#### I read your paradigm please give me 30 speaks to reify screws agianst me – my favorite thing about your paradigm is that ur tech over truth

#### 1AC – Framing

#### Ethics must begin a priori:

#### [A] Naturalistic fallacy – experience only tells us what is since we can only perceive what is, not what ought to be. But it’s impossible to derive an ought from descriptive premises, so there needs to be additional a priori premises to make a moral theory.

#### [B] Empirical uncertainty – evil demon could deceive us, dreaming, simulation, and inability to know others’ experience make empiricism an unreliable basis for universal ethics. Outweighs since it would be escapable since people could say they don’t experience the same.

#### [C] Action theory – only evaluating action through reason solves since reason is key to evaluate intent, otherwise we could infinitely divide actions. For example: If I was brewing tea, I could break up that one big action into multiple small actions. Only our intention, to brew tea unifies these actions if we were never able to unify action, we could never classify certain actions as moral or immoral since those actions would be infinitely divisible

#### [D] Constitutive Authority – practical reason is the only unescapable authority because to ask for why we should be reasoners concedes its authority since it uses reason – anything else is nonbinding and arbitrary.

#### Next, the relevant feature of reason is universality – any non-universalizable norm justifies someone’s ability to impede on your ends i.e. if I want to eat ice cream, I must recognize that others may affect my pursuit of that end and demand the value of my end be recognized by others which also means universalizability acts as a side constraint on all other frameworks. It’s impossible to will a violation of freedom since deciding to do would will incompatible ends since it logically entails willing a violation of your own freedom

#### Thus, the standard is consistency with the categorical imperative. Prefer:

#### [A] Practical identities – we find our lives worth living under practical identities such as student but that presupposes agency.

**Korsgaard 92** CHRISTINE M. Korsgaard 92 [I am a Professor of Philosophy at Harvard University, where I have taught since 1991. From July 1996 through June 2002, I was Chair of the Department of Philosophy. (The current chair is Sean Kelly.) From 2004-2012, I was Director of Graduate Studies in Philosophy. (The current DGS is Mark Richard.) Before coming here, I held positions at Yale, the University of California at Santa Barbara, and the University of Chicago, as well as visiting positions at Berkeley and UCLA. I served as President of the Eastern Division of the American Philosophical Association in 2008-2009, and held a Mellon Distinguished Achievement Award from 2006-2009. I work on moral philosophy and its history, practical reason, the nature of agency, personal identity, normativity, and the ethical relations between human beings and the other animals], “The Sources of Normativity”, THE TANNER LECTURES ON HUMAN VALUES Delivered at Clare Hall, Cambridge University 16-17 Nov 1992, BE

The Solution: Those who think that the human mind is internally luminous and transparent to itself think that the term “self-consciousness” is appropriate because what we get in human consciousness is a direct encounter with the self. Those who think that the human mind has a reflective structure use the term too, but for a different reason. The reflective structure of the mind is a source of “self-consciousness” because it forces us to have a conception of ourselves. As Kant argues, this is a fact about what it is like to be reflectively conscious and it does not prove the existence of a metaphysical self. From a third person point of view, outside of the deliberative standpoint, it may look as if what happens when someone makes a choice is that the strongest of his conflicting desires wins. But that isn’t the way it is for you when you deliberate. When you deliberate, it is as if there were something over and above all of your desires, something that is you, and that chooses which desire to act on. This means that the principle or law by which you determine your actions is one that you regard as being expressive of yourself. To identify with such a principle or law is to be, in St. Paul’s famous phrase, a law to yourself.6 An agent might think of herself as a Citizen in the Kingdom of Ends. Or she might think of herself as a member of a family or an ethnic group or a nation. She might think of herself as the steward of her own interests, and then she will be an egoist. Or she might think of herself as the slave of her passions, and then she will be a wanton. And how she thinks of herself will determine whether it is the law of the Kingdom of Ends, or the law of some smaller group, or the law of the egoist, or the law of the wanton that is the law that she is to herself. The conception of one’s identity in question here is not a theoretical one, a view about what as a matter of inescapable scientific fact you are. It is better understood as a description under which you value yourself, a description under which you find your life to be worth living and your actions to be worth undertaking. So I will call this a conception of your practical identity. Practical identity is a complex matter and for the average person there will be a jumble of such conceptions. You are a human being, a woman or a man, an adherent of a certain religion, a member of an ethnic group, someone’s friend, and so on. And all of these identities give rise to reasons and obligations. Your reasons express your identity, your nature; your obligations spring from what that identity forbids.

