IP Literature Watch

This newsletter contains an overview of recent publications concerning intellectual property issues. The abstracts included below are as written by the author(s) and are unedited.

IP & Antitrust

Patent Privateering

Jinhwan Kim (Stanford Graduate School of Business)
Kristen Valentine (University of Georgia)
Jenny Li Zhang (University of British Columbia – Sauder School of Business)
Yuxiang Zheng (Rutgers, The State University of New Jersey – Rutgers University, Camden)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5848942

In a patent privateering strategy, firms sell patents to a non-practicing entity (NPE) with the expectation that the NPE sues the seller's rivals for patent infringement. We examine whether firms under competitive pressure and facing barriers to direct litigation engage in privateering. We find that firms facing technological competition and retaliation risk sell more patents to NPEs, and that these patents are disproportionately asserted against the original owner's competitors. Privateering sales are especially pronounced among firms in technology areas characterized by frequent litigation or extensive collaboration. Contrary to the view that small firms use NPEs to enforce patent rights, privateering-motivated sales are concentrated among well-resourced firms. Following privateering sales, peers reduce both their patenting activity and participation in the technology space, suggesting that privateering reshapes the competitive landscape. Our findings highlight an overlooked player in the policy debate over patent trolls: the firms that "feed" the trolls in the first place.

IP & Licensing

Restoring the Intellectual Property Clause's Balance in Copyright in Consideration of Digital Disruption and the Prevalence of Onerous Licensing Practices, a New 17 U.S.C. § 108A

Caroline Osborne (University of North Carolina School of Law)

Working Paper

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5853222

Accessibility of knowledge and control over information is key to an informed public and democracy. Our founding fathers recognized the benefits of an informed citizenry, enshrining this concept in the Intellectual Property clause of the Constitution. Such a clause created a delicate balance between creator and consumer, incentivizing creation for the benefit of society. The beauty of the clause is the concept of balance. Balance resting delicately on the fulcrum with the dual requirements of reward for creation and benefit to society. The evolution of the means and formats in which information is delivered to the consumer in the creation of the digital item, the e-book, in combination with the current licensing practices of publishers, particularly in library lending, is a disruption of the carefully curated balance required of the Intellectual Property clause. Restoration of such a balance is necessary both as dictated by the Intellectual Property clause and to ensure access to information and an informed citizenry. This article argues for the creation of a new Section 108A that provides a compulsory license for digital versions of literary works and seeks to restore the required balance.

Commons vs. Copyright: Reconciling UNESCO's Memory of the World with Exclusive Rights in Digital Collections

Edward Koellner (University of New Hampshire School of Law (formerly Franklin Pierce Law Center))

Working Paper

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5950715

UNESCO's Memory of the World (MoW) Program asks institutions to keep humanity's records both safe and reachable. That promise is straightforward in principle and tangled in practice. Once scans, transcriptions, and born-digital files go online, they run into overlapping claims – copyright and database rights, anti-circumvention rules, and a web of platform or donor contracts. The effect is a quiet re-fencing of materials that feel public: terms of use and technical controls narrow what people can do with them, even when the underlying works are out of copyright. This article reframes the impasse as a governance problem rather than a purely legal one and argues for practical, testable choices that preserve the public domain while acknowledging real costs, reputational risks, and culturally sensitive contexts. It proposes a layered licensing model with three complementary lanes. First, keep discovery wide open through public-domain labels, machine-readable rights signals, persistent identifiers, and shareable thumbnails that enable citation, teaching, and indexing without clearance. Second, create a high-trust, noncommercial research lane that offers high-resolution files and emulation for time-based media within light-touch registration, accessibility accommodations, and auditable logs – leveraging existing exceptions and fair use/dealing while refusing contract terms that waive them. Third, define a transparent commercial path with clear fee schedules, short request forms, and cost-recovery that earmarks support for preservation and, where appropriate, community partners. Community protocols, e.g., Local Contexts labels, travel with the record so cultural expectations remain visible, proportionate enforcement favors education and authenticity over gatekeeping. Short case vignettes and a generalized stepwise implementation roadmap show how to iterate in the open – publishing

metrics, moving items "down the stack" as rights clear, and documenting notable decisions – so access becomes the steady, accountable work of stewardship rather than an all-or-nothing fight.

