

# Negative

**American inventor Dean Kamen** once said, “Every once in a while, a new technology, an old problem, and a big idea turns into an innovation.”

**Resolved:** The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

**For further clarification of today’s round, I’d like to offer the following definitions:**

**Reduce:** to decrease in amount. For the context of today’s debate, the affirmative interpretation of the term will be maintained throughout the discussion.

**Intellectual property protections:** Inventors, designers, developers and authors can protect the ideas they have developed, by means of copyright or patents. The aim is to prevent others from wrongly profiting from their creations or inventions.

**Value:** The value for today’s round is, “**Life**”, which can be defined as the principle of being, in which one's life has value to others. This value is intrinsic and in the context of intellectual property protections, upholding the status quo promotes accessibility, and in turn, life.

**Standard:** The standard for today’s round is, “**Maintaining Upward Mobility**”, which may be defined as the quality of achieving progress and climbing the ladder of success. Upward mobility is the most important value in today’s round as it shifts the focus towards progress, and dependence on innovation. Without the profit carried out by businesses with IPs, investors may pull out of essential research to the improvement of modern medicines which could potentially save millions.

# Contention #1: Intellectual Property Protections are the Key to Progression

## Sub. A World Trade Organization Intellectual Property Rights are Key for Innovation

James **Bacchus 20**, adjunct scholar at CATO, “An Unnecessary Proposal: A WTO Waiver of Intellectual Property Rights for COVID-19 Vaccines,” December 16th, 2020, <https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#does-novel-virus-present-novel-issues>

Technically, IP rights are exceptions to free trade. A long-standing general discussion in the WTO has been about when these exceptions to free trade should be allowed and how far they should be extended. The continuing debate over IP rights in medicines is only the most emotional part of this overall conversation. Because developed countries have, historically, been the principal sources of IP rights, this lengthy WTO dispute has largely been between developed countries trying to uphold IP rights and developing countries trying to limit them. The debate over the discovery and the distribution of vaccines for COVID-19 is but the latest global occasion for this ongoing discussion. The primary justification for granting and protecting IP rights is that they are incentives for innovation, which is the main source for long-term economic growth and enhancements in the quality of human life. IP rights spark innovation by “enabling innovators to capture enough of the benefits of their own innovative activity to justify taking considerable risks.”<sup>18</sup> The knowledge from innovations inspired by IP rights spills over to inspire other innovations. The protection of IP rights promotes the diffusion, domestically and internationally, of innovative technologies and new know-how. Historically, the principal factors of production have been land, labor, and capital. In the new pandemic world, perhaps an even more vital factor is the creation of knowledge, which adds enormously to “the wealth of nations.” Digital and other economic growth in the 21st century is increasingly ideas-based and knowledge intensive. Without IP rights as incentives, there would be less new knowledge and thus less innovation. In the short term, undermining private IP rights may accelerate distribution of goods and services—where the novel knowledge that went into making them already exists. But in the long term, undermining private IP rights would eliminate the incentives that inspire innovation, thus preventing the discovery and development of knowledge for new goods and services that the world needs. This widespread dismissal of the link between private IP rights and innovation is perhaps best reflected in the fact that although the United Nations Sustainable Development Goals for 2030 aspire to “foster innovation,” they make no mention of IP rights.<sup>19</sup>

**Impact:** By eliminating certain intellectual property protections, businesses which facilitate research on medicines would lack the incentive to develop new technologies. Given that investors may pull out of pharmaceutical research that has a difficult time securing capital, if the risks taken do not pull a high-profit, investors will not continue to fund these practices. Reducing these protections would in turn decrease innovation and halt the progression necessary to preserving life.