#### That hijacks roles of the ballots since the judge is one such practical identity, and other frameworks since implies first valuing ourselves to value other normative judgements

#### [B] Ethical frameworks must be theoretically legitimate. All frameworks are functionally topicality interpretations of the word ought so they must be theoretically justified: prefer on resource disparities—a focus on evidence and statistics privileges debaters with the most preround prep which excludes lone-wolfs who lack huge evidence files. A debate under my framework can easily be won without any prep since only analytical arguments are required. That controls the internal link to other voters because a pre-req to debating is access to the activity.

#### [C] Performativity—freedom is the key to the process of justification of arguments. Willing that we should abide by their ethical theory presupposes that we own ourselves in the first place. Thus, it is logically incoherent to justify a standard without first willing that we can pursue ends free from others.

**Consequences fail: [A] They only judge actions after they occur, which fails action guidance [B] Every action has infinite stemming consequences, because every consequence can cause another consequence. Probability doesn’t solve because 1) Probability is improvable, as it relies on inductive knowledge, but induction from past events can’t lead to deduction of future events and 2) Probability assumes causation, we can’t assume every act was actually the cause of tangible outcomes. [C] If you’re held responsible for things other than an intention ethics aren’t binding because there are infinite events occurring over which you have no control, so you can never be moral as you are permitting just action. [D] There’s no objective arbiter to evaluate consequences [E] You can’t aggregate consequences, happiness and sadness are immutable – ten headaches don’t make a migraine**

### Advocacy

#### Plan text: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines during pandemics. CPs, Ks, and PICs affirm because they do not disprove my general thesis.

### Offense

#### [1] IPR is nonuniversalizable and interferes with the freedom of people who need medicine.

Merges 11 [(Robert, Wilson Sonsini Goodrich & Rosati Professor of Law and Technology, University of California, Berkeley, School of Law) “Justifying Intellectual Property,” Harvard University Press, 2011] JL recut Lex VM

Under Kant’s Universal Principle of Right (UPR), “laws secure our right to external freedom of choice to the extent that this freedom is compatible with everyone else’s freedom of choice under a universal law.”8 As I explained in Chapter 3, Kant’s theory of property rights expresses a special instance of this general principle: property is widely available, yet denied when individual appropriation interferes with the freedom of others. Kant says that although the need for robust property drives the formation of civil society, property rights are nonetheless subject to this “universalizing” principle. Under the operation of the UPR, property rights are constrained: they must not be so broad that they interfere with the freedom of fellow citizens. In a Kantian state, individual property is both necessary— to promote autonomy and self- development; see Chapter 3— and necessarily restricted under the UPR.9

Death is the ultimate restraint on autonomy; there is no more “self” to guide after a person dies. So when a claim to property by person A leads to the death of person B, Kant’s Universal Principle would seem to rebut that claim. As with other issues, however, Kant’s views in this regard are not so simple. In par tic u lar, he expressed complex views on the legal defense of “necessity,” which bears a close resemblance to the property- limiting principle I am attributing to him here.10 Kant says, in effect, that in at least one important example of necessity— where A kills B, or at least puts B in immediate grave danger, to save A’s own life— one who commits a necessary act is culpable but not punishable.11 As with so much in the Kantian canon, there is a great deal of debate over just what Kant was trying to say about necessity. One view— at least as plausible as most others, and more plausible than some— holds that Kant thought of necessity as something like an excuse or defense: a wrong act is not made right by necessity, but it is insulated from formal legal liability.12 This view, well described by among others the Kant scholar Arthur Ripstein, depends on the distinction between formal, positive law (“external,” in Kant’s terminology; see Chapter 3) and “internal” morality. Property for Kant is an absolute right, and taking it without permission is always objectively wrong. But at the same time, some takings are not punishable by the state because they fall outside the proper bounds of legitimate lawmaking.