IP & Litigation

Assessment of Copyright Infringement in DNA Copies of Literary Works

Dorkina Myrick (University of Oxford; University of Turin/; Université Paris II Panthéon-Assas; Boston University School of Law; Brown University School of Medicine; National Institutes of Health/National Cancer Institute)
Working Paper

Millennia after the emergence of ancestral human collective memory and storytelling, scientists are revisiting the human body as a viable means of data storage and retrieval. The human brain alone contains the capacity to store large volumes of information - an estimated one million gigabytes – that may be retrieved at a moment's notice. Current literature describes technology capable of archiving vast amounts of data within DNA data storage repositories, such as within computer databases or networks. DNA storage capacity exceeds even that of high-capacity computer data storage vehicles. Questions exist regarding ownership of data stored within DNA. Beginning with the Copyright Act of 1790, copyright law has continuously adapted to accommodate changes in modes of data storage and technology used to comprise tangible means of expression. The expansion of the Copyright Act of 1976 greatly benefited the field of computer technology. Computers utilize and process data in many ways, including Random Access Memory (RAM) and the use of software, which raise questions about copyright data fixation. Computer systems, although imperceptible to the human eye, offer a multitude of options for tangible fixation of data through software, source code, object code, and other means. Prior to 1978, copyright owners largely lacked power to control copies whose contents were not visible to the naked eye. By 1978, the effective date of the Copyright Act of 1976, the need for copies to be visually perceptible to the naked eye was eliminated for most works. In a manner similar to that of computers, DNA-created works may be considered fixed tangible media of expression that can be retrieved, interpreted, communicated, and displayed through biotechnological means and methods. Since the DNA copyrighted work is likely fixed at the time of incorporation into the human cell, movement into the human cell should not impact the copyright ownership status of the initially copyrighted work. Copyrighted works stored within DNA libraries housed within human cells may remain the property of the original owner and/or creator. Yet, many scholars and experts disagree. In fact, the Compendium of U.S. Copyright Practices interprets 17 U.S.C. § 102(b) and 37 C.F.R. § 202.1(b) to mean that DNA sequences cannot be registered for copyright. However, the case for copyrightability supports the fact that the Compendium is an interpretation of the law by the Copyright Office and not a literal reading of 17 U.S.C. § 102(b) and 37 C.F.R. § 202.1(b). Thus, the Compendium interpretation may not continue to survive judicial scrutiny as time progresses and DNA technology advances. This paper will discuss DNA data and computer data storage and retrieval, along with the legal challenges of DNA as an information storage medium, specifically focusing upon copyrightability and copyright infringement.

IP & Innovation

Pre-Grant Patents and Innovation Diffusion

Jinghui Yu (Lancaster University - Lancaster University – Department of Economics, Students)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5928517

Are pre-grant patents effective forward-looking signals of global innovation diffusion? Patent grants are important legal milestones, but information diffusion about the underlying technologies occurs at the time patents are published. As the innovation literature rarely studies this distinction, I address this question using pre-grant patent flows across countries, sectors, and industries over time. This allows me to separately identify timing effects on diffusion and those that are running through either innovation or trade channels. At country level, results show that the innovation channel creates larger and more persistent total factor productivity (TFP) gains and stock price responses. This confirms that international technology spillovers originate from the expansion of the global stock of knowledge rather than strategic changes in trade intensity between home countries and their partners. A one-standard-deviation foreign pre-grant patent shock raises manufacturing-sector TFP by about 1.5%, and the R&D capital stock rises by roughly 0.4% with a one-year delay. This reflects their forward-looking nature, which prompts resource reallocation in anticipation of future productivity gains. These gains are especially pronounced in countries which manufacturing sectors that are more R&D-intensive. At the industry level, the results show that countries with more value-added-intensive industries are better able to translate pre-grant patents citations into higher labor productivity gains.