## Sub. B Efforts to Respond to the Current Public Health Crisis Can Only be Achieved with Intellectual Property Protections

**Pitts, 6/9/21** (Posted By: Jacqueline Pitts, a writer for the Bottom Line News, 6/9/2021, accessed on 6/28/2021, The Bottom Line, "Vaccine intellectual property must be protected, Kentucky business community says | The Bottom Line", <https://kychamberbottomline.com/2021/06/09/vaccine-intellectual-property-must-be-protected-kentucky-business-community-says/>)

**As President Joe Biden backs waiving intellectual property (IP) protections for COVID-19 vaccines, the Kentucky Chamber has expressed opposition to this policy stating it sets a harmful precedent and stifles innovation. President Biden came out in favor of a** World Trade Organization (WTO) **proposal** in May **that would waive certain intellectual property protections around COVID-19 vaccines.** The proposal would reveal proprietary information held by companies designing the shots such as Pfizer. **The WTO policy seeks to give away the intellectual property of companies who have produced an effective product in an attempt to boost production and address distribution issues across the globe. However,** the Kentucky Chamber believes **waiving IP protections would not increase access to the COVID-19 vaccine because it would not solve issues such as limited manufacturing capacity, limited access to raw materials, and limited technical expertise with this specific vaccine.** Instead, **waiving IP protections would have the negative effect of undermining the type of risk-taking and innovation necessary to create vaccines like the COVID-19 vaccine. Protection of intellectual property was a key driver in the rapid development of COVID vaccines,** and the U.S. should support protecting IP as it has done in the past. **Waiving IP protections could negatively affect the creation of future life-saving pharmaceuticals.** On Wednesday, the Kentucky Chamber released the following statement: "The Chamber applauds the scientists and researchers who created innovative, life-saving COVID vaccines at record speeds and recognizes the importance of vaccinating people beyond our borders. **Waiving intellectual property rights for these complex vaccines would undermine efforts to ensure doses are produced and delivered safely and quickly. Preserving IP protections is fundamental to stopping the spread of COVID and driving the innovation we will need to fight future pandemics.**" said Kentucky Chamber President and CEO Ashli Watts.

**Impact:** The only realistic way to produce a sustainable amount of Covid-19 vaccines, it is within our best interest to retain medicines under the policy of intellectual property protections.

For these reasons and more, I *urge* a **negative** ballot.

To use the remainder of my time i'd like to expand upon my opponent's case. The opponent has no subsequent framework and is basing their plan text on the reduction of covid 19 IPR only. Neg solves.

## A/T (Not reading)

### Topicality

Even if we could prepare a different strategy, this requirement is too burdensome. Prep time isn't unlimited — dedicating time to untropical Affs trades off either with preparation for topical Affs or with other important parts of our lives. Topicality is our preparation — it is a researched strategy that clashes with the aff. Vote neg to preserve meaningful limits.

**Harris 13** ( Scott Harris, Associate Specialist and Debate Coach at the University of Kansas, holds a Ph.D. in Communication from Northwestern University, 2013 (“This Ballot,” Ballot from the Final Round of the 2013 National Debate Tournament, Posted on the *Global Debate* blog, April 6th, Available Online at <http://globaldebateblog.blogspot.com/2013/04/scott-harris-writes-long-ballot-for-ndt.html>, Accessed 08-31-2013)

