

Index

access to medicines in developing countries, 1-4, 28 government role in, 2 health spending on, 1 household costs and, 1 model of human rights and, 165-6 patent policy space and, 4-10 patent rights and, 41-2 poverty and, 1 under TRIPS Agreement, 2 African Regional Intellectual Property Organization (ARIPO), 106-7 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) access to medicines under, 2 Article 6, 7, 17 Article 7, 95 Article 8, 17 Article 8.1, 15, 17, 21, 95 Article 27, 17 Article 27-34, 14 Article 27(1), 2-3, 14, 95 Article 27(2), 14-15, 56 Article 27(3), 14-15 Article 28, 15 Article 30, 17-19 Article 31, 7, 17, 23 Article 31(b), 17, 22-3 Article 31(f), 22-3 Article 31(k), 17 Article 33, 15 Article 65(2), 2-3 Article 65(4), 2-3 Article 66(1), 2-3 Doha Declaration, 19-24, 95-6

model of human rights and, 24 Paragraph 4, 66 TRIPS Agreement and Public Health, 101 Draft Ministerial Declaration, 17-29 flexibilities of, 93, 95-6 India and, 137-8 least-developed countries and, 16 loopholes in, 93 model of human rights compatibility with, 69 patent policy space and, 4-7, 14-24 development of, before TRIPS Agreement, 10-14 patent rights under, 2-3 Patents Act and, 118-19 pharmaceutical patents under, 2-3 right to health and, 94-102 model of human rights, 94-102 World Trade Organization dispute settlement panels and, 100-2 TRIPS Agreement and Public Health, 101 TRIPS Council, 16-29 American Cyanamid v. Ethicon Ltd., 128 American Declaration of the Rights and Duties of Man, 78-9 Anti-Counterfeit Act, Kenya, 109-13 ARIPO. See African Regional Intellectual Property Organization Association for Molecular Pathology v. Myriad Genetics, Inc., 57-8 Attas, Daniel, 38-64 Australia, 82 Australia-Plain Packaging case, 102 Austria, patent law in, 11 Aventis v. Cipla, 128-31 azithromycin dihydrate, 109-12



168 Index

Barratt, Amanda, 65-6	developing countries. See also India; Kenya; least-
Basheer, Shamnad, 148-9	developed countries; South Africa; specific
Bayer Corporation v. Union of India, 156-9	countries
Bayer v. India, 63	access to medicines in, 1-4, 28
Berne Convention, 78	government role in, 2
bilateral agreements	health spending on, 1
with developing countries, 7–8	household costs and, 1
free trade agreements, 93-4	bilateral agreements with, 7-8
Bolivia, 28	cancer in, 1–2
Brazil	Draft Ministerial Declaration, TRIPS
Industrial Property Law of 1996, 15-16	Agreement, 17–18
article 68(1)(I), 98	HIV/AIDS in, 1-2
pharmaceutical patent law in, 98	income distribution in, 5
Bristol-Myers Squibb Co. v. Dr BPS Reddy and	national patent regimes in, 5
others, 157	patent policy space in, 4
, ,,	patent rights in, 3–4
cancer, in developing countries, 1-2	regional agreements with, 7–8
Cassin, Rene, 78	Doha Declaration, 19–24, 95–6
CESCR. See Committee on Economic, Social	model of human rights and, 24
and Cultural Rights	Paragraph 4, 66
Chand, Bakshi Tek, 134-5	TRIPS Agreement and Public Health, 101
Colombia, 82	Dominican Republic, 28, 86
Committee on Economic, Social and Cultural	Drahos, Peter, 43-4, 47-8, 77
Rights (CESCR), 8–9	drug production
General Comment No. 14, 9, 66, 70, 99, 111, 145–6	patent law regimes and, 9–10
General Comment No. 17, 75–7	pricing strategies and, 42
material and moral interests of authors and	drugs. See also generic drugs; specific drugs
inventors under, 77–8	costs of, compulsory licences as influence on, 63
right to health under, 70–1	under World Health Organization guidelines, 71
compulsory licences	World Trade Organization on, 8
drug costs influenced by, 63	
in India, 153–6	eBay Inc. v. MercExchange LLC, 128
under Paris Convention, 12–13	Ecuador, 28, 81–2
Confederation of Ex-Servicemen Associations and	Edison, Thomas, 33
others v. Union of India and others, 142	evergreening, of pharmaceutical patents, 147–8
constitutions. See specific countries	
Consumer Education & Research Centre and	"failure to work," under Paris Convention, 12–13
others v. Union of India and others, 139–40	FCTC. See Framework Convention on Tobacco
copyright law	Control
derivative works under, 34–5	Federation of Malaya, 82–7
patent rights and, 49–50	Framework Convention on Tobacco Control
serial collaborations under, 34–5	(FCTC) (WTO), 102
solitary romantic authorship, 34–6	France, 82–4
as speech restriction, 65	patent law in, 6
utilitarianism and, 49–50	pharmaceutical patent law in, 135–6
cosmeceutical research, 51	free trade agreements, bilateral, 93–4
Cuba, 28, 82	nee dade agreement, material, 95 4
Czechoslovakia, 87	G77. See Summit of the Heads of State and
ezeerosio tanta, o /	Government of the Group of 77
Dam, Kenneth, 48–9	generic drugs, 41–2, 98
Department of Trade and Industry, in South	in India, 152, 156–9
Africa, 119–21	in Kenya, 110–11
derivative works, under copyright law, 34–5	under Mission for Essential Drugs and Supplies,
Desierto, Diane, 102–3	105–6
, , , , , , , , , , , , , , , , , , ,	,