Patent Visibility and the Diffusion of "Trapped Knowledge"

Randol H. Yao (Massachusetts Institute of Technology (MIT) – Sloan School of Management)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5875902

Valuable knowledge developed in one part of the world may remain trapped due to frictions in how knowledge is exposed globally. This paper examines how increasing the visibility of foreign innovations – by granting US patents – "untraps" knowledge. Using difference-in-differences with an examiner leniency instrument, I find that US grants of foreign patents significantly increase the intensity and reach of forward citations. Using a novel measure of "trappedness," I show that knowledge from historically more trapped countries and sectors sees larger diffusion benefits after US grants. These findings highlight the central role of the US as a platform of global knowledge diffusion.

Patent Rights and Cumulative Innovation

Gaétan de Rassenfosse (École Polytechnique Fédérale de Lausanne (EPFL))
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5983416

This article reviews theoretical and empirical evidence on how patent rights shape cumulative innovation. Theoretically, models highlight a trade-off: strong patents can spur first-generation inventions yet block follow-on research, with outcomes depending on patent length, breadth, validity, licensing institutions, and technology characteristics. Empirically, quasi-experiments exploiting random invalidation, oppositions, IP

restrictions on research tools, and disclosure shocks reveal substantial, heterogeneous effects on subsequent patenting, scientific publications, and R&D investment. The overall picture rejects one-size-fits-all prescriptions: in complex technologies and where licensing fails, strong rights often hinder cumulative innovation, while in discrete or high-cost domains they remain an important driver of inventive activity.

Inter Partes Review of Patent Claims: An Error Cost Analysis of USPTO's Proposed Reforms

Alexander Raskovich (Intellectual Property Policy Institute; University of Akron Law School)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5857103

The U.S. Patent & Trademark Office (USPTO) has issued a Notice of Proposed Rulemaking (NPRM) regarding inter partes review of patents by the Patent Trial and Appeal Board (PTAB). I apply an error cost analysis to evaluate the proposed reforms. The granting and subsequent review of patent claims is subject to two types of error: false positive (an invalid claim found valid) and false negative (a valid claim found invalid). Both errors weaken incentives to innovate. The private incentive to petition for inter partes review challenging a patent claim is socially excessive, for two reasons. First, the process of review is asymmetric. A patent claim found valid by PTAB remains open to future challenge, but a claim (falsely) found invalid is unlikely to be overturned on appeal. Second, the frequency of false negative error counts as a dynamic social loss, weakening incentives to innovate, but counts as a static private gain allowing the challenger to avoid royalties on the falsely invalidated patent. USPTO proposes to limit duplicative patent reviews. This is broadly consistent with the goal of promoting innovation.

IP Law & Policy

Artificial Intelligence and Intellectual Property: Mapping Doctrinal Tensions in Copyright, Patent, and Trademark Laws

Enrico Bonadio (City University London, The City Law School)
Nicola Lucchi (Universitat Pompeu Fabra – Department of Law)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5945214

This chapter examines how artificial intelligence reshapes the doctrinal foundations of copyright, patent, and trademark laws, with particular emphasis on the European landscape. AI systems rely on large corpora of protected works for training, generate outputs that challenge traditional concepts of authorship and infringement, and increasingly mediate commercial and administrative processes.