Because Kant did not explicitly discuss the necessity defense as it pertains to property rights, any application of his thinking to the case of pharmaceutical patents can only be speculation. Even so, there is one point to make. As I explained in some detail in Chapter 3, there is generally a high degree of symmetry between Kant’s thinking on law and3 his theory of property. The UPR is a good example; as I explained in Chapter 3, the idea that property can extend only up to the point that it interferes with the freedom of others is simply one specific application of the general Kantian take on law and freedom. Thus, the analysis of the pharmaceutical patents problem would turn on the issue of property’s effect on the freedom of those suffering from treatable diseases. To put it simply, it is difficult to be sure of the exact conclusion Kant would reach with regard to the issue, but I am sure that the analysis would turn on the freedom- restricting qualities of pharmaceutical patents. It is hard to know the right answer, but not hard to pose the right question: should property extend so far as to cut off or restrain the freedom of those who might be treated?

#### [2] Property rights minimize the opportunity of innovation which limits individual freedom through creating monopolies. They also limit the use of tangible objects such as medicines for good purposes.

Cernea and Uszkai 12 Cernea, Mihail-Valentin, and Radu Uszkai. *The Clash between Global Justice and Pharmaceutical Patents: A Critical Analysis*. 2012, the-clash-between-global-justice-and-drug-patents-a-critical-analysis.pdf. SJEP

To make this point clearer, we regard property as an ethical institution which emerged in the context of reiterated conflict between agents for tangible goods. A useful analogy would be, for example, the particular way in which David Hume discusses the emergence of justice in the context of scarcity in which agents pursue their own interests4 . As a result, the purpose of property rights would be that of avoiding or minimizing the possibility of conflict and that of increasing the costs of free-riding or trespassing. Let’s take the following example which will illustrate better our point. Assume that X is a philosophy student and has a copy of Immanuel Kant’s Groundwork of the Metaphysics of Morals. Y is a college of him but he does not have the book. They both have to write an essay on Kant’s categorical imperative. Because Y does not have the book, let’s assume that he decides, whether by the use of coercion or fraud to take his book. As a result, the theft leaves X without his property because tangible goods are rivalrous in consumption. Both student can’t, at the same time but in a different place read about Kant’s categorical imperative from the same copy. Now a different example: suppose X invents a new way of harvesting corn and Y harvests his corn accordingly. This situation is quite different in comparison to the case we presented earlier, because Y does not leaves X without either his new harvesting mechanisms which he created but neither without the idea behind the mechanism. It would be hard to say that Y stole something from X because the consumption of intangible goods such as ideas does not have the same rivalrous property as a copy of a book written by Kant. Actually, the existence of the patent system fosters the scarcity of ideas. In this context patents represent unjustified state-granted monopolies. Moreover, intellectual property rights have another profound immoral consequence: it limits the use of tangible objects which we acquired fully in line with market rules.

#### [3] IPP unjustifiably restricts agents from setting and pursuing ends in healthcare because patents prevent people from taking part in scientific advancements in medicine – that violates freedom in multiple ways

**Hale 18** (Zachary Hale, 4-4-2018, accessed on 8-22-2021, The Arkansas Journal of Social Change and Public Service, "Patently Unfair: The Tensions Between Human Rights and Intellectual Property Protection - The Arkansas Journal of Social Change and Public Service", <https://ualr.edu/socialchange/2018/04/04/patently-unfair/>) BHHS AK

Although the right to the protection of “moral and material interests resulting from any scientific, literary, or artistic production,”[32] is a human right as defined in the UDHR and the ICESCR, the current system of intellectual property protection conflicts with and even violates rights that are considered to be fundamental to human life. Although intellectual property instruments are certainly used to violate essential civil and political freedoms like the freedom of expression, and economic and social freedoms like the freedom to share in the scientific advancements of society, the most blatant violations of human rights caused by intellectual property protection occur in the fields of nutrition, healthcare, and culture.[33] Of these essential entitlements, the rights to food and health are made even more significant by their relationship to the most fundamental of all human rights: the right to life.

