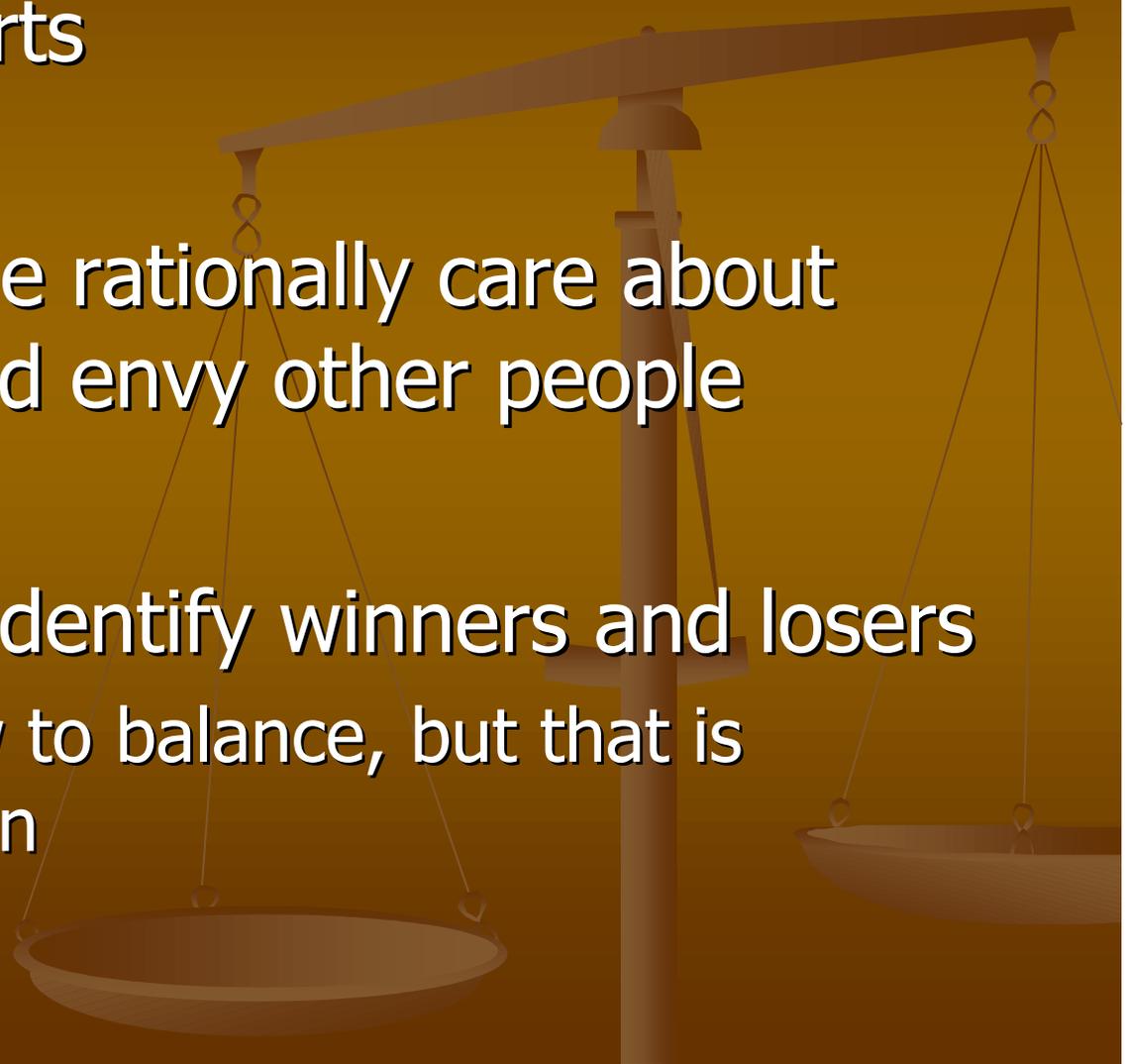


What I *do not* mean by distributive justice

- Nozick's theory of desert
 - Who really deserves anything?
 - Rawls' theory of justice
 - Overinterpretation problem for social contract
 - Problem of the original position: is the author a victim or oppressor?
 - Assumption of prisoner's dilemma