Index 169

income distribution, in developing countries, 5 Germany patent law in, 6 Indacaterol, 160-1 pharmaceutical patent law in, 135-6 India, 87 Ghosh, Shubha Bayer v. India, 63 on intellectual property rights, 36 cancer in, 1-2 regulatory theory of, 52-5 colonial history of, 133 on model of civic participation, 59-61 generic drugs in, 152, 156-9 industrialization policy in, 133-4 on model of expertise, 56-9 on model of management, 63-4 International Covenant on Economic, Social on model of market failure, 61-3 and Cultural Rights and, 143-4 Mission for Essential Drugs and Supplies, 105-6 on regulatory theory of patent rights, 52-5 on socio-centric theory of invention, 36 model of human rights in, adjudication of Glivec, 148 patent disputes and, 147-63 Bayer Corporation v. Union of India, 156-9 Grover, Anand, 110-11, 143-4, 148-9 Bristol-Myers Squibb Co. v. Dr BPS Reddy and others, 157 Ha-Joon Chang, 4 Halewood, Michael, 13 Hoffmann-La Roche Ltd v. Cipla Ltd, 159-63 Hegel, Georg Wilhelm Friedrich, on patent rights, Natco v. Bayer, 153-6 42-8 Novartis v. Cipla Ltd, 160-1 acts of will and, abandonment of property Novartis v. Union of India, 61, 147-52 pharmaceutical patent law in, 96-7, 134-8 through, 43-4 categorization of intellectual property, 46 balance of convenience framework, 159-63 personality theory of property rights, 42-4, 46-7 colonial history as influence on, 134-5 on socio-centric theory of invention, 44 compulsory licences in, 153-6 transmission of knowledge as social process, 45 drug costs and, 153-6 exclusion of new forms of known drugs, utilitarian approach, 44 Helfer, Laurence, 72-4 147-52 heroic theory of invention, 32-3 Intellectual Property Appellate Board and, Hettinger, Edwin, 39, 49 HIV/AIDS interim injunctions under, 159-63 in Kenya, 1-2, 113 patent linkage and, refusal of recognition of, in South Africa, 1-2, 123-4 156-9 UNAIDS estimations, 1-2 reforms of, 135-6 right to health in, 138-47 Hoen, Ellen 't, 2 Hoffmann-La Roche Ltd v. Cipla Ltd, 128, 159-63 Confederation of Ex-Servicemen Associations human rights. See also right to health and others v. Union of India and others, 142 intellectual property rights as, 72-88, 92 Consumer Education & Research Centre and in Kenya, intellectual property rights as, 113-16 others v. Union of India and others, 139-40 model of human rights under Indian Constitution, 138-9, 146 Mohd. Ahmed (Minor) v. Union of India and Doha Declaration and, 24 patent laws and, 9 others, 142-4 regulatory theory of intellectual property and, Paschim Banga Khet Samity v. State of West 64-7 Bengal, 140 TRIPS Agreement and, compatibility with, 69 prohibition of justiciability and, 139 patent rights and, 72-94 reasonableness approach to, 142 approaches to, 72-88 State of Punjab and others v. Ram Lubhaya coexistence approach to, 73-4, 92-3 Bagga, 140-2, 144 TRIPS Agreement and, 137-8 integrated approach to, 73 subjugation approach to, 72-4, 94 in World Trade Organization, 137 primacy of human rights law, 73-4 Indian Patent Act (1911), 134 Huygens, Christiaan, 33 Indian Patent Act (1970) amendments to, 134, 147-8 ICESCR. See International Covenant on model of expertise and, 59 Economic, Social and Cultural Rights section 3(c), 57



