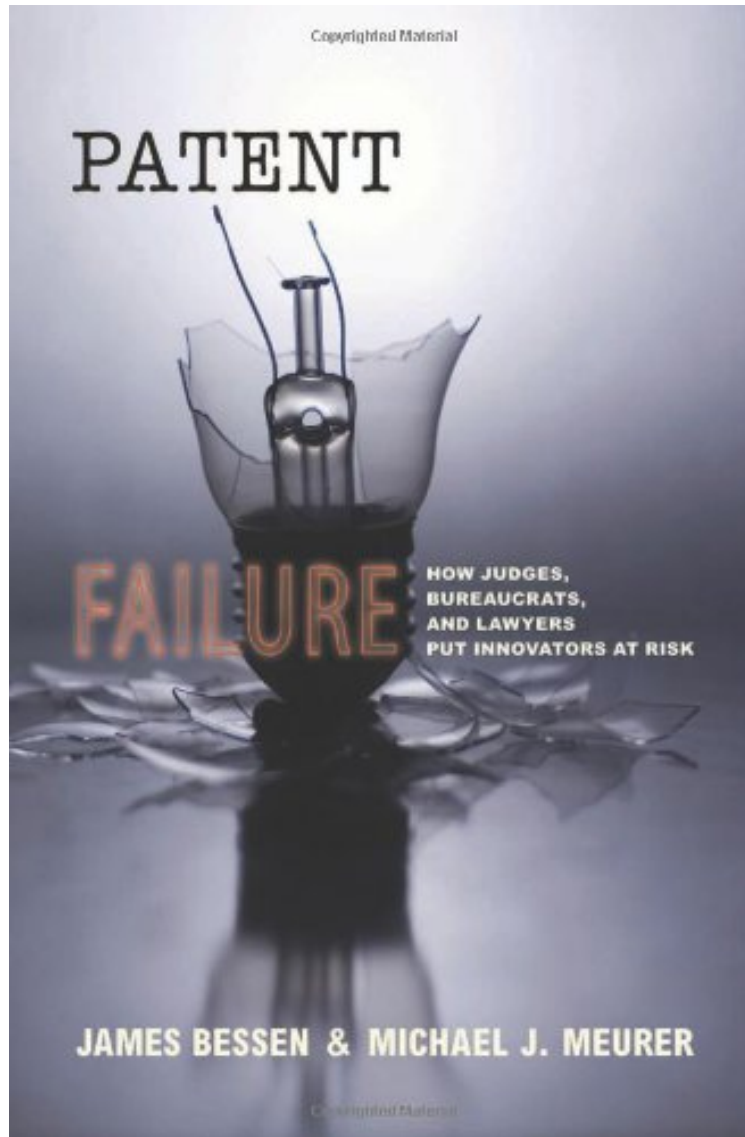


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Patent Failure: How Judges, Bureaucrats, and Lawyers Put Innovators at Risk

James Bessen, Michael J. Meurer

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James Bessen, Michael J. Meurer : Patent Failure: How Judges, Bureaucrats, and Lawyers Put Innovators at Risk before purchasing it in order to gage whether or not it would be worth my time, and all praised Patent Failure: How Judges, Bureaucrats, and Lawyers Put Innovators at Risk:

4 of 4 people found the following review helpful. Is America's patent system really in that much trouble?By Adam

ThiererBessen and Meurer argue that America's patent system is in trouble because "it fail[s] to provide clear and efficient notice of the boundaries of the rights granted." Patent litigation has exploded, they say, and the costs of the system now outweigh the benefits. Generally speaking, with the exception of the chemical and pharmaceutical industries, Bessen and Meurer don't feel the patent system does a lot of good. "[I]t seems unlikely that patents today are an effective policy instrument to encourage innovation overall," they conclude. They detail several reforms to help improve notice and to "make patents work as property" again the way they claim they once did. Although the authors deal with patents broadly, the book has great relevance to digital technology policy because of their discussion of business method patents and software patents. They argue that software technology is especially prone to problems of "abstraction" and obviousness. As a result, software patenting has been a major contributor to the litigation explosion we have seen in recent years. Although I agree with their case against software patents, I remain unconvinced that the patent system is failing as badly as Bessen and Meurer claim. Nonetheless, they present a powerful case that deserves to be taken seriously. Patent Failure will have an enormous impact on these debates going forward. 0 of 0 people found the following review helpful. Five Stars By Customer If you wanna know the situation of the current IP system, You must read this book. 4 of 4 people found the following review helpful. Some truly great points, but... By Chris MacAskill The argument "Without boundaries, it ain't property" made the book for me. I'm not a patent attorney, I'm an entrepreneur always trying to improve our Internet service. What confounds me, our engineers, and our law firm is the vague language of many software patents that we can't understand. I loved the discussion of obviousness, boundaries, continuations, and abstract claims. The two downers for me were: 1. The academic language. It makes you squint as if you're reading a patent application, ironic for a book suggesting claims be clear and unambiguous. Sample paragraph: "Some readers might immediately find our objective to be somewhat oddly stated or, perhaps, overreaching. The key limiting qualifier here--the limitation that makes the empirical exercise feasible--is 'as property.'" At the risk of getting a big pedantic, this phrase requires more careful discussion." 2. They dismiss patent trolls in a sentence or two as not a significant percentage of litigation. Um. Anyone noticing the exponential rise of defendants in patent troll cases over the last few years? Their data on trolls seemed olde.

