

# Index

---

- Abramovitz, M. 21, 35  
Ackerman, B. 33  
Adams, C. 184  
Adams, W. 123  
Aghion, P. 13–14, 16  
Ahlborn, C. 124, 126, 128, 169  
Akman, P. 64, 66, 69  
Alchian, A. 101  
Alese, F. 50–51, 62–3  
Alexander, J. 36  
Allen, W. 101  
Almeida, A. 94  
Amato, G. 172  
Amendola, M. 16  
Anderman, S. 44, 50, 147  
Andrews, C. 189  
Angland, J. 48, 73  
Apostolopoulos, H. 163  
Areeda, P. 1, 6, 23, 47, 54, 56, 57, 62, 64, 65, 66, 112, 113, 115, 122, 141, 143–4, 146–7, 148, 171, 172  
Armstrong, M. 121  
Arpon, A. 74  
Arrow, K. 13, 31–2, 33  
Arthur, T. 64  
Arthur, W. 19, 20  
Audretsch, D. 12  
Austrian School 17–18, 39  
Ayes, I. 86–7  
  
Baer, W. 158  
Bain, J. 9  
Bainbridge, D. *xvi*, *xvii*  
Baker, D. 65  
Baker, J. 2, 10, 14, 25, 63, 140  
Bakos, Y. 121  
Baldwin, W. 15, 100  
Balmer, T. 183  
Balto, D. 158, 192, 196  
Balto, J. 23  
Bansal, P. 20  
  
Barnett, J. 33  
Barnett, T. 81  
Bauer, J. 154, 189  
Baumol, W. 9, 11, 12  
Bayus, B. 79  
Beck, R. 101  
Becker, G. 31  
Becker, L. *xvi*  
Bellis, J. 67, 175  
Bentley, L. *xvii*, 30  
Bernheim, B. 143  
Besen, S. 19, 29, 116  
Bessen, J. 25, 33, 37  
Bishop, S. 5  
Blaug, M. 4–5  
Bloch, R. 55, 69  
Bloom, M. 173  
Blumenthal, W. 52, 65  
Boccaccio, M. 2, 8, 15, 27, 51, 63, 67, 80, 140  
Bohannan, C. 30  
Bone, R. 181, 187  
Bork, R. 16, 49, 63, 89, 123, 183, 185, 196, 200, 201  
Boudin, M. 141  
Bourgeois, H. 53  
Bowman, W. 83  
Boyle, P. 157  
Braeutigam, R. 183  
Branstetter, L. 37  
Brennan, T. 1, 24, 48, 81  
Bresnahan, T. 155  
Breuvert, C. 201, 202  
Breyer, S. 35  
Brodley, J. 22, 81, 185  
Brunell, R. 24, 50  
Bruzzone, G. 2, 8, 15, 27, 51, 63, 67, 80, 140  
Brynjolfsson, E. 121  
Buccrossi, P. 1–2, 71  
Buckley, M. 176

- Budzinsky, O. 24  
 Burke, A. 87, 101  
 Burtis, M. 10, 11, 157  
 Buttigieg, E. 16, 59, 80
- Calvani, T. 67, 87–8  
 Camesasca, P. 5, 124  
 Candrillo, S. 35  
 Cantner, U. 23  
 Carlson, S. 93  
 Carlton, D. 6, 9, 11, 14, 50, 53, 60, 71, 78, 89, 126, 127, 142, 143, 144, 177  
 Carrier, M. *xvi*, 36, 154, 159, 172  
 Cass, R. 20, 55  
 Cavanagh, E. 148, 149  
 Ceccagnoli, M. 98  
 Chamberlin, E. 4  
 Chan, K. 98  
 Cherensky, S. 27  
 Chicago School 5, 70–71, 171  
   leveraging monopoly theory 123–4, 125, 139, 153  
   price theory 9–10, 11, 22–3  
 Childs, G. 100  
 Choi, J. 88, 126, 127  
 Christensen, C. 12  
 Church, J. 136–7  
 Clark, J. 12–13  
 Clarke-Smith, J. 122  
 Coase, R. 10, 32  
 Coco, R. 174  
 Cohen, F. 34  
 Cohen, J. 87, 101  
 Cohen, W. 15, 97, 98, 180  
 Coleman, M. 14, 155  
 Comanor, W. 88  
 competition  
   anti-competitive behavior 54–5, 57–8  
   as-efficient competitor test 61–2  
   and innovation and monopoly power 12–21  
   perfect 4–8, 13–14  
   *see also* monopoly  
 competition law  
   and invalid patents 113  
   and IPR equilibrium, EU 175–6  
   and refusal to license IPRs 154–60  
 consumer welfare  
   and IPR judicial and administrative processes 184–8  
   and isolated predatory innovations 91  
   and license refusal 168–9  
   and patent accumulation 92–3  
   and predatory system innovations 120–28  
   tests 62–3, 66, 67–71, 73–6, 78–80  
 Cornish, W. *xvi*, *xvii*, 176  
 Correia, E. 64  
 Cotter, T. 38, 177, 181  
 Cournot, A. 4, 120  
 Cowling, K. 90  
 Crandall, R. 63, 140  
 Crane, D. 182  
 Crew, E. 87  
 Cseres, K. 65  
 Czapracka, K. 74–5
- Damich, E. 27–8  
 David, C. 126  
 David, P. 20, 35, 42  
 Davis, D. 199  
 Davis, K. 19  
 Davis, M. 183  
 Davis, R. 56, 73  
 Davis, S. 121  
 Dayagi-Epstein, O. 51, 67  
 De Sevo, R. 181  
 De Smet, D. 142  
 Delrahim, M. 176  
 Demsetz, H. 9, 33  
 Denicolò, V. 37, 117  
 Derzko, N. 183  
 Devlin, A. 35, 44–5, 120  
 Diény, E. 201, 203  
 Dixit, A. 88, 95  
 Dolmans, M. 135  
 dominant firms *see* monopoly power  
 Dorfman, N. 15  
 Dosi, G. 17, 40, 41, 42  
 Drexler, J. 5, 43, 54, 71  
 Driscoll, J. 56  
 Dunford, R. 87  
 Dusollier, S. 29
- Easterbrook, F. *xii*, 23, 33, 118, 132, 183, 201  
 Eaton, C. 88  
 economics  
   Chicago School *see* Chicago School

