

BOOK REVIEW

Expropriation by Law: Intellectual Property, Value and Labor. Christian Bessy. Cheltenham, UK; Northampton, MA: Edward Elgar, 2024. 204 pp. ISBN 978-1-03532-614-3. US\$120.00.

In Christian Bessy's *Expropriation by Law: Intellectual Property, Value and Labor*, which is part of Edward Elgar's New Horizons in Institutional and Evolutionary Economics series, Bessy looks at the crossroads of economics, law, and sociology as they relate to intellectual property (IP). In particular, he focuses on the role of legal intermediaries, particularly patent attorneys and agents, in changing the intellectual property rights (IPR) landscape, albeit not always for the better. He also focuses on the inequities that have arisen because of the confiscation of IPR by corporate employers to the detriment of their inventor employees and the efforts being made to address these inequities. Bessy poses many intriguing questions but generally leaves it to the reader to come to their own conclusions.

The book is organized into an introduction, followed by seven chapters roughly divided into three parts and a conclusion. In the first part (Chapters 2 and 3), Bessy takes the reader through the development of patent law and various theories as to the value of patents (or lack thereof). As detailed in the book, in the post-war period, economists embraced patents as a crucial incentive for innovation. However, some modern economists have argued for their gradual abolition, rejecting the previous and commonly accepted assumptions. These economists assert that patents lead to effective monopolies that act to the disadvantage of society, limiting access to software or pharmaceuticals, for example. Although frequently critical of the IP landscape, Bessy advocates for the continued recognition of the value of patents, while also arguing in favor of continued vigilance to encourage patent quality and a healthy and fair market for patents that protects the actual inventors.

In Part Two (Chapters 4 and 5), Bessy takes us through the history of French patent law, beginning in 1791. Bessy goes on to discuss how the proliferation of IP-related legal issues, particularly counterfeiting, has contributed to the development of a worldwide market for legal services dedicated to IP, largely dominated by American lawyers but also heavily populated with Paris-based law firms. He addresses at length (and throughout the book) the role of patent lawyers and other legal intermediaries in developing IP conventions and contributing to the creation of European patent law. Bessy is critical of patent attorneys who are guided by profit without regard for a fair and functioning legal system and of increasingly expensive legal services that limit access to justice.

In Part Three (Chapters 6 and 7), Bessy looks at the politics of IPR and focuses on the expropriation of workers' inventions and know-how. In an important section, Bessy discusses how employee remuneration for inventions is specifically determined in France: initially, the question of remuneration was left to the provisions of collective agreements but this proved inadequate. Trying to develop a fairer system, judges began to grant additional remuneration to employees to compensate for the unequal bargaining power between employers and employees in the labor market, increasingly awarding lump sum bonuses equal to two to three months' wages. Though well-intentioned, this action has led to an increase in inequalities among workers because lower-level employees rarely benefit. Moreover, this remuneration essentially compensates the employee for their efforts as opposed to reflecting the economic value of the invention. Legal disputes resulting from this system can be pursued with various legal bodies and sometimes lead to litigation. Bessy notes, though, that the employees who pursue litigation are most often high-level managers who have the means to hire lawyers. Bessy questions whether this policy of additional remuneration to employee inventors encourages innovation.

In his conclusion, Bessy emphasizes that patent attorneys play an active and critical role in shaping international IP policy and that the actions of these legal intermediaries have contributed to inequalities among countries, companies, and workers and their employers. It is these inequalities, as well as the privatization of

knowledge due to the extension of patentability, that have acted to the detriment of the public, and it is these actions that have led to the most strident critiques of the global IP system.

This is an interesting and thought-provoking book for practitioners already familiar with the world of IP. Readers without a basic understanding of the fundamentals of patent law may find it challenging to digest. Nevertheless, Bessy looks at the monetization of IP from an interesting perspective, evaluating the effect on IP of the proliferation of patent attorneys, as well as the expropriation of workers' and inventors' IP. This book would be a valuable addition to the libraries of IP practitioners who will appreciate the theoretical and philosophical challenges that Bessy proffers.

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