I understand that there has been some criticism of Northwestern’s strategy in this debate round. This criticism is premised on the idea that they ran framework instead of engaging Emporia’s argument about home and the Wiz. I think this criticism is unfair. Northwestern’s framework argument did engage Emporia’s argument. Emporia said that you should vote for the team that performatively and methodologically made debate a home. Northwestern’s argument directly clashed with that contention. My problem in this debate was with aspects of the execution of the argument rather than with the strategy itself. It has always made me angry in debates when people have treated topicality as if it were a less important argument than other arguments in debate. **Topicality is a real argument.** It is a researched strategy. It is an argument that challenges many affirmatives. The fact that other arguments could be run in a debate or are run in a debate does not make topicality somehow a less important argument. In reality, for many of you that go on to law school you will spend much of your life running topicality arguments because you will find that words in the law matter. The rest of us will experience the ways that word choices matter in contracts, in leases, in writing laws and in many aspects of our lives. Kansas ran an affirmative a few years ago about how the location of a comma in a law led a couple of districts to misinterpret the law into allowing individuals to be incarcerated in jail for two days without having any formal charges filed against them. For those individuals the location of the comma in the law had major consequences. **Debates about words are not insignificant. Debates about what kinds of arguments we should or should not be making in debates are not insignificant either. The limits debate has in an argument has real pragmatic consequences.** I found myself earlier this year judging Harvard’s eco-pedagogy aff and thought to myself—I could stay up tonight and put a strategy together on eco-pedagogy, but then I thought to myself—why should I have to? Yes, I could put together a strategy against any random argument somebody makes employing an energy metaphor but the reality is there are only so many nights to stay up all night researching. I would like to actually spend time playing catch with my children occasionally or maybe even read a book or go to a movie or spend some time with my wife. **A world where there are an infinite number of affirmatives is a world where the demand to have a specific strategy and not run framework is a world that says this community doesn’t care whether its participants have a life or do well in school or spend time with their families.** I know there is a new call abounding for interpreting this NDT as a mandate for broader more diverse topics. The reality is that will create more work to prepare for the teams that choose to debate the topic but will have little to no effect on the teams that refuse to debate the topic. Broader topics that do not require positive government action or are bidirectional will not make teams that won’t debate the topic choose to debate the topic. I think that is a con job. I am not opposed to broader topics necessarily. I tend to like the way high school topics are written more than the way college topics are written. I just think people who take the meaning of the outcome of this NDT as proof that **we need to make it so people get to talk about anything they want to talk about**

without having to debate against topicality or framework arguments are interested in  
constructing a world that might make debate an unending nightmare and not a very good home in which to live.  
Limits, to me, are a real impact because I feel their impact in my everyday existence.

“Upholding the Social Contract”, which  
can be defined according to [brittanica.com](http://brittanica.com), as the mutual transferring of rights. The  
Lockean social contract obligates individuals to fulfil civil duties in exchange for protection of  
life and property. This applies to the maintenance of intellectual property rights as paying one’s  
due diligence to pharmaceutical companies will keep investors ambitious to fund their research.  
Without upholding the social contract, we may not progress; thus, this is the most important  
standard in today’s round.

## PIC

Text: The member nations of the World Trade Organization should reduce intellectual property  
protections for medicines, but should maintain patent rights for medicines when owned by  
Native American tribes.

It competes- it’s a PIC, duh. Don’t let them squirrel. If they had exceptions, they’d obviously be  
specified somewhere in the aff.

**Native patent rights are justified under sovereign immunity.  
Tribes utilize medical patents to level the playing field- the  
Allergan case proves.**

**Morinville 17** (Paul Morinville, 10-9-2017, the Founder and former President of U.S. Inventor, Inc., which is an inventor organization in  
Washington D.C. that advocates strong patent protection for inventors and startups. Paul has been as executive at multiple technology startups  
including computer hardware, enterprise middleware and video compression software in the U.S. and China, and now medical devices. "Native  
Americans Set to Save the Patent System," IPWatchdog,  
<https://www.ipwatchdog.com/2017/10/09/native-americans-set-save-patent-system/id=88871/>, JKS)

As readers of this blog are aware, there has been a great deal of publicity generated by the recent patent  
sale and assignment by Allergan to the St. Regis Mohawk Tribe. A transaction ostensibly targeting the  
America Invents Act and designed to avoid the “killing fields” of the Patent Trial and Appeals Board (PTAB). The irony should not  
go unnoticed that Native Americans who historically had their property and rights taken