#### [4] Patents attempt to assert ownership over nature and impede individuals’ abilities to pursue their own ends.

Long 95 [(Roderick T., professor of philosophy at Auburn University, editor of the Journal of Ayn Rand Studies, director and president of the Molinari Institute and a Senior Fellow at the Center for a Stateless Society) “The Libertarian Case Against Intellectual Property Rights,” Free Nation Foundation, 1995] JL recut Lex VM

The moral case against patents is even clearer. A patent is, in effect, a claim of ownership over a law of nature. What if Newton had claimed to own calculus, or the law of gravity? Would we have to pay a fee to his estate every time we used one of the principles he discovered?

Defenders of patents claim that patent laws protect ownership only of inventions, not of discoveries. (Likewise, defenders of copyright claim that copyright laws protect only *implementations* of ideas, not the ideas themselves.) But this distinction is an artificial one. Laws of nature come in varying degrees of generality and specificity; if it is a law of nature that copper conducts electricity, it is no less a law of nature that this much copper, arranged in this configuration, with these other materials arranged so, makes a workable battery. And so on.

Suppose you are trapped at the bottom of a ravine. Sabre-tooth tigers are approaching hungrily. Your only hope is to quickly construct a levitation device I've recently invented. You know how it works, because you attended a public lecture I gave on the topic. And it's easy to construct, quite rapidly, out of materials you see lying around in the ravine.

But there's a problem. I've patented my levitation device. I own it — not just the individual model I built, but the universal. Thus, you can't construct your means of escape without using my property. And I, mean old skinflint that I am, refuse to give my permission. And so the tigers dine well.

This highlights the moral problem with the notion of intellectual property. By claiming a patent on my levitation device, I'm saying that you are not permitted to use your own knowledge to further your ends. By what right?

Another problem with patents is that, when it comes to laws of nature, even fairly specific ones, the odds are quite good that two people, working independently but drawing on the same background of research, may come up with the same invention (discovery) independently. Yet patent law will arbitrarily grant exclusive rights to the inventor who reaches the patent office first; the second inventor, despite having developed the idea on his own, will be forbidden to market his invention.

### Advantage

#### Only the plan can solve covid access – inequalities heighten the risk of mutations and uneven development – neg objections miss the boat.

Kumar 21 [Rajeesh; Associate Fellow at the Institute, currently working on a project titled “Emerging Powers and the Future of Global Governance: India and International Institutions.” He has PhD in International Organization from Jawaharlal Nehru University, New Delhi. Prior to joining MP-IDSA in 2016, he taught at JamiaMilliaIslamia, New Delhi (2010-11& 2015-16) and University of Calicut, Kerala (2007-08). His areas of research interest are International Organizations, India and Multilateralism, Global Governance, and International Humanitarian Law. He is the co-editor of two books;Eurozone Crisis and the Future of Europe: Political Economy of Further Integration and Governance (London: Palgrave Macmillan, 2014); and Islam, Islamist Movements and Democracy in the Middle East: Challenges, Opportunities and Responses (Delhi: Global Vision Publishing, 2013); “WTO TRIPS Waiver and COVID-19 Vaccine Equity,” IDSA Issue Briefs; <https://idsa.in/issuebrief/wto-trips-waiver-covid-vaccine-rkumar-120721>] Justin

