Index

ABC with the catechism 17
Adobe 136
Africa 138
see also Sprach Zarathustra 129–30
AIDS/HIV 66–8
amazon.com 133–4
American Tragedy, An 187
Anticybersquatting Consumer Protection
Act (ACPA) 3, 11
Aoki, Keith 115–16
Aquinas, St. Thomas 151–2, 188–90, 194
Aristotle 10, 206
Atwood, Margaret 193
authorship 8, 120–28, 141–2
romantic ideal of 122, 127
Barlow, John 1, 117–19
Barnes & Noble 134
Barthes, Roland 124, 126–7
battle of the books 22, 52–4, 63, 207
end of 22–6
Swift’s essay 207
Bentham, Jeremy 167
Berne Convention 30, 70, 81–3, 85, 92
biopiracy 140
biotechnological inventions 64
and patents 64–6
and public order/morality 65
Borgmann, Albert 8
Boyle, James 121–2, 126, 128
business methods 52–4, 63, 208
and patent 52–4, 63
Catholic social doctrine 188–95
Centesimus Annus 9, 191–2
CIPLA 139
claim right 149
Cold Mountain 197
Comedie Francaise 27, 28
common ownership 182–3
compilations 71, 73–4, 84
compulsory licensing 66–7, 140
computer program 52–3
and copyright 72–3, 84
and patents 52–3, 60
computer-implemented invention 62–3
consequentialism 161, 166–71, 177–8
see also utilitarianism
control criticism 196
copyright 4–5, 8, 117, 122, 126, 135–8,
140–41, 158–9, 177–8, 181, 195–6, 199
and censorship 15,
comparison US/EU 95–9
and contract 87
early copyright in England 15–26
early copyright in the US 30–34
history in Europe 26–30
and incentive theory 39–42
and software 62–3, 71
US constitutional clause 69
Copyright Term Extension Act (CTEA)
2, 10, 131–2
Craig, Carys 120, 194, 196, 205
cyberpatent 133–5
Darknet 120
databases 71, 73–5, 84–5, 89, 97
deconstructionist critique 120–30
DeCSS 136–7
derrida, Jacques 120, 124–5, 127
developing countries
and intellectual property 138–41
Diamond v. Diehr 7
Digital Millennium Copyright Act
(DMCA) 3, 10, 77, 96, 135–8, 208
Digital Rights Management (DRM) 78,
119, 137–8
Directive 91/250/EC 85
Directive 92/100/EC 90
Directive 96/9/EC 84, 97
Index

property right
defined 149
physical versus intellectual 181–3
theories of 150–71
proviso

Lockean 154–5, 158, 186, 197
Public performance right 91

Quadragesimo Anno 190

Radin, Jane 161
Randall, Alice 186–7
Raymond, Eric 170
recoding 205
Regulation 816/2006 66
rental/lending right 90
Rerum Novarum 189, 191
resale right 92, 97
right to adaptation 90
right to communicate a work 91
right to distribution 90
right to reproduction 89
rights
definition of 149–50
individual 5
Rogers v. Koons 121
Romeo and Juliet, 129–30
Rothko, Mark 122
Rucklehaus v. Monsanto 160

Sayre v. Moore 126
scarcity

and property rights 183

Second Treatise on Government 8, 160, 179
Shakespeare, William 124, 130, 143
Shiffrin, S. 178, 182–4, 199
Simmons, John 152, 180, 184–5
software 7, 52, 53, 60, 72–3, 88–90,
133–5, 177
and copyright 72, 73
and exceptions 88
and patents 52–3, 60
and rental/lending right 90
and reproduction 89
see also open source software
Solicitudo Rei Socialis 193–4
State Street Bank v. Signature Financial
133
Stationers 18

natural law 150, 160
Nietzsche, Friedrich 120, 125, 129, 143
Nozick, Robert 158, 181

Oncomouse 65–6
open source software 7, 170, 195–6
original commons 184–5

see also Locke
originality 6, 70, 74–6, 85, 123, 128–30

Pareto-superiority 159, 178
Paris Book Guild 27
patent 4, 10, 17–18, 35–7, 51–2, 54–8,
60–61, 64–9, 123, 135, 138–9, 159,
168, 177, 208
and biotechnology 54–5, 60–61,
64–6
comparison US and EU 67–9
European community patent 68
history 35–7
industrial patents 17, 35
infringement 58
‘life’ patents 54–5, 60–61, 208
medical procedure patents 54–5
novelty 57
Patent Act 52
printing patent 17–18
and public order 65
US constitutional clause 51
utility 56
see also cyberpatent
peer-to-peer network 117–18
defined 144
personhood

and property 161–6, 188
pharmaceutical industry 138–40
Philosophy of Right 162–6
Pius XI 190–91, 194
possessive individualism 185
postmodernism see deconstructionism
proclamations 16

Mill, J.S. 167
Mitchell v. Tilghman 4
Moglen, Eric 1, 7, 170
Monsanto 59–60
Moore, Adam 158–9, 168
Moral rights 81–2, 92

and resale right 97
Mozart 129, 143

property right
defined 149
physical versus intellectual 181–3
theories of 150–71
proviso

Lockean 154–5, 158, 186, 197
Public performance right 91

Quadragesimo Anno 190

Radin, Jane 161
Randall, Alice 186–7
Raymond, Eric 170
recoding 205
Regulation 816/2006 66
rental/lending right 90
Rerum Novarum 189, 191
resale right 92, 97
right to adaptation 90
right to communicate a work 91
right to distribution 90
right to reproduction 89
rights
definition of 149–50
individual 5
Rogers v. Koons 121
Romeo and Juliet, 129–30
Rothko, Mark 122
Rucklehaus v. Monsanto 160

Sayre v. Moore 126
scarcity

and property rights 183

Second Treatise on Government 8, 160, 179
Shakespeare, William 124, 130, 143
Shiffrin, S. 178, 182–4, 199
Simmons, John 152, 180, 184–5
software 7, 52, 53, 60, 72–3, 88–90,
133–5, 177
and copyright 72, 73
and exceptions 88
and patents 52–3, 60
and rental/lending right 90
and reproduction 89
see also open source software
Solicitudo Rei Socialis 193–4
State Street Bank v. Signature Financial
133
Stationers 18
<table>
<thead>
<tr>
<th>Term</th>
<th>Page Numbers</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statute of Anne 2, 19–22</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Statute of Monopolies 36</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Strauss, Leo 152</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Swift, Jonathan 207</td>
<td></td>
<td></td>
</tr>
<tr>
<td>three-steps test 88</td>
<td></td>
<td></td>
</tr>
<tr>
<td>trademark 2–4, 100–104, 164–6, 183</td>
<td></td>
<td></td>
</tr>
<tr>
<td>dilution 101–2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>in the EU 103–4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>in the US 100–103</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TRIPs 50, 88, 114</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Universal City Studios v. Remeirdes</td>
<td>136–7</td>
<td></td>
</tr>
<tr>
<td>utilitarianism 150, 166–7</td>
<td></td>
<td>see also consequentialism</td>
</tr>
<tr>
<td>Valenti, Jack 205</td>
<td></td>
<td></td>
</tr>
<tr>
<td>VARA 81–2, 93</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wagner, R. Polk 195–7</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wheaton v. Peters 169</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wind Done Gone 186</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Yen, Alfred 8, 160, 171</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zemer, Lior 127–8, 185</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>