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## Patent Failure

### How Judges, Bureaucrats, and Lawyers Put Innovators at Risk

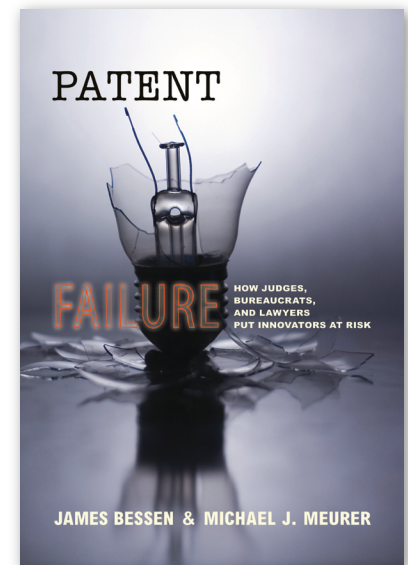
James Bessen & Michael J. Meurer

In the last several 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.

**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.



*"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

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