- evolutionary 17–18, 39–42  
 Harvard School 4–11, 23, 64, 65  
 heterodox 16–21, 39–42  
 IP administrative procedures 183–4  
 and IPRs, interpretative limits  
     25–31  
 and license refusal 142–5  
 mainstream economics 31–9, 40  
 neoclassical 3–7  
 no economic sense test 61  
 Ordoliberalism 48, 64, 65, 66, 69  
 Economides, N. 116, 120, 148, 149,  
     171  
 Edgeworth, F. 4  
 Edlin, R. 61  
 Edquist, C. 12  
 Ehlermann, C. 64  
 Eilmansberger, T. 57, 65  
 Eisenberg, R. 37, 94, 97, 100  
 Eklof, D. 83, 84  
 Elhauge, E. 48, 61, 62, 146, 183, 193,  
     195, 200  
 Ellig, J. 17  
 Elzinga, K. 130  
 entry barriers 8, 9, 89, 92–4, 125–6  
 Epstein, R. *xvi*  
 Erramouspe, M. 36  
 Etzkowitz, H. 87  
 EU  
     Charter of Fundamental Rights,  
         Article 47 190  
     *Commission's Enforcement Priorities  
         in Applying Article 82* 55, 147  
     competition law and invalid patents  
         113  
     competition law and IPR  
         equilibrium 175–6  
     *DG Competition Discussion Paper*  
         68, 75, 146–7, 150–53, 160, 163,  
         165, 173  
     dominant firms' infringement  
         actions 197–8  
     dominant firms' IP administrative  
         procedures 201–3  
     and false-positive issues 171–2  
     'innovation's incentive' test and  
         *Microsoft IV* 163–5  
     leveraging monopoly theory 122  
     license refusal and 'new product' and  
         'new market' criteria 160–63  
     'limitation to technical development'  
         criterion and *Microsoft V*  
             166–8, 170  
     Merger Regulation 75  
     patent and copyright laws 26–8, 38,  
         39  
     patent procurement, legal  
         approaches to 101–2  
     pharmaceutical patents 104  
     predatory system innovations *see*  
         predatory system innovations  
     predatory system innovations and  
         objective justification 135–6  
     Umbrella Regulation 75  
     *see also* competition; IPR headings  
 EU cases  
     *AstraZeneca* 54, 69, 103, 104–5, 113,  
         197, 198, 201–3  
     *BBI/Boosey and Hawkes* 197  
     *Boehringer* 201  
     *British Airways v. Commission* 70  
     *Cement* 190  
     *Centrafarm v. Sterling Drug* 174  
     *Centrafarm v. Winthrop* 174  
     *CICRA* 117, 160  
     *Cimenteries* 190  
     *Commercial Solvents Corp v.  
         Commission* 65  
     *Compagnie Maritime Belge* 190  
     *Continental Can* 59  
     *Decca Navigator System* 133, 197  
     *Deutsche Grammophon* *xii*, 74, 102  
     *DSR-Senator Lines GmbH v.  
         Commission* 69  
     *Football World Cup* 58  
     *French-West African ship-owners'  
         Committees* 190  
     *Hag II* 174  
     *Hauer v. Land Rheinland Pfalz* 175  
     *Hilti AG v. Commission* 74, 135,  
         190–91  
     *Hoffmann-La Roche v. Commission*  
         47, 54, 55  
     *Hugin Cash Registers Ltd v.  
         Commission* 65  
     *IBM Settlement* 133–4, 162  
     *IMS Health v. Commission* 151, 161,  
         162–3, 164, 165, 167, 169, 176–7  
     *ITT Promedia NV v. Commission* 93,  
         191, 197–8

