



Media inquiries: Véronique Rodman
202.862.4871 (vrodman@aei.org)
Orders: 800.343.4499

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THE POLITICAL ECONOMY OF INTELLECTUAL PROPERTY LAW

By William M. Landes and Richard A. Posner

Intellectual property rights have undergone a significant expansion over the last half century, particularly since the Copyright Act of 1976. In *The Political Economy of Intellectual Property Law*, William M. Landes and Richard A. Posner (AEI Press; July 1, 2004) attempt to explain this expansion of intellectual property rights, and how it could have coincided with the deregulation movement.

Should intellectual property be thought of as a form of regulation? Why did the movement for greater protection of intellectual property coincide with the deregulation movement?

Landes and Posner apply public-choice theory to the growth and character of intellectual property protection over the last half-century. The authors argue that public-choice theory alone cannot explain the coincidence of the deregulation movement and the rapid growth of intellectual property protection. Political forces and ideological currents associated with the deregulation movement, combined with interest-group pressures, best explain the increases in intellectual property protection since 1976.

The authors urge caution in equating intellectual property rights to physical property rights. They counsel skeptics of government to hesitate before extending a presumption of efficiency to a process by which government grants rights to exclude competition.

William M. Landes is the Clifton R. Musser Professor of Law and Economics at the University of Chicago Law School, where he teaches economic analysis of law, art law, and intellectual property. As coeditor of the *Journal of Legal Studies*, he specializes in the application of economics to legal problems and has written widely in the fields of torts and antitrust law. Formerly the president of the American Law and Economics Association, Landes has appeared as an expert before courts, administrative agencies, and committees of Congress.

The Honorable Richard A. Posner was appointed to the U.S. Court of Appeals for the Seventh Circuit in 1981 and served as the chief judge from 1993 to 2000. Before his appointment, Judge Posner taught at the University of Chicago Law School for twelve years; earlier he held several positions in Washington, including law clerk for U.S. Supreme Court justice William J. Brennan Jr. He is the author of the landmark *Antitrust Law* (second edition, 2001), as well as *Economic Analysis of Law* (sixth edition, 2003), and the founder of the *Journal of Legal Studies*.

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