170 Index

```
Indian Patent Act (1970) (cont.)
                                                       International Covenant on Economic, Social and
  section 3(d), 60-1, 68, 95, 97, 147, 149-52
                                                              Cultural Rights (ICESCR), 6-9
  section 5, 136
                                                         Article 2, 28
  section 25(1), 60
                                                         Article 6(1), 81
                                                         Article 7(a), 77
  section 25(2), 60-1
                                                         Article 12, 28-30, 66, 72, 111
  section 32, 53
  section 47(3), 58
                                                         Article 12(1), 70, 101
  section 83, 136-7
                                                         Article 15(1), 74, 83
  section 84(1)(c), 97
                                                         Article 15(1)(c), 75-6, 78, 82-3, 87-9
  section 107A(a), 157-8
                                                         India and, 143-4
                                                         material and moral interests of authors and
Industrial Property Act, Kenya (1989), 105
Industrial Property Act, Kenya (2001)
                                                              inventors under, 75-6, 78, 82-3, 87-9
  amendments to, 105
                                                         right to health under, 70-1
  parallel import mechanisms and, 105-6
                                                       international human rights law
                                                         intellectual property rights under, 92
  section 21(3), 57
                                                         patent rights under, 91-4
  section 23(4), 53
  section 58(1), 58
                                                       international law, right to health under, 70-2
  section 58(2), 64, 107-8
                                                         Committee on Economic, Social and Cultural
  section 59, 106-7
                                                              Rights, 70-1
  section 83(d), 59
                                                         International Covenant on Economic, Social
                                                              and Cultural Rights, 70-1
  section 83(g), 59
  section 84(1)(a), 59
                                                         obligations under, 71-2
  section 84(1)(b), 59
                                                       inventors, material and moral interests of authors
Industrial Property Bill of 2020, Kenya, 105
                                                              and inventors, 76-89
Industrial Property Law of 1996, Brazil, 15-16
                                                         under International Covenant on Economic,
  article 68(1)(I), 98
                                                              Social and Cultural Rights, Article 15(1)(c),
                                                              75-6, 78, 82-3, 87-9
industrialized/developed nations
  bilateral agreements, with developing countries, 7-8
                                                         under Universal Declaration of Human Rights,
  patent law in, 6
                                                              77-8, 85-9
  regional agreements, with developing countries, 7-8
                                                       IPAB. See Intellectual Property Appellate Board
injunctions
                                                       Italy, 86
  in eBay Inc. v. MercExchange LLC, 128
  in Hoffman-La Roche Ltd v. Cipla, 128
                                                       Joint United Nations Programme on HIV/AIDS
  in infringement suits, 159
                                                              (UNAIDS), 1-2
  in pharmaceutical patent law, in India, 159-63
                                                       Jordan. See US-Jordan Free Trade Agreement
integrated approach, to patent rights, 73
Intellectual Property Appellate Board (IPAB), in
                                                       Kenya. See also Industrial Property Act (2001)
       India, 154-6
                                                         African Regional Intellectual Property
intellectual property law
                                                              Organization in, 106-7
                                                         Anti-Counterfeit Act, 109-13
  incentives approach to, 46-51
  socio-centric theory of invention and, 36-7
                                                         cancer in, 1-2
  as speech restriction, 65
                                                         Constitution
  in United Kingdom, 67
                                                            Article 11(2)(c), 113-15
                                                            Article 22(1), 115
  utilitarianism and, 46-51
intellectual property rights. See also patent law;
                                                           Article 23(3)(b), 114
       patent rights; patents
                                                            Article 40(5), 104, 113-16
  Ghosh on, 36
                                                            Article 43(1), 104, 111
  as human rights, 72-88, 92
                                                            Article 43(1)(a), 108
                                                            right to health in, 104
  under international human rights law, 92
  in Kenya, human rights as, 113-16
                                                         generic drugs in, 110-11
                                                         HIV/AIDS in, 1-2, 113
  Locke on, 39
  patent rights and
                                                         human rights in, intellectual property rights as,
     categorization of intellectual property rights, 46
                                                         Industrial Property Act (1989), 105
     utilitarian justification of, 49
```