In copyright, the chapter distinguishes input-side and output-side tensions. Input-side questions concern the compatibility of generative training with text and data mining exceptions, the practical and conceptual limits of lawful access, the effectiveness of opt-out mechanisms, and emerging fragmentation across EU Member States. Output-side issues include the threshold of human creativity required for protection, competing proposals for attributing rights in AI-assisted and fully automated works, and the evidentiary challenges posed by model opacity in infringement analysis. In patent law, the chapter explores how AI unsettles established doctrines of patentable subject matter, inventive step, inventorship, and disclosure, and how these pressures may prompt incremental or structural reform. The trademark section analyses

the shift from consumer perception to AI-mediated intermediation, covering the use of algorithmic tools in clearance and examination, marketplace ranking and recommendation, voice and visual search environments, and generative brand uses.

Across all three fields, the chapter highlights shared concerns about transparency, accountability, the distribution of responsibilities among actors, and the interaction between IP rules and emerging AI-specific regulation. It concludes by identifying open questions that will shape future legal developments.

Artificial Intelligence and Intellectual Property Rights: Comparative Transnational Policy Analysis

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https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5959195

Artificial intelligence's rapid integration with intellectual property rights necessitates a detailed assessment of its impact. This is especially critical for trade secrets, copyrights and patents. The significance of this study lies in addressing the lacunae within existing laws. India lacks AI-specific provisions. This results in doctrinal inconsistencies and enforcement inefficacies. Global institutions have initiated discourse on AI-related IPR protections but international harmonization remains nascent. This necessitates a deeper inquiry into jurisdictional divergences and regulatory constraints. This research identifies critical gaps in the adaptability of Indian IP laws to AI-generated or AI-assisted outputs. Trade secret protection remains inadequate against AI-driven threats. Standardized inventorship criteria remain absent. This study employs a doctrinal and comparative legal methodology. It scrutinizes legislative texts and examines judicial precedents. It evaluates policy instruments across India, the United States, the United Kingdom, and the European Union. It incorporates insights from international organizations. Preliminary findings indicate fundamental shortcomings. India's reliance on conventional contract law results in a fragmented trade secret regime. AI-driven innovations remain vulnerable. Section 3(k) of the Indian Patents Act impedes the patenting of AI-generated inventions. Copyright frameworks exhibit jurisdictional variances in authorship attribution. This study underscores the necessity for a harmonized legal taxonomy that accommodates AI's transformative role. Innovation incentives and ethical considerations must be preserved. India's National AI Strategy (2024) signals incremental progress; however, legislative clarity remains imperative. This research contributes to the ongoing global discourse by proposing a robust legal architecture that integrates AI-specific IP protections. It ensures resilience against emergent challenges while fostering equitable innovation. The promising results derived from this analysis underscore the urgency of recalibrating India's IP jurisprudence. Alignment with global advancements remains essential.

Silly Patents, Serious Issues

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https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5801343

A wooden stick. A crustless sandwich. The comb-over. These commonplaces of everyday life share one remarkable feature: each was once protected by a United States patent. Patents like these-so-called "silly" patents-are humorous because they present a manifest incongruity between common knowledge and the

statutory patentability requirements of novelty and nonobviousness. Yet the fact that patents like these were successfully prosecuted and issued by the U.S. Patent and Trademark Office (PTO) is no laughing matter. This article, for the first time, takes silly patents (sort of) seriously. It analyzes the prosecution (and reexamination) histories of five exemplary silly patents-three from the 'golden age' that existed from the late 1990s to the mid-2000s (swinging sideways on a swing, a stick toy for a dog, and exercising a cat with a laser pointer) and two recent ones (a playground swingset reinforced with a metal brace and a foam pad for sanitizing shoes)-to shed light on the manner in which such inventions came to be patented. This analysis explains not only the silly patent phenomenon in U.S. patent law, but sheds light on challenges that continue to face patent examiners when dealing with less silly inventions in fields such as online commerce, software and business methods. The issues illuminated by these findings include the difficulty of identifying prior art that lies beyond established databases of patents and scientific literature (so-called nonpatent literature or NPL) and the inability of patent examiners to rely on common knowledge to challenge even the most intuitively obvious inventions.