- Ladbroke (Tiercé Ladbroke SA v. Commission)* 162
- Magill TV Guide/ITP, BBC and RTE* 147, 160, 161–2, 164, 165, 176–7
- Maxicar v. Régie nationale des usines Renault* 117
- Michelin cases* 47, 54
- Microsoft cases* 70, 75, 117, 127, 133–8, 152–3, 158, 161–7, 176
- NV Algemene Transport v. Netherlands Inland Revenue Administration* 67
- Oscar Bronnar* 146, 150, 151, 162, 163, 164, 176
- Parke, Davis and Co. v. Centrafarm* xii, 102, 175
- Perindopril (Servier)* 201
- Radio Telefis Eireann v. Commission* 147–8
- Sirena Srl v. Eda Srl and Others* 74, 102, 174
- Tetra Pak cases* 57, 74, 109, 110, 135
- Van Zuylen Freres v. Hag AG* 174
- Volvo AB v. Erik Veng (UK) Ltd.* 26, 117, 160
- EU, TFEU, Article 102 and US, Sherman Act, Section 2
- apparent content 54–9
- appropriability tools with different perspectives 82–4
- as-efficient competitor test 61–2
- background policy choices and monopolies 46–54
- and brand proliferation 78–9
- dominant firms, past and present objectives for dealing with 63–71
- dominant position abuse 191
- and fraudulent procurement of patents 103–5
- and legal protection of innovation 77–82
- and monopoly power 54–9
- new market criteria 167
- no economic sense test (but for test) 61
- profit sacrifice test 59–61
- and risk assessment 56–7
- and separate products requirement 131–2
- unlawful behavior, standards for detecting 59–63, 72–6
- welfare tests 62–3, 66, 67–71, 73–6, 78–80
- Evans, D. 20, 23, 54, 120, 124, 126, 127, 128, 135, 178
- exclusionary conduct 89, 109–12, 143–4, 183–6
- Ezrachi, A. 51, 52
- Fagerber, J. 12
- Farrell, J. 11, 19, 61, 88, 116, 120, 187
- Feldman, R. 124, 126
- Fellmeth, R. 87
- First, H. 48, 53, 118–20, 173
- Fischel, D. 189, 196
- Fisher, F. 9, 124, 125, 127, 130
- Fisher, W. 30
- Fitzpatrick, D. 182, 194
- Flynn, J. 64, 81, 87, 113, 173
- Forrester, I. 29, 64, 67, 161, 162, 176
- Foss, N. 17
- Fox, E. 64, 65, 69, 71, 72, 149
- Friedman, A. 128
- Frischmann, B. 141
- Frost, G. 87
- Fudenberg, D. 97
- Furse, M. 57
- Gal, M. 65
- Gallini, N. 37
- Gambrell, J. 157, 159
- Gandal, N. 20, 137
- Garza, D. 71
- Gavil, A. xv, xvi, 48, 53, 54, 59, 62, 63, 140, 173
- Gaynor, D. 120
- Genevaz, S. 159
- Gerardin, D. 169
- Gerber, D. 1, 22, 65, 69, 71, 74, 143, 144
- Geroski, P. 15, 44, 83
- Ghidini, G. xvi
- Gifford, D. 47, 64, 157
- Gilbert, R. xv, 9, 12, 14, 37, 85, 88, 92, 95, 97, 98, 100, 113, 116, 120, 141
- Ginsburg, D. 67
- Ginsburg, J. xvii, 27, 29
- Glader, M. 21
- Glazer, K. 162, 163
- Goldstein, P. 83

- Gordon, W. *xvii*, 34, 37  
 Gormsen, L. Lovdahl 5, 52, 54, 64, 65, 68, 71, 74, 77, 78, 150  
 Gould, J. 186  
 Grady, M. 36  
 Graf, T. 135  
 Green, J. 38  
 Gregory, J. 141  
 Gruca, T. 88  
 Gual, J. 14–15  
 Gunther, J. 201, 202
- Hall, B. 37, 96–7  
 Ham, R. 97  
 Hamilton, W. *xvii*  
 Handke, C. 31  
 Handler, M. 181  
 Harhoff, D. 34  
 Harris, G. 184  
 Hart, D. 21  
 Hart, R. 176  
 Hatch, O. 34  
 Haven, J. 15  
 Hay, D. 78–9  
 Hayek, F. 18  
 Heiner, D. 132  
 Heller, M. 37, 94, 97, 100  
 Hettinger, E. *xvii*  
 Heyer, K. 50, 78, 172  
 Higgins, R. 88  
 Hoerner, R. 191–2  
 Hohfeld, W. *xvi*  
 Hotelling, H. 88  
 Hovenkamp, H. *xv*, 1–3, 6, 10, 13, 28, 30, 33, 38, 47, 54–66, 72, 77, 83, 84, 86, 89, 109–15, 122, 128, 132, 141–8, 156, 171, 172, 174, 185, 188, 196  
 Howarth, D. 135  
 Hughes, J. *xvii*, *xviii*, 28–9  
 Hunt, R. 25, 37, 94  
 Hurt, R. 35  
 Hurwitz, J. 132, 184, 185, 187, 195, 199, 200, 201  
 Hylton, K. 20, 55, 143, 146
- Immordino, G. 53  
 innovation  
   boost and restriction (EU/US comparison) 177–9  
   and competition, and monopoly power 12–21  
   follow-on, prevention of 98–9  
   incentives 99–100, 163–5  
   isolated predatory 90–92  
   legal protection of 77–82  
   predatory system *see* predatory system innovations  
   and strong patent rights 36–7  
 IPR judicial and administrative processes 180–205  
   and consumer welfare 184–5, 186–8  
   convergent EU and US approaches 204–5  
   defendants' costs 185–7  
   dominant firms' infringement actions (EU) 197–8  
   dominant firms' infringement actions (US) 191–7  
   dominant firms' IP administrative procedures (EU) 201–3  
   dominant firms' IP administrative procedures (US) 198–201  
   economic perspective of IP administrative procedures 183–4  
   and exclusionary practices 183–6  
   infringement actions 184–8  
   invalid patents 194  
   legal perspective and rights of petitioning 188–91  
   and misleading and false information 196  
   'no economic sense' ('but for') 61, 188  
   pharmaceutical industry, Orange Book entry and supplementary protection certificate (SPC) 180–81, 183, 199, 200–203  
   and reputation of predatory practices 185  
   strategic infringement action 187  
 IPR, license refusal 141–79  
   after-the-fact, case-by-case conflict 141–2  
   and competition law (US) 154–60  
   and compulsory licensing 149  
   and consumer welfare loss 168–9  
   and duty to deal 164  
   economic thinking 142–5

