Preface

Semper ad eventum festinat et in medias res.\(^1\)

(\textit{Horace})

It is with a slight feeling of alienation mixed with nostalgia that I am writing this preface to a work before you and now behind me. The process of its genesis has been a curious adventure. It truly took off in the middle of things, \textit{in medias res} so to say, in what was meant to be an orienting internship period at a law firm in order to become familiar with the legal regime of intellectual rights. This internship became the starting point for an interest in the workings of legal practice. I blew the dust off my old philosophical interests in Actor-Network Theory, acquired as a student of philosophy of science, and engaged in an empirical study of a patent dispute that was at stake in the law firm. The resulting textual account became the first writing and the median chapter of this book. Having started this journey into the workings of legal practice, it seemed only logical to follow it through to the end. I therefore decided to also move my research to court and study how legal disputes arrive at judgment.

While these accounts were being written down, the difficulties started heaping up. By that time, I had become further versed in the doctrine, histories and philosophies of intellectual rights and theories on their role in the information society. How does one proceed from the accounts at the law firm and the court to these theories that often seemed so far away from the perspective of practice? How to establish relations between such seemingly disparate exercises, or worse, how to establish a unifying thread throughout all of these?

In this period, I often cursed the exigencies of the monograph, with its assumption of a complete treatise on a single subject. How can one be faithful to the very different issues encountered in each study when one has to unite them in a single subject? Should each chapter not find a voice of its own in order to speak for itself and, if so, how does a writer deal with such polyphony? The challenge of the monograph for my research thus became

\(^1\) [Trans.] \textit{He always hurries to the event and in the middle of things.}

vii
to come up with a singular way of writing, which at the same time avoided being monotonous.

How strange and unexpected the helping hands of the muses can be! Since music has been the sole continuous companion throughout the whole exercise of writing down this text, it was probably bound to have an impact of some sorts. At first the playing of music in between writing episodes served as a source of creativity that is constantly needed for the arduous work of constructing textual accounts fuelled with the vitality of practice and action (instead of being the result of habitual writing routines that one constantly risks slipping back into). Eventually, it however also provided the kind of dynamic solution required for the monographic problem sketched above. After having repeatedly listened to Mussorgsky’s *Pictures at an Exhibition*, I realized the character of Mussorgsky’s work was a solution to a (musical) problem comparable to the one I was faced with. Mussorgsky links a series of very different musical impressions of paintings together in one composition. He creatively uses the ‘promenade’ as a connecting device, triggered by the distance of the two paintings between which it moves. The concept provided inspiration for linking the seemingly disparately different investigations in this book together without having to resort to the format of a philosophical ‘album’. This promenadology allowed for experiments with a way of thinking not so much primarily addressed by the different topics studied in the distinct chapters (legal doctrine, history, philosophy and practice), but by the tensions and distances between these different topics as itself a theme for separate study. Such an interludic movement, a ‘turn’ in this case, made possible a compositional solution to the problem of connecting the different accounts of legal theory and legal practice.

This dynamic way of thinking from the ‘between’ had been set in motion and gradually each median movement attained its own (musical) character, sometimes a prelude, an interlude, a transposition, a reprise, a movement, or a coda. Only much later did I realize that the character of these movements of thought (*denkbewegingen*) had philosophical implications and that the way in which the philosopher approaches legal phenomena is intricately entangled with the eventual account of these phenomena. This became the basis for several tentative explorations, which, as a series of Satie-esque coda, would bring this book to its end.

***

Along this whole journey, I can only be extremely grateful for all the help and support that I have received.
Preface

I owe great gratitude to Serge Gutwirth in multiple ways: as facilitator of the spaces for an academic freedom and ‘slow thinking’ that is becoming increasingly rare, but also for suggesting an internship at a law firm, a decision that would turn out to have quite unexpected consequences. I owe equal gratitude to Mireille Hildebrandt. Her close critical reading and her capacity to always ask the right question that digs straight down to the core have forced me to think about the consistency of the strange planes explored.

I wish to thank Mrs Blanchard, the attorney who allowed me to perform such extensive studies at her law firm. Only throughout the course of my work did I grow to appreciate the willingness to have around an observer that might even put her work at risk. I also wish to thank the president of the Belgian Court of Commerce for allowing me to conduct my studies there.

Thank you to Katja for being an academic companion and friend throughout the curious trajectories through European projects, conferences and teaching course, and for the endless discussions. These allowed me to thoroughly test many ideas on a daily basis, which is really where the most important research work often takes place. I would like to thank Sari whose legal expertise so greatly helped me in finding my way in intellectual rights, and Dani for his corrections and extensive discussions and for sharing a ‘gusto’ for Belgian beer. Furthermore, I wish to thank the whole LSTS team for providing such a lively research environment.

A special word here about the processes of anonymization. A very strange and unexpected side-effect of adequately anonymizing textual accounts about intellectual creations that contain so many identifiable technical and artistic details, was that I had to myself engage in creative acts and become an author of works, an inventor of inventions and a designer of models and trademarks (and a forger of signatures). Within these processes, I owe great thanks to Antonio, Mike and Laura for helping me with the laborious and demanding work of inventing a new kind of machine that would fit all the legal arguments and be technically plausible, and to Laura for helping me with the designs of the oil spouts.

Thanks to all my friends and family: Peter and Jean-Louis, for keeping on coming to Belgium to visit me and relieve me from my work. Thanks to my parents for always being there and for their groundwork invested in me. Thanks to Rutger for tailoring the design of the original 1883 drawing used as frontispiece, to the contents of the book through digital filtering and colouring. Words fail to express my gratitude to you, Laura. Not only for the help you have given me by your work on images,
anonymization, layout and planning, but moreover for your unceasing support and love along the entire journey. Thanks to you, my dear Luca, whose joyful arrival on this world relieved me of so much of the mental stress that would have otherwise accompanied the final stage of this research.