Index 171

Industrial Property Bill of 2020, 105	Minister of Health v. New Clicks, 126
intellectual property rights in, as human rights,	Mission for Essential Drugs and Supplies
113–16	(MEDS), from India, 105–6
Mission for Essential Drugs and Supplies in,	model of civic participation, 59-61
105–6	model of expertise, 56-9
model of human rights in, 117	Indian Patents Act (1970) and, 59
in Patricia Osero Ochieng et al. v. Attorney	patent law and, 57
General, 109–13	model of human rights
in Pfizer v. Cosmos Limited, 109–12	access to medicines and, 165–6
pharmaceutical patent law and, 106-13	Doha Declaration and, 24
right to health in, 104, 111	in India, in adjudication of patent disputes,
parallel import mechanisms in, 105–6	147–63
Patents Registration Act (1933), 104–5	Bayer Corporation v. Union of India, 156–9
pharmaceutical patent law in, 104–13	Bristol-Myers Squibb Co. v. Dr BPS Reddy
flexibilities of, 105–6	and others, 157
model of human rights and, 106–13	Hoffmann-La Roche Ltd v. Cipla Ltd, 159–63
right to health in	Natco v. Bayer, 153–6
in Kenyan Constitution, 104	Novartis v. Cipla Ltd, 160–1
in model of human rights, 104, 111	Novartis v. Union of India, 61, 147–52
Royal Media Services Ltd. and Others	
v. Attorney General and Others, 115–16	in Kenya, 117 in Patricia Osero Ochieng et al. v. Attorney
	General, 109–13
Sanitam Services Ltd. v. Tamia Ltd., 114	
Kenya Association of Manufacturers, 110	in Pfizer v. Cosmos Limited, 109–12
Klug, Heinz, 15, 98	pharmaceutical patent law and, 106–13
knowledge. See transmission of knowledge	right to health in, 104, 111
1 + 1 1 1 +: (LDC) TINDS	patent laws and, incorporation into, 9,
least-developed countries (LDCs), TRIPS	28–30
Agreement and, 16	patent policy space and, 165–6
licences. See compulsory licences	patent rights in, 91–4
Locke, John, 37–8	regulatory theory of intellectual property and,
on intellectual property rights, 39	64-7
on patent rights, 37–42	socio-centric perspective of, 164–5
labour and, 36–40	in South Africa, adjudication of patent disputes
no loss to others proviso, 40-1	and, 127–32
property theory and, 37–8	Aventis v. Cipla, 128–31
spoilage and waste proviso, 38-42	Pfizer v. Cipla Medpro, 127–8
value of invention, 39-40	TRIPS Agreement and, compatibility with, 69
on self-ownership, 38	right to health and, 94–102
	model of management, 63-4
Mandela, Nelson, 15, 98	model of market failure, 61–3
material and moral interests of authors and	public goods and, 61–2
inventors, 76–89	social cost of exclusion in, 62
under International Covenant on Economic,	Mohd. Ahmed (Minor) v. Union of India and
Social and Cultural Rights, Article 15(1)(c),	others, 142–4
75–6, 78, 82–3, 87–9	Morse, Samuel, 33
under Universal Declaration of Human Rights,	Multilateral Agreement on Investment, 4-5
77-8, 85-9	
Medicines and Related Substances Control Act,	Natco v. Bayer, 153–6
South Africa (1997), 15–16, 98, 126	Newcomen, Thomas, 33
section 15(c), 64	Nexavar, 153-4
MEDS. See Mission for Essential Drugs and	no loss to others proviso, for patent rights, 40-1
Supplies	Novartis v. Cipla Ltd, 160–1
Merges, Robert, 49	Novartis v. Union of India, 61, 147-52
Mexico, 82	Nunn, Amy, 63