- EU/US comparisons 142, 145–54, 168–70, 174–9
- and exclusionary practices 143–4
- and exploitative practices 143
- false-positive issue 171–3, 178
- and innovation boost and restriction (EU/US comparison) 177–9
- ‘innovation’s incentives’ test (EU) 163–5
- IP culture, role of (EU/US comparison) 174–7
- jurisdictional and cultural issues (EU/US comparison) 142, 168–70
- and leveraging monopoly theory 144, 153
- ‘limitation to technical development’ criterion (EU) 166–8
- and monopoly profits 149
- ‘new product’ and ‘new market’ criteria (EU) 160–63
- and patent and copyright misuse 159–60, 174
- and secondary markets 163
- see also* licensing
- IPR ownership 85–114
  - and brand proliferation 78–9, 93
  - compulsory licensing 106–8, 114
  - effects-based and form-based approaches, differences between 51–2
  - entry deterrence strategies 89
  - and exclusionary conduct 89, 109–12
  - follow-on innovation, prevention of 98–9
  - and innovation incentives 99–100, 163–5
  - internally developed patents and EU/US convergence 112–14
  - invalid patents and competition law 113
  - isolated predatory innovations 90–92
  - licensing costs and lock-ups 93–4
  - and market spatial analysis 88, 95
  - and monopolists’ grantback agreements 111
  - non-use of patents 105–8
  - patents *see* patents
  - pharmaceutical patents 104
  - and predatory pricing 87–8
  - and profitability 96–7
  - and R&D investment 95
  - raising rivals’ costs theory 89–90, 149
  - sleeping patent strategies 94–100, 114
  - and strategic advantage 88–9
  - suppressed patents 100–101, 107–8
  - and tech-transfer agreements 96–7
- Jacobs, J. 19
- Jacobs, M. 1, 11, 24, 44–5
- Jaffe, A. 37, 96
- Janis, M. 83, 86, 109, 110, 132, 143, 148, 156, 174, 196
- Jebsen, P. 49, 67
- Johnson, W. 30
- Joliet, R. 58–9
- Jones, A. 1, 24, 172
- Jorde, T. 12, 36
- Joskow, P. 10
- Kallay, D. 18, 39
- Kanter, D. 169
- Kaplow, L. 93, 124
- Karp, L. 97–8, 99
- Kate, A. 64
- Katz, A. 177
- Katz, M. *xvii*, 19, 23, 50, 88, 116, 120
- Kaufman, B. 87
- Kaufmann, J. 87
- Kauper, T. 47, 48
- Kavanagh, J. 11, 74, 75
- Kaysen, C. *xvi*, 9, 66, 92, 94
- Kellezi, P. 118, 139
- Kieff, F. 32
- Kintner, E. 189
- Kirzner, I. 4, 17, 18
- Kitch, E. 34, 37, 44, 95
- Klein, C. 181, 182, 187
- Klein, J. 20
- Klein, P. 10
- Klemperer, P. 37, 86–7
- Knight, F. 4
- Kobak, J. 67, 169, 175, 189–90, 193, 194, 205
- Kobayashi, B. 10–11, 120, 123, 127, 157
- Kolasky, W. 48
- Kolay, S. 123

- Kolstad, O. 28, 83  
 Korah, V. 146, 162, 171  
 Kovacic, W. 3, 11, 25, 27, 63, 73, 132, 140, 173  
 Kroes, N. 70  
 Krouse, B. and C. 187  
 Krueger, A. 7  
 Kudrle, R. 47, 64  
 Kukkonen, C. 15  
 Kwall, R. *xvii*  
 Kwok, Y. 98  
  
 Lachmann, L. 18  
 Laffont, J. 121  
 Lancaster, K. 70  
 Lande, R. 63, 66, 71  
 Landers, A. 97  
 Landes, W. 6, 30, 31, 182, 186  
 Langer, J. 57, 118, 122, 125  
 Langlois, R. 17, 37, 124, 143, 144, 145  
 Lao, M. 55, 141, 149, 191, 192, 193, 195  
 Larner, R. 9  
 Laudati, L. 64  
 Lee, K. 114  
 Lee, T. 34  
 Lehmann, M. *xvi*  
 Leibenstein, H. 7  
 Lemley, M. 20, 32, 35, 37–8, 43, 83, 86, 87, 98, 109, 110, 132, 143, 148, 156, 174, 191, 196  
 Leslie, C. 86, 194  
 Lévêque, F. 164, 168, 169  
 Levin, R. 15, 16, 18, 37  
 Levine, L. 15, 101  
 Levy, R. 20  
 Lewin, P. *xvii–xviii*  
 Lianos, I. 52  
 licensing  
   compulsory 106–8, 114, 149  
   costs and lock-ups 93–4  
   refusal *see* IPR, license refusal  
 Liebowitz, S. 19, 20, 130  
 Lin, D. 17  
 Lipsey, R. 88  
 Lipsky, A. 141  
 Liu, J. 30  
 Llewelyn, D. *xvi, xvii, 176*  
 Loewenthal, P. 75  
 Lofaro, A. 125  
  