In recent years, business leaders, policymakers, and inventors have complained to the media and to Congress that today's patent system stifles innovation instead of fostering it. But like the infamous patent on the peanut butter and jelly sandwich, much of the cited evidence about the patent system is pure anecdote--making realistic policy formation difficult. Is the patent system fundamentally broken, or can it be fixed with a few modest reforms? Moving beyond rhetoric, Patent Failure provides the first authoritative and comprehensive look at the economic performance of patents in forty years. James Bessen and Michael Meurer ask whether patents work well as property rights, and, if not, what institutional and legal reforms are necessary to make the patent system more effective. Patent Failure presents a wide range of empirical evidence from history, law, and economics. The book's findings are stark and conclusive. While patents do provide incentives to invest in research, development, and commercialization, for most businesses today, patents fail to provide predictable property rights. Instead, they produce costly disputes and excessive litigation that outweigh positive incentives. Only in some sectors, such as the pharmaceutical industry, do patents act as advertised, with their benefits outweighing the related costs. By showing how the patent system has fallen short in providing predictable legal boundaries, Patent Failure serves as a call for change in institutions and laws. There are no simple solutions, but Bessen and Meurer's reform proposals need to be heard. The health and competitiveness of the nation's economy depend on it.

Honorable Mention for the 2008 PROSE Award in Law and Legal Studies, Association of American Publishers One of Choice's Outstanding Academic Titles for 2009 "James Bessen and Michael J. Meurer explode...illusions in their hard-hitting analysis of how patents perform economically. [T]his is an important book, for policymakers, lawyers, scholars and also for universities."--Fiona Reid, Times Higher Education "The U.S. patent system is not working. It stands accused on all sides of stifling innovation instead of nurturing it. [E]conomist James Bessen and law academic Michael Meurer show that the system no longer provides predictable property rights. They go on to offer solutions based on empirical evidence from history, law and economics."--Harold Wegner, Financial Times "Bessen and Meurer provide the first comprehensive review of the patent system in more than a generation, bringing together a survey of the available empirical data and a clear statement of the usefulness of and limits to the patents as property model."--Choice "[R]eaders of Patent Failure may not be sanguine about the likelihood that Congress or other policy-makers even care about, much less rely on, empirical data to inform their decision-making. But this book successfully demonstrates that they should. Ultimately, Patent Failure is a significant contribution to the growing literature on the problems and promise of the US patent system. . . . Patent Failure rewards careful reading and is a book that cannot credibly be ignored by anyone seriously concerned about the fate of the US patent system."--William T. Gallagher, Law and Politics Book "[W]ell-written and well-documented book. . . . [T]heir finding regarding the profitability of patents for patenting firms is the piece de resistance."--Julio H. Cole, Independent "In Patent Failure, Bessen and Meurer examine the U.S. patent system's current procedural and operational shortcomings. Considering the book's

titular promise to reveal the dangers posed by judges, bureaucrats, and lawyers, readers might expect an angry broadside leveled at the entire legal profession. On the contrary, *Patent Failure* is measured and methodical, a provocative, evidence-based book for the lawyer and entrepreneur alike. The authors are nothing if not reasonable men."--Strategy + Business "[Patent Failure is] one of the most comprehensive empirical analyses of the patent system that has been performed in decades. Rather than piling up anecdotes of beleaguered innovators and rapacious patent trolls, Bessen and Meurer have done the hard work of collecting detailed data about the patent system. And the findings documented in *Patent Failure* are sobering."--Timothy B. Lee, ARS Technica "In keeping with its title, *Patent Failure* provides a critical assessment of the nation's patent system. The book inevitably leads the reader to ponder the value of patents as property and as gauges of economic growth."--Livinia N. Jones, Centre Daily Times "All in all, this book's advantage over other titles in the field is that it goes beyond models and theories providing a bright and well documented picture of the real world of the US patent system."--Andrea Filippetti, Research Policy "It's an excellent book and completely worth reading."--Mike Masnick, Techdirt

From the Back Cover "This is a pioneering and heroic effort to quantify the ways in which our patent system has failed to live up to its *raison d'être*: promoting innovation. The book will be controversial. But the authors make a forceful case that deserves to be heard."--Eric Maskin, Albert O. Hirschman Professor of Social Science at the Institute for Advanced Study and Nobel Laureate in Economics "Bessen and Meurer provide a strong, balanced empirical analysis of the real-world effects the U.S. patent system has on our twenty-first century economy. Their book is essential reading for anyone interested in promoting a patent system that truly drives innovation for the U.S. economy."--Mark Chandler, senior vice president and general counsel, Cisco Systems "Bessen and Meurer's book is grounded in both economics and the real world. It hits the right notes for scholars, lawyers, and policymakers. Timely and important, *Patent Failure* is the best of the books on patent reform."--Mark Lemley, Stanford University

About the Author James Bessen, a former software developer and CEO, is lecturer at Boston University School of Law. Michael J. Meurer is the Michaels Faculty Research Scholar and professor of law at Boston University.