172 Index

Ogburn, William, 33-4 UN Conference on Trade and Development Oguamanam, Chidi, 51 definition of, 4 Ortiz, Campo, 80 World Trade Organization framework for, 5-6 patent rights. See also regulatory theory of patent Page, Sheila, 7 rights Palmer, Tom, 42 access to medicine and, 41-2 Papin, Denis, 33 in developing countries, 3-4 parallel import mechanisms, 105-6 Hegel on, 42-8 acts of will, abandonment of property Paris Convention for the Protection of Industrial Property of 1883 (Paris Convention) through, 43-4 categorization of intellectual property, 46 Article 2(1), 11-12 Article 4, 12 personality theory of property rights, 42-4, Article 5A(2), 12-13 on socio-centric theory of invention, 44 compulsory licences under, 12-13 "failure to work" under, 12-13 transmission of knowledge as social process, harmonization framework for, 14 mutual independence of patents under, 12 utilitarian approach, 44 patent policy space and, 6-7 as human rights, 72-94 revisions of, 11 approaches to, 72-88 coexistence approach to, 73-4, 92-3 World Intellectual Property Organization and, integrated approach to, 73 subjugation approach to, 72-4, 94 Paschim Banga Khet Samity v. State of West Bengal, 140 intellectual property rights and patent law. See also socio-centric theory of categorization of, Hegel on, 46 invention utilitarian justification of, 49 in Austria, 11 under international human rights law, 91-4 in developed nations, 6 Locke on, 37-42 in developing countries, 5 on labour, 36-40 drug production and, 9-10 no loss to others proviso, 40-1 globalization of, 10-14 property theory and, 37-8 model of expertise and, 57 spoilage and waste proviso, 38-42 model of human rights and, incorporation of, q, value of invention, 39-40 material and moral interests of authors and socio-centric theory of invention and, 67-8 inventors, 76-89 theoretical approaches to, 32-7 under International Covenant on Economic, heroic theory of invention, 32-3 Social and Cultural Rights, Article 15(1)(c), precursor inventions in, 33 75-6, 78, 82-3, 87-9 solitary romantic authorship, 34-6 under Universal Declaration of Human patent linkage, 95 Rights, 77-8, 85-9 in model of human rights, 91-4 in India, refusal of recognition of, 156-9 patent policy space, 4-24 socio-centric theory of invention and access to medicines and, 4-10 Hegel on, 44 in developing countries, 4 utilitarianism and, 50 under TRIPS Agreement, 2-3 historical background for, 10-24 under Universal Declaration of Human Rights, historical perspective on, 4-5 model of human rights and, 165-6 Multilateral Agreement on Investment and, 4-5 material and moral interests of authors and Paris Convention and, 6-7, 11-14 inventors, 77-8 preservation of, 165-6 utilitarianism and, 48-51 reclamation of, at multilateral level, 14-24 copyright law and, 49-50 Hegel on, 44 shrinkage of, 5-6, 8 technological transfer and, 10 intellectual property as incentives approach, TRIPS Agreement and, 5-7, 14-24 development of patent policy before, 10-14 for intellectual property rights, 49-51