To compensate for these constraints, patent examiners appear to have given up on the substantive examination of silly patent applications, giving lie to Professor Lemley's 'rational ignorance' theory of patent prosection, but also allowing patent examiners to exercise an extraordinary degree of economic reasoning as to the relative value of claimed inventions without statutory authorization. As such, the lessons learned from silly patents remain relevant today and can help to inform patent policy across the board.

Copyright Law

Copyright, Learnright, and Fair Use: Rethinking Compensation for AI Model Training
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Thomas W. Malone (Massachusetts Institute of Technology (MIT) – Sloan School of Management)
Andrew Ting (George Washington University Law Center)
Cornell Legal Studies Research Paper No. 25-37
Northwestern Journal of Technology and Intellectual Property, Vol. 23, Issue 1
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5855063

Generative AI can rapidly output vast amounts of expressive content, some of which has great value for society. This new computational process also raises a deep question of fairness: Will the original creators of the content used to train these systems share in the value they create? The question becomes particularly urgent as the potential effects of generative AI on markets for creative works become clearer. Artists with a distinctive style may find it nearly impossible to sell their new work when very low-cost substitutes can be generated automatically. News publishers whose content can now be paraphrased by generative AI systems without violating copyright laws may lose significant advertising revenue from readers who no longer need to click through to publishers' websites. Millions of workers may be wholly or partially displaced by generative AI trained on their works.

Numerous scholars have begun to address this issue. Some have focused on challenging generative AI providers' claims that their ingestion of copyrighted works for training models and outputting new works is fair use. Others have conceded or bracketed the fair use question and proposed levies or compulsory licenses to compensate for these uses. We take a distinct approach, proposing a new right for copyright

holders with respect to AI training using their work. This protection is appropriate given massive AI systems' ability to process vast amounts of information far faster and less expensively than humans can. An exclusive right to license AI training, called a "learnright" for short, would enable copyright holders to claim some share in the revenues arising out of automated systems that learn from covered material.

This essay examines the rationale and potential mechanisms for implementing such laws. It explains the high degree of legal uncertainty surrounding the many current lawsuits against generative AI providers, and it proposes learnrights to complement the existing exclusive rights guaranteed to copyright holders. Given the many sources from which AI can "learn," market mechanisms would likely permit a fair and reasonable degree of revenue sharing pursuant to copyright holders' assertion of their learnrights. Compensation for learnrights would also redress some striking imbalances apparent in current copyright policy that favor mechanical processing of texts over human engagement with them.

Agentic Copyright & AI Governance: Toward a Coasean Bargain in the Era of AI

Paul Jurcys (University of California, Berkeley Law School; Vilnius University - Faculty of Law; Prifina; University of Copenhagen - Centre for Advanced Studies in Bioscience Innovation Law (CeBIL))
Mark Fenwick (Kyushu University - Graduate School of Law)
UC Berkeley Public Law Research Paper Forthcoming
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5939636

This paper examines how the rapid deployment of multi-agent AI systems is reshaping the foundations of copyright law and creative markets. It argues that existing copyright frameworks are ill-equipped to govern AI agent-mediated interactions that occur at scale, speed, and with limited human oversight. The paper introduces the concept of agentic copyright, a model in which AI agents act on behalf of creators and users to negotiate access, attribution, and compensation for copyrighted works. While multi-agent ecosystems promise efficiency gains and reduced transaction costs, they also generate novel market failures, including miscoordination, conflict, and collusion among autonomous agents. To address these risks, the paper develops a supervised multi-agent governance framework that integrates legal rules, technical protocols, and institutional oversight. This framework emphasizes ex ante coordination mechanisms capable of correcting agentic market failures before they crystallize into systemic harm. By embedding normative constraints and monitoring functions into multi-agent architectures, supervised governance aims to align agent behavior with the underlying values of copyright law. The Article concludes that AI should be understood not only as a source of disruption, but also as a governance tool capable of restoring market-based ordering in creative industries. Properly designed, agentic copyright offers a path toward scalable, fair, and legally meaningful copyright markets in the age of AI.