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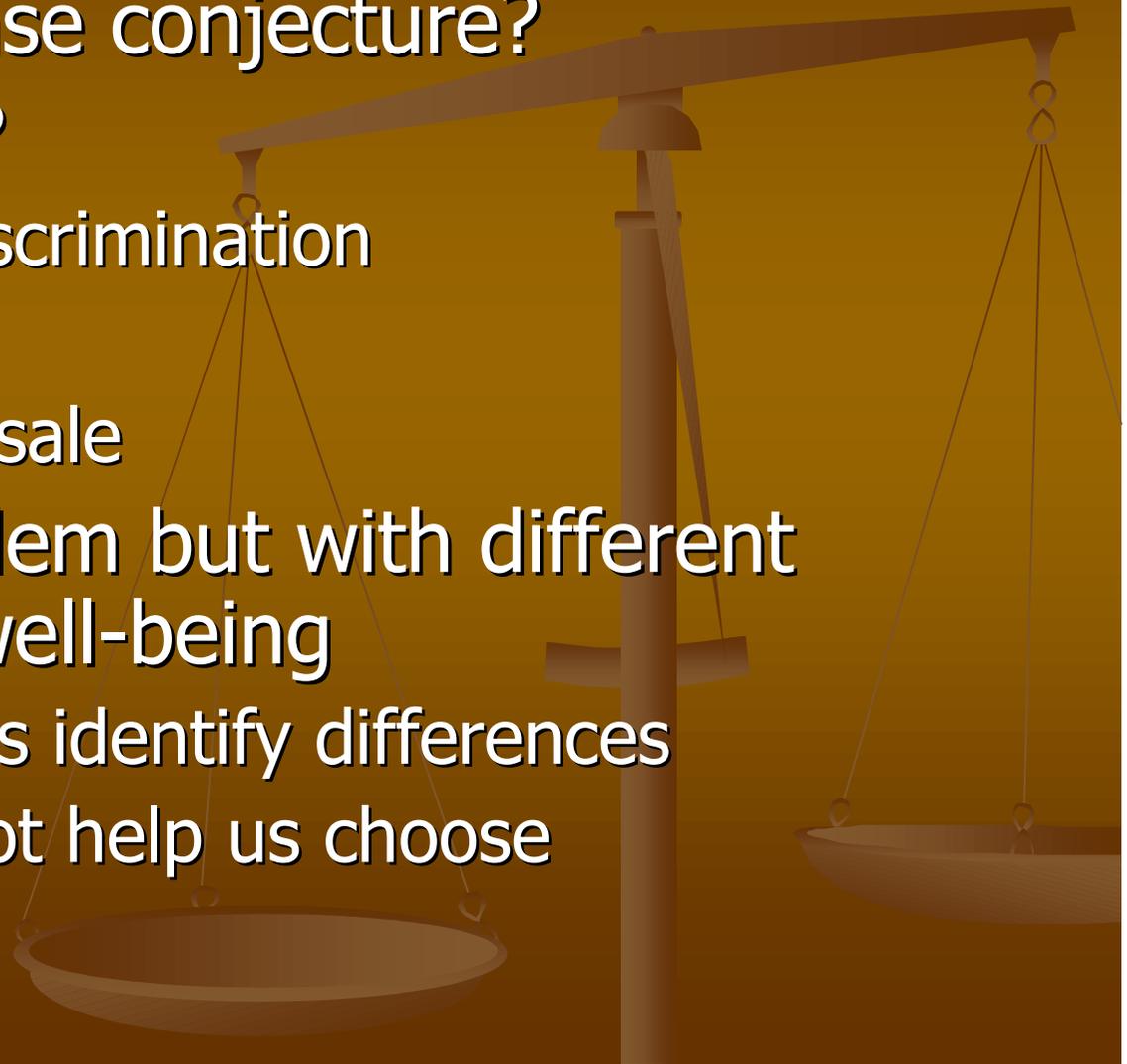
What I do mean by distributive justice

- Welfarism of sorts
- Fairness: people rationally care about other people and envy other people
- Main goal is to identify winners and losers
 - Problem of how to balance, but that is political question