Index 173

Indian Patents Act (1970) and, 59 public goods and, 48 patent law and, 57 socio-centric theory of invention and, 50 patents. See also patent law; patent policy space; model of expertise and, 56-9 pharmaceutical patents; specific topics model of human rights, 64-7 mutual independence of, 12 model of management, 63-4 model of market failure, 61-3 Patents Act, South Africa, 130-1 amendments to, 118 public goods and, 61-2 social cost of exclusion in, 62 section 25(2), 57, 119 TRIPS Agreement and, 118-19 socio-centric theory of invention and, 55 Patents Registration Act (1933), Kenya, 104-5 regulatory theory of patent rights, 48-67 Patricia Osero Ochieng et al. v. Attorney General, applications process, for patents, 53 100-12 Ghosh on, 52-5 patent infringement claims, 53-5 Pegasys, 61 right of publicity law, as speech restriction, 65 personality theory of property rights, 42-4, 46-7 Pfizer v. Cipla Medpro, 127-8 right to health, 25-7. See also India under international law, 70-2 Pfizer v. Cosmos Limited, 109-12 Committee on Economic, Social and pharmaceutical patents, legal regimes for in Brazil, 98 Cultural Rights, 70-1 evergreening of patents, 147-8 International Covenant on Economic, Social and Cultural Rights, 70-1 in Kenya, 104-13 obligations under, 71-2 flexibilities of, 105-6 model of human rights and, 106-13 in Kenya, 104, 111 in South Africa, 118-21, 131-2 in South Africa, 121-6 Department of Trade and Industry and, Minister of Health v. New Clicks, 126 reasonableness approach to, 123-5 filtering mechanisms in, 120 TRIPS Agreement and, 94-102 model of human rights, 94-102 Soobramoney v. Minister of Health, 121, 123 Treatment Action Campaign case, 123, 125-6 World Trade Organization dispute settlement in U.S., 98 panels and, 100-2 right to science and culture, 89-91 United States Trade Representative, 96-7 access in, 90 policy space. See patent policy space poor health, poverty and, 1 rights. See human rights; patent rights; specific Roussel-Uclaf v. G. D. Searle & Co., 108-9, 128 access to medicine and, 1 poor health and, 1 Royal Media Services Ltd. and Others v. Attorney General and Others, 115-16 precursor inventions, 33 primacy of human rights law, 73-4 property rights. See also intellectual property rights Sanitam Services Ltd. v. Tamia Ltd., 114 Savery, Thomas, 33 personality theory of, 42-4, 46-7 Second Treatise of Government (Locke), 37-8 property theory, patent rights and, 37-8 public goods self-ownership, 38. See also property rights model of market failure and, 61-2 serial collaborations, under copyright law, 34-5 patent rights and, 48 social cost of exclusion, model of market failure and, 62 Radin, Margaret, 42, 45-6 socio-centric theory of invention, 33-4, 36, 39-40 Re Certification of the Constitution of the Republic Ghosh on, 36 of South Africa, 1996, 92, 127 intellectual property law and, 36-7 regional agreements, with developing countries, patent law policy and, 67-8 patent rights and, 44 7-8 regulatory theory of intellectual property utilitarianism and, 50 exclusive rights of creators, 56 technological advances in, 36

