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
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
Ayres, 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
Baldrin, 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
Breuvart, C. 201, 202
Breuer, 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
Buccirossi, P. 1–2, 71
Buckley, M. 176

251
Intellectual property and antitrust

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
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
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
Dieny, E. 201, 203
Dixit, A. 88, 95
Dolmans, M. 135
dominant firms see monopoly power
Dorfman, N. 15
Dosi, G. 17, 40, 41, 42
Drexl, 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

Mariateresa Maggiolino - 9781848443402
Downloaded from Elgar Online at 12/11/2018 03:44:54AM
via free access
<table>
<thead>
<tr>
<th>Index</th>
<th>253</th>
</tr>
</thead>
<tbody>
<tr>
<td>evolutionary 17–18, 39–42</td>
<td>‘limitation to technical development’ criterion and Microsoft V 166–8, 170</td>
</tr>
<tr>
<td>Harvard School 4–11, 23, 64, 65</td>
<td>Merger Regulation 75</td>
</tr>
<tr>
<td>heterodox 16–21, 39–42</td>
<td>patent and copyright laws 26–8, 38, 39</td>
</tr>
<tr>
<td>IP administrative procedures 183–4 and IPRs, interpretative limits 25–31</td>
<td>patent procurement, legal approaches to 101–2</td>
</tr>
<tr>
<td>and license refusal 142–5</td>
<td>pharmaceutical patents 104</td>
</tr>
<tr>
<td>mainstream economics 31–9, 40</td>
<td>predatory system innovations see predatory system innovations and objective justification 135–6</td>
</tr>
<tr>
<td>neoclassical 3–7</td>
<td>Umbrella Regulation 75</td>
</tr>
<tr>
<td>no economic sense test 61</td>
<td>see also competition; IPR headings</td>
</tr>
<tr>
<td>Ordoliberalism 48, 64, 65, 66, 69</td>
<td>EU cases</td>
</tr>
<tr>
<td>Economides, N. 116, 120, 148, 149, 171</td>
<td>AstraZeneca 54, 69, 103, 104–5, 113, 197, 198, 201–3</td>
</tr>
<tr>
<td>Edgeworth, F. 4</td>
<td>BBI/Boosey and Hawkes 197</td>
</tr>
<tr>
<td>Edlin, R. 61</td>
<td>Boehringer 201</td>
</tr>
<tr>
<td>Edquist, C. 12</td>
<td>British Airways v. Commission 70</td>
</tr>
<tr>
<td>Ehlermann, C. 64</td>
<td>Cement 190</td>
</tr>
<tr>
<td>Eilmansberger, T. 57, 65</td>
<td>Cenafarm v. Sterling Drug 174</td>
</tr>
<tr>
<td>Eisenberg, R. 37, 94, 97, 100</td>
<td>Cenafarm v. Winthrop 174</td>
</tr>
<tr>
<td>Eklof, D. 83, 84</td>
<td>CICRA 117, 160</td>
</tr>
<tr>
<td>Elhauge, E. 48, 61, 62, 146, 183, 193, 195, 200</td>
<td>Cimenteries 190</td>
</tr>
<tr>
<td>Ellig, J. 17</td>
<td>Commercial Solvents Corp v. Commission 65</td>
</tr>
<tr>
<td>Elzinga, K. 130</td>
<td>Compagnie Maritime Belge 190</td>
</tr>
<tr>
<td>entry barriers 8, 9, 89, 92–4, 125–6</td>
<td>Continental Can 59</td>
</tr>
<tr>
<td>Epstein, R. xvi</td>
<td>Decca Navigator System 133, 197</td>
</tr>
<tr>
<td>Erramouspe, M. 36</td>
<td>Deutsche Grammophon xii, 74, 102</td>
</tr>
<tr>
<td>Etzkowitz, H. 87</td>
<td>DSR-Senator Lines GmbH v. Commission 69</td>
</tr>
<tr>
<td>EU</td>
<td>Football World Cup 58</td>
</tr>
<tr>
<td>Charter of Fundamental Rights, Article 47</td>
<td>French-West African ship-owners’ Committees 190</td>
</tr>
<tr>
<td>Commission’s Enforcement Priorities in Applying Article 82 55, 147</td>
<td>Hag II 174</td>
</tr>
<tr>
<td>competition law and invalid patents 113</td>
<td>Hauer v. Land Rheinland Pfalz 175</td>
</tr>
<tr>
<td>competition law and IPR equilibrium 175–6</td>
<td>Hilti AG v. Commission 74, 135, 190–91</td>
</tr>
<tr>
<td>dominant firms’ infringement actions 197–8</td>
<td>Hugin Cash Registers Ltd v. Commission 65</td>
</tr>
<tr>
<td>dominant firms’ IP administrative procedures 201–3 and false-positive issues 171–2</td>
<td>IBM Settlement 133–4, 162</td>
</tr>
<tr>
<td>leveraging monopoly theory 122</td>
<td>ITT Promedia NV v. Commission 93, 191, 197–8</td>
</tr>
</tbody>
</table>
Ladbroke (Tiercé Ladbroke SA v. Commission) 162
Maxicar v. Régie nationale des usines Renault 117
Michelin cases 47, 54
Microsoft cases 70, 75, 117, 133–8, 158, 161–7, 176
NV Algemene Transport v. Netherlands Inland Revenue Administration 67
Oscar Bronnar 146, 150, 151, 162, 163, 176
Parke, Davis and Co. v. Centrafarm xii, 102, 175
Perindopril (Servier) 201
Radio Téléfis Eiréann v. Commission 147–8
Sirena Srl v. Eda Srl and Others 74, 102, 174
Tetra Pak cases 57, 74, 109, 110, 135
Van Zuylen Frères 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
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
Giff ord, 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
Index

