

Contents

List of Figures	xi
List of Tables	xi
Preface	xiii
1. Introduction	1
1.1. The Intellectual Commons at the Forefront	1
1.2. The Laws of the Intellect and the Commons of the Mind	2
1.3. World Views Inverted: Fundamental Notions of the Intellectual Commons	3
1.4. The Moral Aspects of Commons-Based Peer Production	5
1.5. Towards a Commons-Oriented Jurisprudence	8
2. The Ontology of the Intellectual Commons	11
2.1. Introduction	11
2.2. Definitions	11
2.3. Elements and Characteristics	14
2.4. Tendencies	18
2.5. Manifestations	22
2.6. Conclusion	25
3. Theories of the Intellectual Commons	27
3.1. Introduction	27
3.2. The Growth of Academic Interest on the Concept of the Commons	28
3.3. Rational Choice Theories of the Intellectual Commons: The Commons as Patch to Capital	29
3.3.1. Main Question and Methodology	29
3.3.2. The Institutional Analysis and Development Framework	30
3.3.3. Core Concepts	31
3.3.4. Critical Evaluation: The Intellectual Commons as Patch to Capital	33

3.4. Neoliberal Theories of the Intellectual Commons: The Commons as Fix to Capital	35
3.4.1. Main Question and Methodology	35
3.4.2. The Intellectual Commons as Component to Capital Accumulation	36
3.4.3. Intellectual Commons and the Restructuring of the Corporation and the Market	39
3.4.4. Critical Evaluation: A Commons Fix for Capital	42
3.5. Social Democratic Theories of the Intellectual Commons: The Commons as Substitute to the Welfare State	44
3.5.1. Main Question and Methodology	44
3.5.2. The Intellectual Commons and Their Potential for an Alternative Non-Market Economy	45
3.5.3. The Intellectual Commons and Their Potential for an Alternative Culture and Public Sphere	47
3.5.4. The Partner State to the Intellectual Commons: Planning the Transition	48
3.5.5. Critical Evaluation: Partnering with the State for the Transition to a Commons-Based Society	50
3.6. Critical Theories of the Intellectual Commons: The Commons as Alternative to Capital	52
3.6.1. Main Question and Methodology	52
3.6.2. The Social Intellect as a Direct Force of Production and the Death Knell of Capital	53
3.6.3. The Anti-Capitalist Commons: Commoning Beyond Capital and the State	55
3.6.4. Critical Evaluation: The Commons as Alternative to Capital	57
3.7. Conclusion	60
4. Cultural Commons and the Law from the Renaissance to Postmodernity: A Case Study	63
4.1. Introduction	63
4.2. Cultural Commons and the Law in the Renaissance	64
4.3. Cultural Commons and the Law in Modernity	69
4.4. Cultural Commons and the Law in Postmodernity	77
4.5. Conclusion	85

5. Researching the Social Value of the Intellectual Commons: Methodology and Design	89
5.1. Introduction	89
5.2. Research Theory	90
5.3. Research Method	91
5.3.1. Constructing the Research Methodology	91
5.3.2. Building a Research Strategy	92
5.3.3. Designing the Research	92
5.3.4. Research Sampling	93
5.3.5. Carving Out the Method of Data Collection	99
5.4. Data Coding	100
5.5. Conclusion	101
6. Social Value of the Intellectual Commons: Dimensions of Commons-Based Value	103
6.1. Introduction	103
6.2. The Economic Dimension of Commons-Based Value	103
6.3. The Social Dimension of Commons-Based Value	105
6.4. The Cultural Dimension of Commons-Based Value	107
6.5. The Political Dimension of Commons-Based Value	107
6.6. General Dimensions of Commons-Based Value	110
7. The Social Value of the Intellectual Commons: Commons-Based and Monetary Value Dialectics	113
7.1. Introduction	113
7.2. Commons-Based and Monetary Value Dialectics	113
7.3. The Comparison between Offline and Online Communities	117
7.4. Conclusion	118
8. The Social Value of the Intellectual Commons: Conclusions on Commons-Based Value	119
8.1. Introduction	119
8.2. Social Value in the Intellectual Commons	119
8.3. Productive Communal Activity as the Source of Commons-Based Value	120

8.4. The Forms of Commons-Based Value	121
8.5. The Mode of Commons-Based Value Circulation	122
8.6. Crises of Value	125
8.7. Conclusion	127
9. Towards A Normative Theory of the Intellectual Commons	129
9.1. Introduction	129
9.2. Foundations of the Critical Normative Theory of the Intellectual Commons	129
9.3. Personhood	132
9.4. Work	135
9.5. Value	139
9.6. Community	143
9.7. Basic Elements of an Intellectual Commons Law	150
9.8. Conclusion	153
10. Conclusion	155
10.1. The Moral Dimension of the Intellectual Commons	155
10.2. The Justification of an Intellectual Commons Law	161
10.3. Concluding Remarks and Political Implications	165
10.4. The Way Forward	166
Notes	169
Bibliography	179
Index	203