Reproduction, AI Training and the Human-Centred Core of EU Copyright Law

Eylül Erva Akın (University of Milan - University of Milan)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5907062

Within the European Union (EU), copyright law is harmonized around the human-centric standard of the 'author's own intellectual creation' a doctrine rooted in personality theory. This framework faces a doctrinal challenge from generative AI, especially concerning the legal uncertainty over whether training constitutes an act of copying. This points out that the problem is less about misreading the foundational concepts of

copyright law and more about misreading reality, requiring an interrogation into the normative coherence of copyright law amid non-human technological creation. This paper argues the central tension lies in reconciling the collective, data-driven logic of the AI input phase with the individualistic, author-centered philosophy of the output phase. The analysis underscores the critical role of the CJEU's constitutional balancing framework, where copyright as a fundamental right (Article 17(2), EU Charter) must be balanced against competing rights, notably freedom of expression and information and the freedom of the arts and sciences. The paper concludes that preserving EU copyright's human-centered core principles necessitates a legal reform: one that redefines 'copying' to not mismatch with machine learning practices, grounds enforcement in constitutional proportionality and implements a collectively managed statutory remuneration right to reconcile innovation with fair compensation.

Copyright Ownership and Duration of AI-Authored Works

Cheng Lim Saw (Singapore Management University - Yong Pung How School of Law)
Singapore Management University School of Law Research Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5944936

On the assumption that Parliament has endorsed the notion of AI authorship and the prospect that copyright may well subsist in works created autonomously by the AI itself, this essay further explores allied issues surrounding the ownership and duration of copyright in AI-authored works.

IP & Trade

Evolution, Institutional Reforms and Enforcement Challenges of Intellectual Property Rights in Pakistan: A Critical Analysis in the Context of CPEC and TRIPS Compliance

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Muhammad Aamir Nazir (District and Session Judge, Khyber Pakhtunkhwa, Pakistan)
Journal of Higher Education and Development Studies
https://jheds.pedf.org.pk/index.php/jheds/article/view/86

Pakistan's intellectual property (IP) regime has undergone remarkable transformation over the past two decades, driven by obligations under the TRIPS Agreement and the need to create an attractive investment climate for the multi-billion-dollar China–Pakistan Economic Corridor (CPEC). The establishment of the autonomous Intellectual Property Organization of Pakistan (IPO-Pakistan) through the IPO-Pakistan Act, 2012 consolidated previously fragmented trademark, patent, and copyright offices into a single, modern institution. Legislative amendments brought Pakistan's statutes largely into conformity with international minimum standards. However, effective enforcement remains the weakest link. Jurisdictional overlaps between IPO-Pakistan and the Federal Investigation Agency (FIA) were resolved by the Supreme Court of Pakistan, which confirmed the FIA's plenary jurisdiction over copyright and certain trademark offences irrespective of whether the rights holder is governmental or private. Despite this judicial clarity, systemic deficiencies persist: customs border measures are under-utilized, criminal prosecution suffers from low conviction rates and inadequate penalties, civil remedies are slow and unpredictable, and specialized IP adjudication is virtually non-existent outside major cities. These enforcement gaps continue to expose domestic and foreign investors – particularly Chinese enterprises under CPEC – to widespread counterfeiting and piracy. Drawing on statutory provisions, landmark judicial pronouncements, and empirical

studies, this article critically evaluates the evolution of Pakistan's IP framework, analyses persistent enforcement bottlenecks, and offers concrete, policy-oriented recommendations to achieve genuine TRIPS-compliant protection capable of supporting CPEC's long-term objectives.