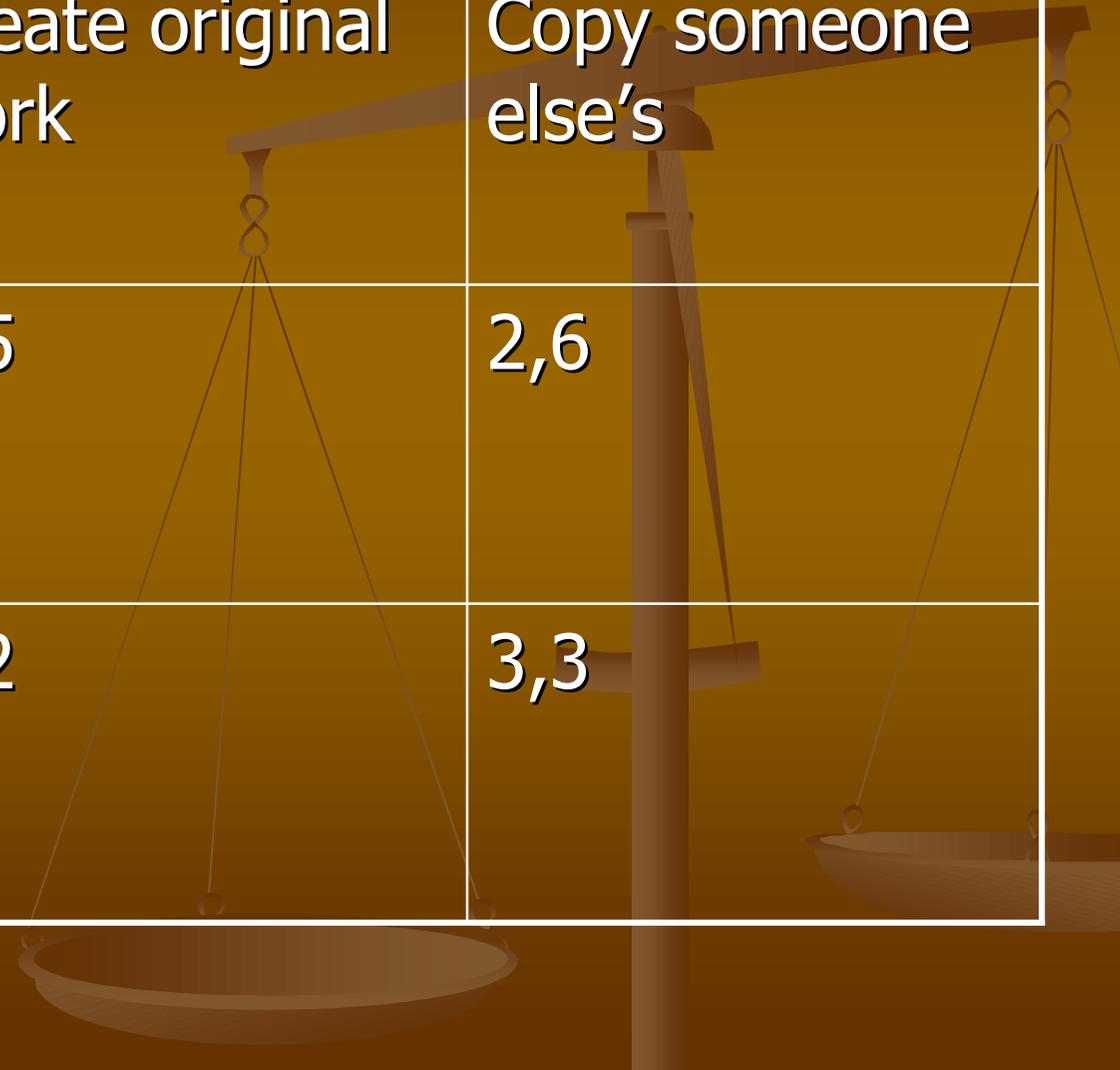


Example One: Coase Conjecture

- What is the Coase conjecture?
- How to resolve?
 - Perfect price discrimination
 - Limit copying
 - Leasing versus sale
- All resolve problem but with different distribution of well-being
 - Economics helps identify differences
 - Efficiency cannot help us choose

