

The British patent system during the Industrial Revolution, 1700-1852

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ABSTRACT

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It is commonly agreed that until *c.*1830 English courts routinely ignored patent rights and that as a consequence, there was little precedential development at common law concerning patents. In the absence of any legislative authority besides the ancient Statute of Monopolies, English patents existed in a state of limbo, undermining their pecuniary value and so the incentive to invent. This paper revises each step of this argument, firstly by examining the legal construction of the English patent. It shows that a recognizably modern rationale for the patent, where it was conceived as embodying a contract between the inventor and the public, had already emerged by the 1780s. The following section discusses how this facilitated the development of patent law. The paper finishes by discussing the market in patent rights and how inventors were able to profit from assigning and licencing their patents.