 Lopatka, J. 14, 19–20, 130  
 Lowe, P. 70, 75, 83  
 Lundvall, B. 12  
  
 McAfee, P. 123, 182  
 McDonald, J. 65, 169  
 McDonough, J. 94  
 McFetridge, D. 36  
 McGowan, D. 20, 141, 191  
 Machlup, F. 12–13  
 Machovec, F. 4  
 Mackaay, E. 30  
 Mackie-Mason, J. 172  
 McMahon, K. 135  
 McNulty, P. 4, 6  
 Malerba, F. 11, 16, 21, 23  
 Mannes, R. 92  
 Marengo, G. 67  
 Marengo, L. 40, 41, 42  
 Margolis, S. 19, 20, 130  
 markets  
   new market criteria 167  
   and monopoly power 11–13, 53–8  
   ‘new product’ and ‘new market’  
     criteria (EU) 160–63  
   secondary 115–16, 120, 123–4, 125, 163  
   spatial analysis, and IPR ownership  
     88, 95  
 Marshall, A. 16, 66  
 Martin, S. 71  
 Maskin, E. 37  
 Mason, E. 9  
 Matutes, C. 116, 125, 127  
 May, J. 2, 63–4  
 Mazzoleni, R. 29, 41  
 Meehan, J. 9  
 Meinberg, H. 162  
 Meinhardt, P. 101  
 Melamed, D. 59, 159  
 Ménière, Y. 168  
 Merges, R. *xii, 26–7, 30, 36, 41, 43–4, 97, 187*  
 Merrill, T. *xvi*  
 Mertikopoulou, V. 68  
 Meurer, M. 33, 187  
 Meyer, D. 200  
 Michelman, F. *xviii*  
 Miller, J. 183  
 Millon, D. 173

- Mills, D. 130  
 Minda, G. 70–71, 189, 200  
 monopoly power  
   and competition *see* competition  
   concerns over 3–16  
   dominant firms, past and present  
     objectives for dealing with  
     63–71  
   grantback agreements 111  
   and heterodox economics 16–21  
   and infringement actions 191–8  
   and innovation and competition  
     12–21  
   and IP administrative procedures  
     198–203  
   leveraging monopoly theory 121–4,  
     125, 139, 153  
   and market power 11–13, 53–8  
   multi-product monopolists and  
     incompatibility via innovation  
     115–19, 122, 125  
   and neoclassical economics 3–7  
   and path dependency 19–21  
   policy choices in antitrust world  
     22–5  
   and predatory system *see* predatory  
     system innovations  
   profits, and IPR, license refusal  
     149  
   profits, and predatory system  
     innovations 124–5, 126, 127  
 Montagnani, M. 132  
 Monti, G. 11, 70  
 Monti, M. 2, 70, 75  
 Moore, A. *xvi, xvii*  
 Morgenstern, O. 10  
 Möschel, W. 65  
 Moss, S. 5  
 Motta, M. 5, 7, 50, 89, 94, 125  
 Mueller, D. 90  
 Muris, T. 1, 182  
 Myers, G. 186, 187, 205  
  
 Nalebuff, B. 118, 120, 125  
 Nelson, R. 16, 17, 18, 26–7, 29, 30, 31,  
   41, 43–4, 97, 98, 180  
 Netanel, N. *xviii, 27*  
 Newberg, J. 83  
 Newbery, D. 85, 97, 98, 100, 113  
 Niels, G. 64, 74, 75  
  
 Noah, L. 181, 183, 200  
 Norhaus, W. 37  
  
 O'Donnell, S. 194, 196  
 O'Donoghue, R. 48, 53, 57, 58, 60, 61,  
   62, 65, 66, 72, 134–5, 145, 169,  
   188  
 Oettinger, N. 157, 159  
 Ordovery, J. 7, 12, 32, 36, 59, 84, 90, 91,  
   92, 118, 121, 143, 155  
 Owen, B. 183  
  
 Padilla, J. 48, 53, 57, 58, 60, 61, 62, 65,  
   66, 72, 120, 124, 126, 128, 134–5,  
   145, 169, 188  
 Page, W. 3, 19–20, 64, 130  
 Palmer, T. *xvii*  
 Palomerias, N. 15  
 Pate, R. 24, 55, 58, 59, 82, 157  
 patents  
   accumulation 92–4  
   and copyright laws 26–8, 36, 38–9  
   and copyright misuse 159–60, 174  
   costs of 34–6, 86–7  
   fraudulent procurement 103–5  
   innovation and strong patent rights  
     36–7  
   internally developed and EU/US  
     convergence 112–14  
   invalid 113, 194  
   non-use of 105–8  
   pre-emption and monopoly power  
     97–8  
   procurement, legal approaches to  
     101–2  
   sales and licenses, and IPR  
     ownership 108–12  
   sleeping patent strategies 94–100,  
     114  
   suppressed 100–101, 107–8  
   *see also* IPR headings  
 Patry, W. 30  
 Patterson, M. 59  
 Paulis, E. 83  
 Pautler, P. 183  
 Peepkorn, L. 83  
 Peltzman, S. 10  
 Peritz, R. 11, 63, 64, 72, 84, 136  
 Perloff, J. 6, 9, 89, 98, 99  
 Perrine, J. 183