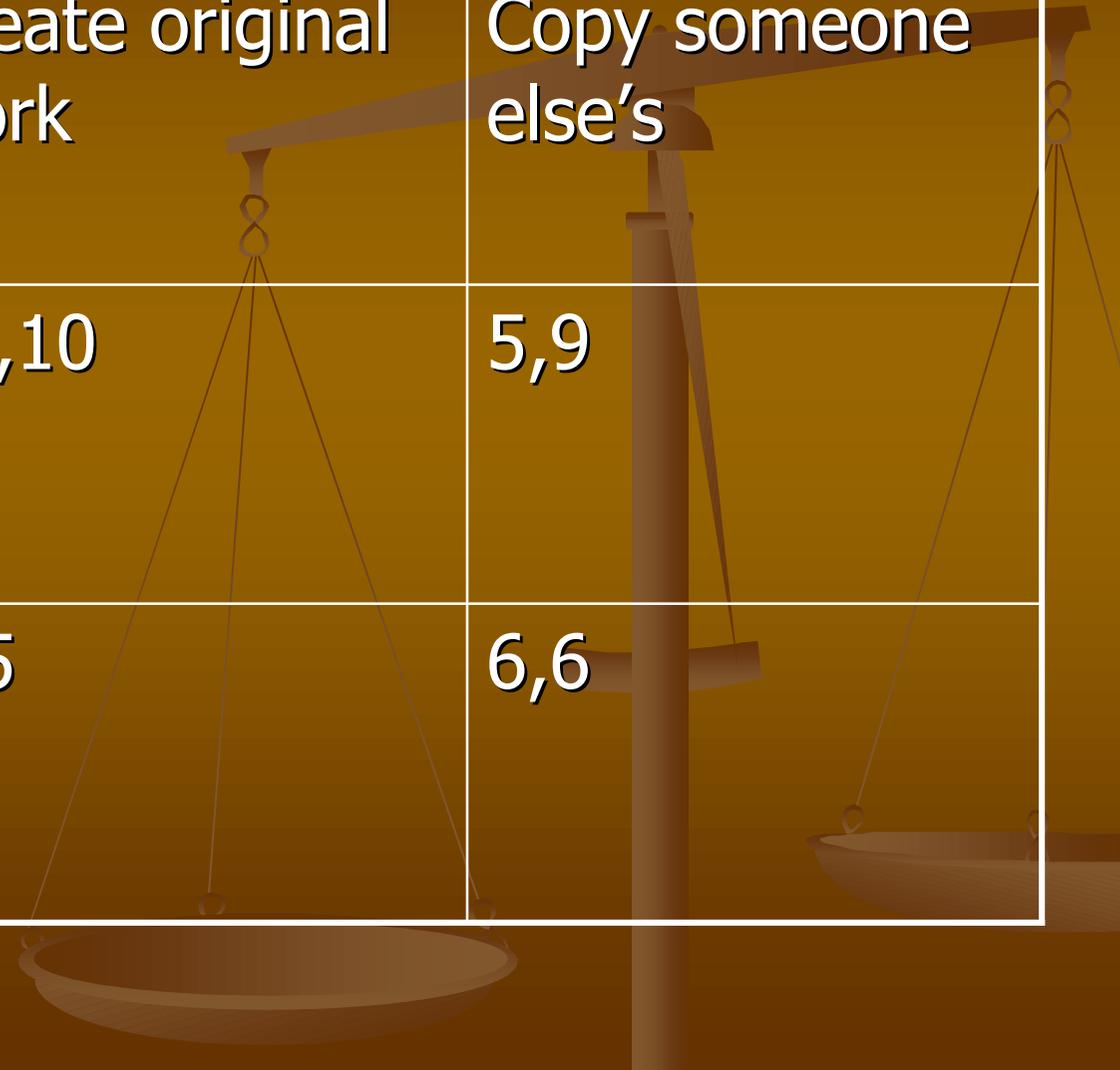


Example Two: Prisoner's dilemma



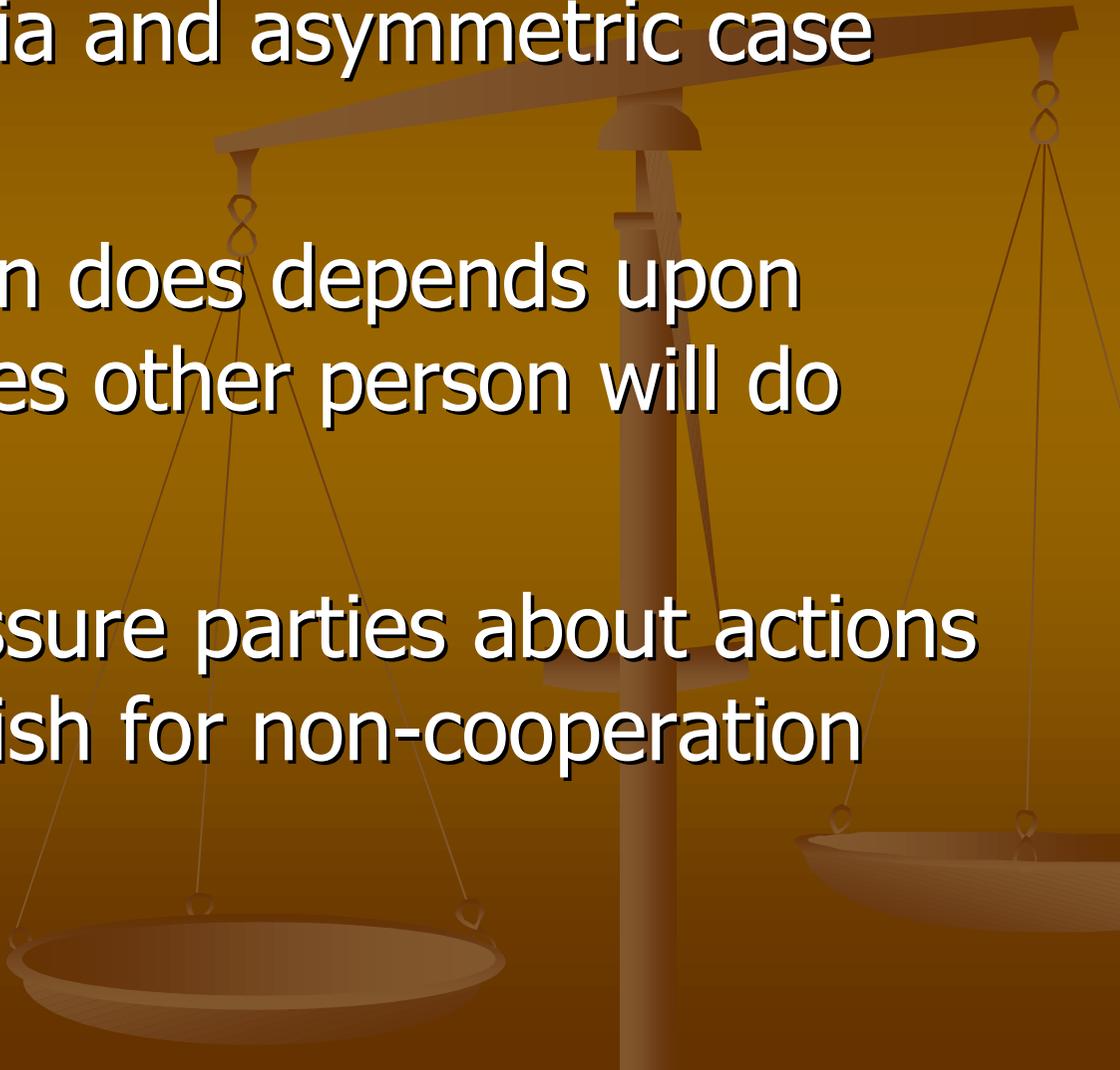
	Create original work	Copy someone else's
Create original work	5,5	2,6
Copy someone else's	6,2	3,3