Other Topics

How Design Law Is Taking Shape in the United States and European Union

Christine Haight Farley (American University - Washington College of Law)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5946094

This Essay uses a comparative framework to show that sophisticated design rights holders in both the United States (U.S.) and the European Union (EU) increasingly sidestep specialized design regimes in favor of more expansive trademark and copyright doctrines. Although both jurisdictions now operate cumulative intellectual property (IP) systems for industrial design, they have taken sharply divergent paths in confronting the proliferation of "design dupes"-replicas that trade on the appeal of sought-after designs. In the United States, rights holders rely chiefly on trademark law, and especially trade dress, to convert cultural recognition into legally cognizable source indication, a move facilitated by a permissive approach to secondary meaning. In the European Union, by contrast, recent harmonization efforts have positioned copyright as the dominant vehicle for design protection, with courts steadily discarding separability constraints that once narrowed the scope of copyrightable design features. Together, these developments reveal how design protection is being built through adjacent IP doctrines rather than through design law itself.

When the Patent Quid Pro Quo is Distorted: Protection-Disclosure Imbalance and Follow-on Innovation

Marek Giebel (Copenhagen Business School - Department of Economics)
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5930075

How does a distortion of the patent quid pro quo, which grants inventors a temporary monopoly right in exchange for full and clear disclosure of their invention, influence follow-on innovation? We study this using text data from US patent application-grant pairs. To proxy the severity of distortions, we use the magnitude of examiner-induced corrections to application scope-disclosure imbalances, measured as changes in textual characteristics between application and grant. Patent prosecution data allow us to exploit the quasi-random assignment of applications to examiners as a source of variation in detecting scope-disclosure imbalances via Section 112 rejections. Instrumental variable estimates show that granted patents whose underlying applications required larger examiner-induced corrections receive fewer citations. This pattern is consistent with those applications being badly drafted, overly broad, or unclear. It reflects unintentional or strategic distortions of the quid pro quo at the application stage that are associated with fewer forward citations.

Artificial Intelligence Innovation by Financial Innovators: Evidence from US Patents

Jean Xiao Timmerman (Independent)
FEDS Working Paper No. 2025-104
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5952118

This paper examines the evolution of artificial intelligence (AI) patent rates (i.e., the number of AI patents/number of firms of the same type) and concentration metrics (i.e., the Herfindahl-Hirschman Index (HHI) and Gini coefficient) among financial market participants from 2000 to 2020. It documents the historical trajectories of AI innovation for regulated banking entities and less-regulated firms, revealing that nonfinancial companies exhibit the highest baseline AI patent rate, while banks show the highest growth in AI patent rate over time. Banks have the highest HHI, and nonfinancial companies have the highest Gini coefficient, suggesting that a small number of banks dominate AI innovation and the distribution of AI innovation at nonfinancial firms – though higher in number – is highly skewed toward a subset of players. These findings indicate that the AI technological gap between small and large banks may be widening and the diversity of nonfinancial companies serving as third-party AI service providers may be limited.

Music Recommender Systems And the Copyright Blind Spot: Conceptualizing the Right to Be Heard

Kacper Szkalej (University of Amsterdam - Institute for Information Law (IViR))
Working Paper
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5967014

Digital music platforms project an image of unprecedented abundance, linguistic diversity, and borderless circulation, yet the infrastructures that organize musical discovery increasingly shape who is heard and who remains silent.

This paper argues that while EU copyright law effectively secures lawful availability, rights management, and remuneration, it remains structurally indifferent to the allocation of cultural attention. As musical discovery is now mediated primarily through algorithmic recommender systems, visibility has ceased to be a by-product of access and has become a function of metadata, optimization, and design. The resulting condition of being represented but not heard exposes a doctrinal blind spot in the European copyright acquis and raises broader constitutional concerns relating to artistic freedom, freedom of expression, and cultural participation.

Against this backdrop the paper conceptualizes a right to be heard as a relational and infrastructural dimension of cultural participation and explores whether prominence-based regulatory approach, inspired by the AVMS Directive, could offer a proportionate response to algorithmically mediated cultural exclusion in the internal market that is compatible with the freedom to conduct a business.

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