protecting others bespoke no intention that federally unprotected materials should enjoy no state protection, only that Congress "has left the area unattended." [1458] Similar analysis was used to sustain the application of a state trade secret law to protect a chemical process, that was patentable but not patented, from use by a commercial rival, which had obtained the process from former employees of the company, all of whom had signed agreements not to reveal the process. The Court determined that protection of the process by state law was not incompatible with the federal patent policy of encouraging invention and public use of patented inventions, inasmuch as the trade secret law serves other interests not similarly served by the patent law and where it protects matter clearly patentable it is not likely to deter applications for patents.[1459]

Returning to the *Sears* and *Compco* emphasis, the Court unanimously, in *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*,[1460] reasserted that "efficient operation of the federal patent system depends upon substantially free trade in publicly known, unpatented design and utilitarian conceptions." [1461] At the same time, however, the Court attempted to harmonize *Goldstein*, *Kewanee*, and other decisions: there is room for state regulation of the use of unpatented designs if those regulations are "necessary to promote goals outside the contemplation of the federal patent scheme." [1462] What states are forbidden to do is to "offer *patent-like protection* to intellectual creations which would otherwise remain unprotected as a matter of federal law." [1463] A state law "aimed directly at preventing the exploitation of the [unpatented] design" is invalid as impinging on an area of pervasive federal regulation.[1464]

[1458] In the 1976 revision of the copyright law, Congress broadly preempted, with narrow exceptions, all state laws bearing on material subject to copyright. 17 U.S.C. § 301. The legislative history makes clear Congress' intention to overturn *Goldstein* and "to preempt and abolish any rights under the common law or statutes of a state that are equivalent to copyright and that extend to works coming within the scope of the federal copyright law." H. REP. NO. 94–1476, 94th Congress, 2d Sess. (1976), 130. The statute preserves state tape piracy and similar laws as to sound recordings fixed before February 15, 1972, until February 15, 2067. (Pub. L. 105–298 (1998), § 102, extended this date from February 15, 2047.)

[1459] Kewanee Oil Co. v. Bicron Corp., 416 U.S. 470 (1974). *See also* Aronson v. Quick Point Pencil Co., 440 U.S. 257 (1979).

[1460] 489 U.S. 141 (1989).

[1461] 489 U.S. at 156.

[1462] 489 U.S. at 166. As examples of state regulation that might be permissible, the Court referred to unfair competition, trademark, trade dress, and trade secrets laws. Perhaps by way of distinguishing *Sears* and *Compco*, both of which invalidated use of unfair competition laws, the Court suggested that prevention of "consumer confusion" is a permissible state goal that can be served in some instances by application of such laws. Id. at 154.

[1463] 489 U.S. at 156 (emphasis added).

[1464] 489 U.S. at 158.