Repeated prisoner's dilemma with trigger strategy= Assurance Game



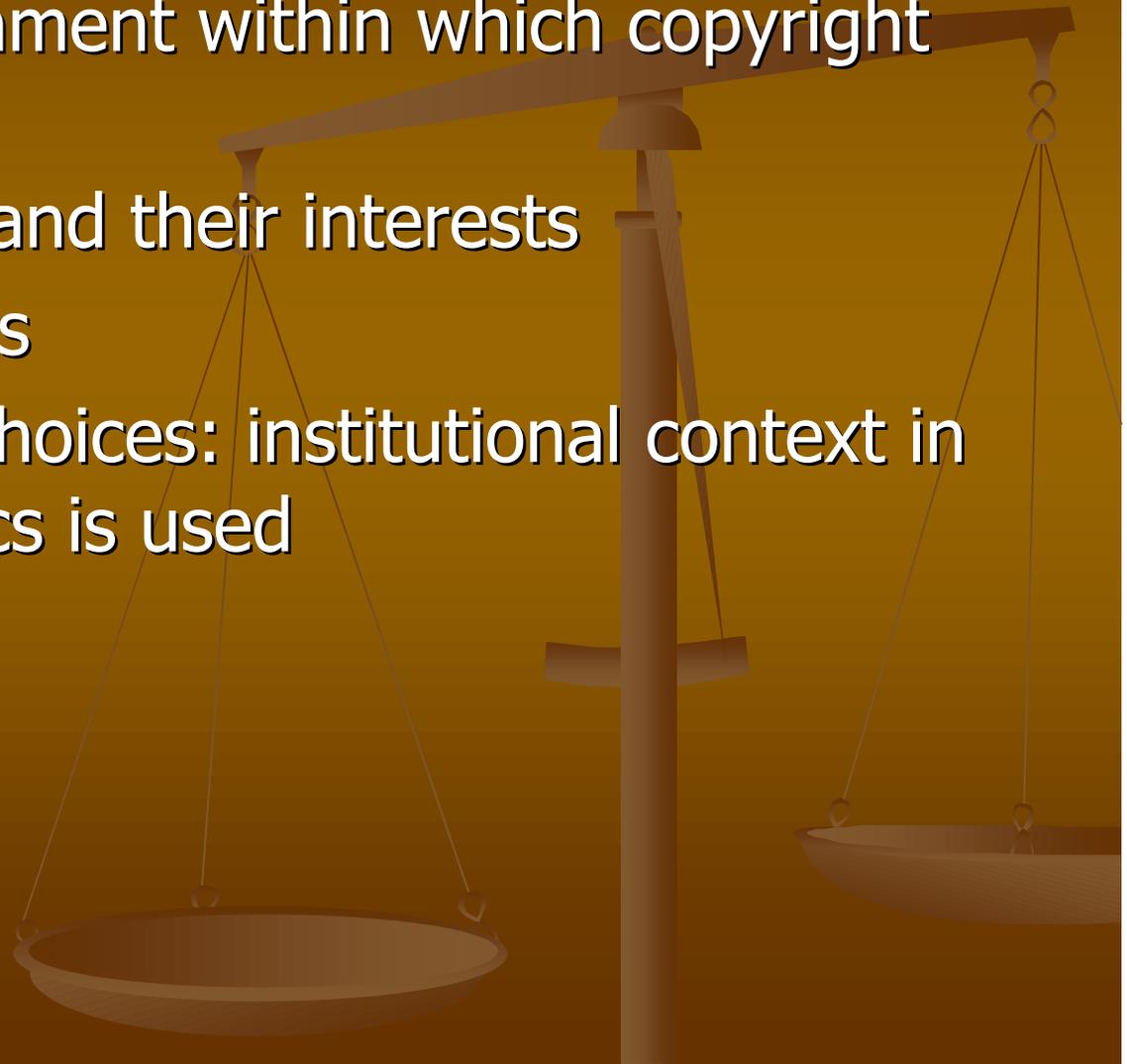
	Create original work	Copy someone else's
Create original work	10,10	5,9
Copy someone else's	9,5	6,6

Lessons from assurance game

- Multiple equilibria and asymmetric case
 - What one person does depends upon what she believes other person will do
 - Law works to assure parties about actions rather than punish for non-cooperation
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How economics helps copyright

- Identify environment within which copyright arises
- Identify actors and their interests
- Identify conflicts
- Aid in making choices: institutional context in which economics is used



Applications

- Copyrightable subject matter
 - Is everything copyrightable?
- Fair use
 - Finding a role for fairness
- Problem of entry
 - Identifying tensions between producer and consumer surplus
- Interface with Competition law
- Traditional knowledge problem



Final Thoughts

- Recognizing copyright as legislation
 - Problem of adjudicating particular disputes
 - Sharpening copyright policy and making economic thinking more palatable for the generalist copyright person
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