- pharmaceutical industry 104, 180–81, 183, 199, 200–203  
 Piraino, T. 125  
 Pitofsky, R. 14, 23, 59, 66, 142, 157, 159  
 Plant, A. 35  
 Polanyi, M. 40  
 Polo, M. 53, 128  
 Ponsoldt, J. 126  
 Posner, R. 1, 6, 7, 10, 30, 31, 33, 35, 53, 61, 62, 96, 123, 185  
 predatory system innovations 115–40  
   and consumer welfare 120–28  
   EU approach 133–8  
   legal perspective and US net plus standard 128–32, 134, 138–40  
   leveraging monopoly theory 121–4, 125–6, 136, 139  
   and monopoly profits 124–5, 126, 127  
   multi-product monopolists and incompatibility via innovation 115–19, 122, 125  
   and net plus standard 128–32, 134, 138–40  
   and objective justification 135–6  
   primary market defense 126  
   refusal-to-deal cases, links between 134  
   and rivals' entry deterrence 125–6  
   and secondary markets 115–16, 120, 123–4, 125  
   and technological tying 117–18, 120–26, 128, 131–2, 135–8  
   US/EU comparisons 138–40  
 profit sacrifice test 59–61  
 Putsis, W. 79  
  
 Radin, M. 28  
 Rahnasto, I. *xvi*  
 Raskind, L. 29  
 Rasmussen, E. 143  
 Regibeau, P. 116, 125, 127  
 Reinganum, J. 36, 97, 98  
 Reitzig, M. 94  
 Rey, P. 115, 118, 120, 124–5, 144  
 Reynolds, G. 36  
 Reznick, R. 194  
 Ridyrd, D. 125, 169  
 Riordan, M. 120, 185  
  
 Ritter, C. 168, 171–2, 176  
 Robbins, L. 31  
 Robinson, J. 4  
 Robledo, J. 185  
 Roeder, M. *xvii*  
 Röller, L. 70  
 Romaine, R. 130, 164  
 Rommer, P. 32  
 Rose, M. 27  
 Ross, D. *xv*, 7, 8, 9, 14, 36, 49, 89, 95, 100  
 Rossman, J. 99  
 Rouseva, E. 56, 57, 66, 69, 75, 79, 137, 151, 152, 153, 164, 166  
 Rubinfeld, D. 3, 15, 92, 127, 130  
  
 Sakakibara, M. 37  
 Salant, S. 97  
 Salinger, M. 120, 123, 127  
 Saloner, G. 7, 20, 92, 116, 118, 143  
 Salop, S. 10, 11, 59, 87, 89, 92, 115–16, 120, 130, 143, 144, 164, 182, 185  
 Sampson, X. 41  
 Samuelson, P. 27, 31, 35  
 Sanders, B. 99, 101  
 Sanfilippo, L. 57  
 Sankaran, S. 92  
 Saunders, K. 15, 101  
 Schanzenbach, M. 20  
 Schauer, F. 191  
 Scheffman, D. 87, 88, 185  
 Schelling, T. 89  
 Scherer, F. *xv*, 7, 8, 9, 14, 16, 30, 34, 35, 37, 49, 78, 85–6, 89, 93, 95, 100, 131, 133, 185  
 Schlesinger, A. 65  
 Schmalensee, R. 4, 20, 23, 78, 93, 123, 130, 155, 178  
 Schmookler, J. 12  
 Schuchman, R. 35  
 Schumpeter, J. 12, 16, 17, 24, 34, 39, 53  
 Schwartz, L. 66  
 Scotchmer, S. 38  
 Scott, J. 15  
 Screpanti, E. 3, 4  
 Shaffer, G. 123  
 Shapiro, C. 19, 27, 35, 37, 92, 98, 116, 141  
 Shavell, S. 35, 186  
 Shelanski, H. 23, 50