**away by egregious and discriminatory action by the United States government, are now the very same people rescuing inventors who are today losing their property and rights to egregious and discriminatory action by the very same government. Indian tribes are acquiring patents and using tribal sovereign immunity to preclude unjustified takings of patents by the discriminatory and corrupt PTAB,** thus saving inventors from losing their private property rights. Yet, this emerging business model by Native American tribes has proven to be controversial, with critics even going so far as to allege these are sham transactions. But interestingly, **these very same critics didn't seem to have any problem when the University of Florida** (a public university of the state of Florida) **asserted its sovereign immunity to preclude PTAB review of university-owned patents. Why is it now alleged that Native American tribes who are doing the very same thing – using their sovereign immunity to preclude PTAB review of their intellectual property – are engaging in inappropriate or fraudulent behavior or somehow gaming the system?** Tribes are sovereign in a similar way that states are sovereign, but there are important differences. Tribal lands are held in trust by the federal government and thus cannot be collateralized for investment and development, and tribes do not have a tax base to speak of. So by treaty the majority of funding that runs tribal governments and supports their native members comes from the federal government. This federal funding and other programs are intended to help the tribes become economically independent. **With these funds and programs, a few tribes have been able to start tribal businesses owned by the tribe to create an economic engine that can at least partially support the tribe. Overall, these tribal businesses are successful at bringing economic development and jobs to Indian Reservations.** Most people only know about the casinos and tax free cigarette shops, but **tribal businesses go far beyond those stereotypical businesses.** Tribal businesses are involved in many sectors including electronics, oil & gas, manufacturing, distribution, logistics and much more. Many employ not only natives on the reservation but others across the country. Tribal businesses contribute millions of dollars to the economies of reservations and of the US. States, on the other hand, get their funding by taxing their people and some even attempt to tax the tribes in one way or another. I met recently with one such tribal enterprise in North Dakota, Mandaree Enterprises LLC, which is owned by the Three Affiliated Tribes of the Fort Berthold reservation, in order to gain a better understanding of tribal sovereign immunity in the context of intellectual property. Based on my discussions with the folks at Mandaree Enterprises, set forth below is an overview of how patent owners can partner with Native American tribes to create a level playing field with infringers while possibly avoiding the anti-inventor/anti-patent PTAB. It should be noted upfront that I'm not an attorney so you should seek your own independent legal advice and not rely on this article which is not intended to offer legal advice or substitute for obtaining the advice of legal counsel. Also, this article (due to space constraints) is necessarily incomplete in that it focuses on only one aspect of this type of structure, but there are many other benefits of teaming up with a tribe.

**We meet – the CP text is the advocate, I'm advocating for it, and we have cards explaining the importance of Native-owned patents as being the exception based on sovereign immunity.**

**Even still, solvency advocates aren't a reason to reject the team or counterplan—**

- 1] There's no brightline for you determine what counts as a legit solvency advocate which means their interpretation is comparatively worse because it's infinitely regressive and allows debaters to arbitrarily decide what meets the threshold of a solvency advocate**
- 2] Neg flex outweighs—the aff gets 1st and last speech and gets to control the rest of this debate—the neg should get flexibility to equalize the playing field**
- 3] The aff doesn't have a coherent solvency advocate either! Look at their evidence- it doesn't say EXACTLY what the plan does, which proves how arbitrary their interp is**

4] Better for education—forces the aff to think on their feet to come up with good responses—also means we learn more about different policy mechanisms within the government, which internal link turns their offense

5] Negation theory- the neg's role is to negate the aff— the counterplan is an example of that

PICs are good

Our offense —

1] Fair side balance – PICs offset advantage of case selection, literature biased advantages, and the inherent problems with the status quo. The aff gets infinite prep to write the most strategic AC. No author defends every restriction so its important for the negative to PIC which advocacy is the most strategic otherwise they'll get hosed by a well written aff every time.

2] Depth of Education – focusing on intricacies highlights comparative argument quality as well as moving past a vague “good/bad” focus. Prefer in depth strategies over generics that don't generate clash

3] Intelligent Plan Writing and AFF Research – AFFs are forced to defend and research every part of the plan through in-depth analysis. No pics guarantees important arguments will be pushed aside in favor of high magnitude nonsense

4] Key to CP Ground – virtually every CP could be classified as a PIC and in the real world PICS are an important part of legislative deliberation- if Biden pushes tax cuts for the poor republicans can counter with tax cuts for the rich

5] Real world education – when policies have problems no one scraps it entirely – people propose small reforms that fix the problems and identify flaws – the devil is in the details in policymaking.

propose the curtailment of his own power. One PIC which has been misinterpreted, had the President veto the plan instead of proposing the plan. The key to this strategy was a net benefit to a veto over cooperation that had to be won by the negative. This example demonstrates how the PIC could be crucial for the negative as affirmatives write their plans to avoid negative arguments.