users in, 36

solitary romantic authorship, 34-6

Soobramoney v. Minister of Health, 121, 123

model of civic participation and, 59-61

Ghosh on, 52-5

model of expertise, 56-9



174 Index

Sorafenib, 153 TRIPS Agreement. See Agreement on Trade-South Africa Related Aspects of Intellectual Property cancer in, 1-2 TRIPS Agreement and Public Health, 101 Constitution of 1996 TRIPS Council, 16 Section 27(1)(a), 121-5 Tushnet, Rebecca, 49-50 Section 27(2), 121-5 Section 27(3), 121-2 UDHR. See Universal Declaration of Human HIV/AIDS in, 1-2, 123-4 Medicines and Related Substances Control Act, Rights Uganda, 28 15-16, 98, 126 U.K. See United Kingdom section 15(c), 64 model of human rights in, adjudication of UN. See United Nations patent disputes and, 127-32 UNAIDS. See United Nations UNCTAD. See United Nations Aventis v. Cipla, 128-31 UNDESA. See United Nations Pfizer v. Cipla Medpro, 127-8 Patents Act, 130-1 UNESCO. See United Nations Union of Soviet Socialist Republics (USSR), 86 amendments to, 118 section 25(2), 57, 119 United Kingdom (U.K.) TRIPS Agreement and, 118-19 intellectual property law, 67 pharmaceutical patent law in, 98 pharmaceutical patent law in, 118-21, 131-2 Department of Trade and Industry and, United Nations (UN) 110-21 Committee on Economic, Social and Cultural filtering mechanisms in, 120 Rights, 8-9 Soobramoney v. Minister of Health, 121, 123 Conference on Trade and Development, 4 Department of Economic Social Affairs, 7 Treatment Action Campaign case, 123, 125-6 Re Certification of the Constitution of the Education, Scientific and Cultural Republic of South Africa, 1996, 92, 127 Organization, 82-6 right to health in, 121-6 Joint United Nations Programme on HIV/AIDS, Minister of Health v. New Clicks, 126 United States (U.S.) reasonableness approach to, 123-5 Treatment Action Campaign (NGO), 130 Association for Molecular Pathology v. Myriad pharmaceutical patent law cases, 123, Genetics, Inc., 57-8 125-6 bilateral free trade agreements, 93-4 spoilage and waste proviso, for patent rights, 38-42 pharmaceutical patent law in, 98 Sri Lanka, 28 United States Trade Representative, 96-7 US-Jordan Free Trade Agreement, 93 State of Punjab and others v. Ram Lubhaya Bagga, United States Trade Representative (USTR), 96-7 140-2, 144 subjugation approach, to patent rights, 72-4, 94 Universal Copyright Convention of 1952, 87 Summit of the Heads of State and Government of Universal Declaration of Human Rights (UDHR) the Group of 77 (G77), 5 Article 17, 77 Sunder, Madhavi, 50-1 Article 23(1), 81 Switzerland Article 27(2), 74-99 patent law in, 6 patent rights under, 76-89 pharmaceutical patent law in, 98 material and moral interests of authors and inventors, 77-8 Uruguay Round, WTO, 7 TAC. See Treatment Action Campaign technology transfer, patent policy space and, 10 U.S. See United States Thomas, Dorothy, 33-4 users, in socio-centric theory of invention, 36 trade secret law, as speech restriction, 65 US-Jordan Free Trade Agreement, 93 trademark law, as speech restriction, 65 USSR. See Union of Soviet Socialist Republics transmission of knowledge, as social process, 45 USTR. See United States Trade Representative Treatment Action Campaign (TAC) (NGO), 130 utilitarianism, patent rights and, 48-51 pharmaceutical patent law cases, 123, 125-6 copyright law and, 49-50 Treatment Action Campaign case, 123, 125-6 Hegel on, 44



Index 175

intellectual property as incentives approach, 46–51 for intellectual property rights, 49–51 public goods and, 48 socio-centric theory of invention and, 50

Venezuela, 28

Watt, James, 33–4
WHO. See World Health Organization
WIPO. See World Intellectual Property
Organization
World Health Organization (WHO), 71
World Intellectual Property Organization (WIPO), 11

World Trade Organization (WTO), 2
dispute settlement panels, 100–2
on essential drugs, 8
Framework Convention on Tobacco Control,
102
India in, 137
patent policy space framework, 5–6
Uruguay Round, 5–6
Wright, Orville, 33
Wright, Wilbur, 33
WTO. See World Trade Organization