- Sher, D. 75, 77  
 Sherman, B. *xvii*, 30  
 Shughart, W. 70, 182  
 Sibarium, C. 67  
 Sidak, J. 120, 128, 132  
 Silbey, J. 27  
 Simmons, I. 98  
 Simmons Neveu, D. 184, 187  
 Sinclair, D. 65  
 Smith, D. 36  
 Smith, N. 86  
 Sobel, G. 87  
 Solow, R. 21  
 Soma, J. 19  
 Spence, A. 89  
 Stefanadis, C. 126, 127  
 Stehmann, O. 70  
 Steinhauer, E. 181, 199  
 Steinman, D. 182  
 Stemple, D. 94  
 Sterk, S. 30  
 Stevens, R. 49, 67  
 Stigler, G. 4, 9, 10, 13, 123  
 Stiglitz, J. 11, 13  
 Stoeppelwerth, A. 159  
 Strand, O. 29  
 Stratakis, A. 122, 169, 178  
 Stremsch, S. 120  
 Sudharshan, D. 88  
 Sufrin, B. 1  
 Sullivan, E. 65  
 Sullivan, J. 47  
 Sullivan, L. 24, 67, 71, 172  
 Sunder, M. 27  
 Sunshine, S. 12, 98  
 Symeonides, G. 15  
 Szulanski, G. 40
- technological tying 117–18, 120–26,  
 128, 131–2, 135–8  
*see also* predatory system  
 innovations
- Teece, D. 12, 14, 34, 36, 92, 121, 155  
 Teixeira, A. 94  
 Tellis, G. 120  
 Temple Lang, J. 25–6, 48, 58, 168–9  
 Thorelli, H. 64  
 Tirole, J. 9, 13, 115, 118, 120, 121,  
 124–5, 144  
 Tom, W. 12, 83
- Torremans, P. 30  
 Tullock, G. 7  
 Turner, D. *xvi*, 9, 23, 66, 92, 94
- Ullrich, H. 2, 33  
 unlawful behavior, standards for  
 detecting 59–63, 72–6
- US
- Clayton Act *xiii*, 124, 174
  - competition law and invalid patents  
 113
  - competition law and refusal to  
 license IPRs 154–60
  - compulsory licensing 114
  - Constitution, First Amendment  
 188–90, 191–3, 195, 196–7
  - dominant firms' infringement  
 actions 191–7
  - dominant firms' IP administrative  
 procedures 198–201
  - and false-positive issues 171–2
  - Federal Food, Drug, and Cosmetic  
 Act (FDCA) 180
  - Hatch-Waxman Act 180–81, 199
  - leveraging monopoly theory 121–2
  - net plus standard, and predatory  
 system innovations 128–32, 134,  
 138–40
  - Noerr-Pennington doctrine 102, 103,  
 189–90, 193, 195–7, 200–201
  - Patent Act 26, 38, 106, 156, 159–60
  - patent and copyright laws 26–8, 36,  
 38–9
  - patent procurement, legal  
 approaches to 101–2
  - pharmaceutical patents 104
  - predatory system innovations *see*  
 predatory system innovations
  - Sherman Act 124, 131–2, 172–3
  - Sherman Act, Section 2 *see* EU,  
 TFEU, Article 102 and US,  
 Sherman Act, Section 2
  - sleeping patents, lack of prosecution  
 for 114
- US cases
- A.A. Poultry Farms v. Rose Acre  
 Farms* 72
  - AD/SAT v. Associated Press* 55
  - Agron v. Lin* 104
  - Aldridge v. Microsoft Corp.* 150

- Allied Research Products v. Heatbath Corp.* 106
- Alling v. Universal Mfg. Corp.* 112
- American Council of Certified Podiatric Physicians v. American Board of Podiatric Surgery* 55
- Arcade v. Minn. Mining & Mfg. Co.* 104
- Armstrong Surgical Center v. Armstrong County Memorial Hospital* 196
- Aspen Skiing Co. v. Aspen Highlands Skiing Corp.* 72, 149, 151, 164
- Associated Press v. United States* 147
- Atari Games Corp. v. Nintendo of Am.* 83, 156
- Automatic Radio Mgs. Co. v. Hazeltine Research* 110
- Barry Wright Corp. v. ITT Grinnell Corp.* 73
- BellSouth Advertising v. Donnelley Information* 154
- Berkey Photo v. Eastman Kodak* 56, 101, 102, 122, 128, 155, 157–8, 159, 160, 168
- In re Biovail Corp.* 110, 111, 199
- In re Borden, Inc.* 79
- Borden v. FTC* 73
- Brunswick Corp. v. Pueblo Bowl-O-Mat* 146
- In re Buspirone Patent Litig.* 200–201
- Caldera v. Microsoft Corp.* 131
- California Computer Products v. IBM* 57, 128–9
- California Eastern Laboratories v. Gould* 104
- California Motor Transport Co. v. Trucking Unlimited* 93, 189, 192, 195, 196, 198
- Car-Freshner Corp. v. S.C. Johnson & Son* 39
- Carbice Corp. of America Patent Development Corp.* 123
- In re Cardizem CD Antitrust Litig.* 199
- Cheminor Drugs Ltd. v. Ethyl Corp.* 196–7
- Clipper Express v. Rocky Mountains Motor Tariff Bureau* 193, 195
- Colorado Interstate Gas Co. v. Natural Gas Pipeline Co.* 56
- Continental Paper Bag Co.* 105–6, 107
- Continental T.V. v. GTE Sylvania* 146
- C.R. Bard v. M3 Systems* 129–30
- Credit Suisse Securities v. Billing* 146, 156
- Crown Die & Tool Co. v. Nye Tool & Mach. Works* 106, 180
- Crucible v. Stora Kopparbergs Bergslags AB* 87
- Data General v. Grumman Systems Support* 117, 157, 160
- Dawson Chemical Co. v. Rohm & Haas Co.* 106
- Dippin' Dots v. Mosey* 103
- Dorsey Harvester Revolving Rake Co. v. Marsh* 106
- eBay Inc. v. Mercexchange LLC* 174
- Electric Smelting & Aluminum Co. v. Carborundum Co.* 105
- In re Elevator Antitrust litig.* 149
- FMC Corp. v. Manitowoc Co.* 103–4
- FTC Intel Corp.* 158, 159
- In re General Foods Corp.* 79
- Goldstein v. California* 29
- Grant v. Raymond* 29
- Great Lakes Chem. Corp.* 87
- Grip-Pak v. Illinois Tool Works* 193
- Handgards v. Ethicon* 193, 194–5, 196, 197
- Hartford-Empire Co. v. United States* 107–8
- In re IBM Peripheral EDP Devices Antitrust Litig.* 129
- ILC Peripherals Leasing Corp. v. IBM* 129
- Illinois Tool Works v. Independent Ink* 156, 157, 159
- Image Technical Servs. v. Eastman Kodak Co.* 117, 157
- Intergraph Corp. v. Intel Corp.* 101–2, 150, 154
- International Salt Co. v. United States* 124
- Kearns v. Chrysler Corp.* 106
- In re Kellogg Co.* 79
- Kobe, Inc. v. Dempsey Pump Co.* 111
- KSR Intern. Co. v. Teleflex* 30