Gordon, W. xvi, 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

Mariateresa Maggiolino - 9781848443402
Downloaded from Elgar Online at 12/11/2018 03:44:54AM
via free access
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

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

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. xvi, 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
Ordoñez, 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
Palomeras, 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
Peeperkorn, L. 83
Peltzman, S. 10
Peritz, R. 11, 63, 64, 72, 84, 136
Perloff, J. 6, 9, 89, 98, 99
Perrine, J. 183
<table>
<thead>
<tr>
<th>Authors</th>
<th>Pages</th>
<th>References</th>
</tr>
</thead>
<tbody>
<tr>
<td>pharmaceutical industry</td>
<td>104, 180–81, 183, 199, 200–203</td>
<td></td>
</tr>
<tr>
<td>Piraino, T.</td>
<td>125</td>
<td></td>
</tr>
<tr>
<td>Pitofsky, R.</td>
<td>14, 23, 59, 66, 142, 157, 159</td>
<td></td>
</tr>
<tr>
<td>Plant, A.</td>
<td>35</td>
<td></td>
</tr>
<tr>
<td>Polanyi, M.</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>Polo, M. 53, 128</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ponsoldt, J.</td>
<td>126</td>
<td></td>
</tr>
<tr>
<td>Posner, R. 1, 6, 7, 10, 30, 31, 33, 35, 53, 61, 62, 96, 123, 185</td>
<td></td>
<td></td>
</tr>
<tr>
<td>predatory system innovations 115–40 and consumer welfare 120–28</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EU approach 133–8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ritter, C. 168, 171–2, 176</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robbins, L. 31</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robinson, J. 4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Robledo, J. 185</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Roeder, M. xvi</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Röller, L. 70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Romaine, R. 130, 164</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rommer, P. 32</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rose, M. 27</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ross, D. xv, 7, 8, 9, 14, 36, 49, 89, 95, 100</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rossman, J. 99</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rousseva, E. 56, 57, 66, 69, 75, 79, 137, 151, 152, 153, 164, 166</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rubinfeld, D. 3, 15, 92, 127, 130</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sakakibara, M. 37</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salant, S. 97</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salinger, M. 120, 123, 127</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saloner, G. 7, 20, 92, 116, 118, 143</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Salop, S. 10, 11, 59, 87, 89, 92, 115–16, 120, 130, 143, 144, 164, 182, 185</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sampsung, X. 41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Samuelson, P. 27, 31, 35</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sanders, B. 99, 101</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sanfilippo, L. 57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sankaran, S. 92</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Saunders, K. 15, 101</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schanzenbach, M. 20</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schauer, F. 191</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scheffman, D. 87, 88, 185</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schelling, T. 89</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scherer, F. xv, 7, 8, 9, 14, 16, 30, 34, 35, 37, 49, 78, 85–6, 89, 93, 95, 100, 131, 133, 185</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schlesinger, A. 65</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schmalensee, R. 4, 20, 23, 78, 93, 123, 130, 155, 178</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schmookler, J. 12</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schuchman, R. 35</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schumpeter, J. 12, 16, 17, 24, 34, 39, 53</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Schwartz, L. 66</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scotchmer, S. 38</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scott, J. 15</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scipeti, E. 3, 4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shaffer, G. 123</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shapiro, C. 19, 27, 35, 37, 92, 98, 116, 141</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shavell, S. 35, 186</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Shelanski, H. 23, 50</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Intellectual property and antitrust

Sher, D. 75, 77
Sherman, B. xvii, 30
Shughart, W. 70, 182
Sibarium, C. 67
Sidak, J. 120, 128, 132
Siblany, 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
Stremersch, 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
Tece, 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
Tirode, 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. Heathbath 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
Barry Wright Corp. v. ITT Grinnell Corp. 73
BellSouth Advertising v. Donnelley Information 154
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-Fresher Corp. v. S.C. Johnson & Son 39
Carbice Corp. of America Patent Development Corp. 123
In re Cardizem CD Antitrust Litig. 199
Cheminar 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
Crucible v. Stora Kopparbergs Bergslags AB 87
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
Intellectual property and antitrust

LePage’s Inc. v. 3M 47, 69, 73
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 Pharmas. 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. Connectiv Corp. 39
Special Equipment Co. v. Coe 106–7
Spectrum Sports v. McQuilan 55
Standard Oil v. United States 47
Stop & Shop Supermarket Co. v. SmithKline Beecham Corp. 199
Taylor Publishing Co v. Jostens 57

Teletronics 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 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
Index

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
Vogelzang, 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