- LePage's Inc. v. 3M* 47, 69, 73  
*Lewis Blind Stitch Mach. Co. v. Premium Mfg. Co.* 106  
*McDonald v. Johnson & Johnson* 112  
*Mazer v. Stein* 28–9  
*MCI Communic. Corp. v. AT&T* 73  
*Medimmune. v. Genentech* 102  
*Memorex Corp. v. IBM* 129  
*Mercoid Corp. v. Mid-Continent Investment Co.* 123  
*Microsoft cases* 55, 68, 73, 87, 118–20, 127, 130–31, 158, 173  
*In re Microsoft corp. antitrust litig.* 155, 158  
*Miller Insituform* 154  
*Motion Picture Patents Co. v. Universal Film Mfg. Co.* 106, 123  
*Nichols v. SmithKline Beecham Corp.* 199  
*Nobelpharma AB v. Implant Innovations* 194, 196  
*Olympia Equip. Leasing Co. v. W. Union Tel. Co.* 57, 147, 149  
*OpenLCR.com v. Rates Tech.* 104  
*Organon Inc. v. Mylan Pharms.* 200–201  
*Ortho Diagnostic System v. Abbott Laboratories* 73  
*Otter Tail Power Co. v. United States* 192  
*Professional Real Estate Investors (PREI)* 191–3, 196, 198, 199–200  
*Rambus v. FTC* 68  
*In re Relafen Antitrust Litig.* 199  
*In re Remeron Antitrust Litig.* 199  
*Schor v. Abbott Laboratories* 146, 159  
*SCM Corp. v. Xerox Corp.* 110–11, 154  
*Sega Enterprise v. Accolade* 39  
*Sony Computer Entertainment v. Connectix Corp.* 39  
*Special Equipment Co. v. Coe* 106–7  
*Spectrum Sports v. McQuillan* 55  
*Standard Oil v. United States* 47  
*Stop & Shop Supermarket Co. v. SmithKline Beecham Corp.* 199  
*Taylor Publishing Co v. Jostens* 57  
*Telectronics Proprietary v. Medtronic* 87  
*Telex Corp v. IBM* 117, 129, 132  
*Tops Markets v. Quality Markets* 56  
*Transamerica Computer Company v. IBM* 57  
*Trinko* 50, 57, 72, 121–2, 146, 147, 148–9, 150, 152, 154, 155, 156–7, 159  
*United Asset Coverage v. Avaya* 159  
*United Shoe Mach. Corp. v. O'Donnell Rubber Prods. Co.* 106, 110  
*United States v. Addystone Pipe & Steel Co.* 72  
*United States v. Aluminum Co. of Am.* 8, 65, 72, 95, 101  
*United States v. American Bell Telephone Co.* 108  
*United States v. AT&T* 87  
*United States v. Colgate & Co.* 147  
*United States v. Dentsply Int'l* 57, 69  
*United States v. E.I. du Pont de Nemours & Co.* xii, 55  
*United States v. General Electric* 111  
*United States v. Griffith* 122  
*United States v. Grinnell Corp.* 47, 101  
*United States v. Loew's, Inc.* xii  
*United States v. Paramount Pictures* 29  
*United States v. Topco* 65, 146  
*United States v. United Shoe Machinery Corp.* 87  
*Unitherm Food Systems v. Swift-Eckrich* 103, 194  
*In re Visa Check/Mastermoney Antitrust Litig.* 199  
*Walker Process Equip. v. Food Machinery & Chemical Corp.* 103, 104, 193–5, 196, 197, 201, 202  
*Wallace v. IBM* 32, 95  
*Western Parcel Express v. United Parcel Service of America* 56  
*Xerox* 117, 155–6, 157, 159, 160, 170, 175, 177  
*Zacchini v. Scripps-Howard Broadcasting Co.* 29

- Van Bael, I. 67, 175  
Van Cayseele, P. 3, 15, 64  
Van den Bergh, R. 3, 5, 64, 72, 124  
van Ypersele, T. 35  
Venit, J. 65  
Verspagen, B. 21  
Vezzoso, S. 41, 165  
Vickers, J. 17, 57, 60, 97  
Viscusi, W. 5  
Vogelenzang, P. 57  
von der Groeben, H. 67  
von Hippel, E. 187  
von Mises, L. 18  
Von Neumann, J. 10  
von Weizsacker, C. 33  
Vossestein, A. 190  
  
Waldman, M. 126, 127, 143  
Walker, M. 5  
Watt, R. 31  
Weber Waller, S. 141–2  
  
Weeds, H. 99, 100  
Weinreb, L. 31  
Werden, G. 20, 55, 59, 141, 144  
Whinston, M. 123, 125, 127, 143  
Whish, R. 48, 51, 57, 58, 63, 74  
White, L. 116, 182  
Williamson, O. xv, 10, 185  
Willig, R. 59, 90, 91, 121, 155  
Wilson, T. 88  
Winston, C. 63, 140  
Winter, R. 183  
Winter, S. 17, 24, 33  
Wolman, A. 192, 196  
Wood, D. 48  
  
Yee, W. 87  
Yellen, J. 123  
Yen, A. xvii  
  
Zamagni, S. 3, 4  
Ziedonis, R. 37, 96–7