According to Duke Global Health Innovation Center, which monitors COVID-19 vaccine purchases, rich nations representing just 14 per cent of the world population have bought up to 53 per cent of the most promising vaccines so far. As of 4 July 2021, the high-income countries (HICs) purchased more than half (6.16 billion) vaccine doses sold globally. At the same time, the low-income countries (LICs) received only 0.3 per cent of the vaccines produced. The low and middle-income countries (LMICs), which account for 81 per cent of the global adult population, purchased 33 per cent, and COVAX (COVID-19 Vaccines Global Access) has received 13 per cent.10 Many HICs bought enough doses to vaccinate their populations several times over. For instance, Canada procured 10.45 doses per person, while the UK, EU and the US procured 8.18, 6.89, and 4.60 doses per inhabitant, respectively.11

Consequently, there is a significant disparity between HICs and LICs in vaccine administration as well. As of 8 July 2021, 3.32 billion vaccine doses had been administered globally.12 Nonetheless, only one per cent of people in LICs have been given at least one dose. While in HICs almost one in four people have received the vaccine, in LICs, it is one in more than 500. The World Health Organization (WHO) notes that about 90 per cent of African countries will miss the September target to vaccinate at least 10 per cent of their populations as a third wave looms on the continent.13 South Africa, the most affected African country, for instance, has vaccinated less than two per cent of its population of about 59 million. This is in contrast with the US where almost 47.5 per cent of the population of more than 330 million has been fully vaccinated. In Sub-Saharan Africa, vaccine rollout remains the slowest in the world. According to the International Monetary Fund (IMF), at current rates, by the end of 2021, a massive global inequity will continue to exist, with Africa still experiencing meagre vaccination rates while other parts of the world move much closer to complete vaccination.14

This vaccine inequity is not only morally indefensible but also clinically counter-productive. If this situation prevails, LICs could be waiting until 2025 for vaccinating half of their people. Allowing most of the world’s population to go unvaccinated will also spawn new virus mutations, more contagious viruses leading to a steep rise in COVID-19 cases. Such a scenario could cause twice as many deaths as against distributing them globally, on a priority basis. Preventing this humanitarian catastrophe requires removing all barriers to the production and distribution of vaccines. TRIPS is one such barrier that prevents vaccine production in LMICs and hence its equitable distribution.

TRIPS: Barrier to Equitable Health Care Access

The opponents of the waiver proposal argue that IPR are not a significant barrier to equitable access to health care, and existing TRIPS flexibilities are sufficient to address the COVID-19 pandemic. However, history suggests the contrary. For instance, when South Africa passed the Medicines and Related Substances Act of 1997 to address the HIV/AIDS public health crisis, nearly 40 of world’s largest and influential pharma companies took the South African government to court over the violation of TRIPS. The Act, which invoked the compulsory licensing provision, allowed South Africa to produce affordable generic drugs.15 The Big Pharma also lobbied developed countries, particularly the US, to put bilateral trade sanctions against South Africa.16

Similarly, when Indian company Cipla decided to provide generic antiretrovirals (ARVs) to the African market at a lower cost, Big Pharma retaliated through patent litigations in Indian and international trade courts and branded Indian drug companies as thieves.17 Another instance was when Swiss company Roche initiated patent infringement proceedings against Cipla’s decision to launch a generic version of cancer drug, “erlotinib”. Though the Delhi High Court initially dismissed Roche's appeal by citing “public interest” and “affordability of medicines,” the continued to pressure the generic pharma companies over IPR. 18 Likewise, Pfizer’s aggressive patenting strategy prevented South Korea in developing pneumonia vaccines for children.19

A recent document by Médecins Sans Frontières (MSF), or Doctors Without Borders, highlights various instances of how IP hinders manufacturing and supply of diagnostics, medical equipment, treatments and vaccines during the COVID-19 pandemic. For instance, during the peak of the COVID-19 first wave in Europe, Roche rejected a request from the Netherlands to release the recipe of key chemical reagents needed to increase the production of diagnostic kits. Another example was patent holders threatening producers of 3D printing ventilators with patent infringement lawsuits in Italy.20 The MSF also found that patents pose a severe threat to access to affordable versions of newer vaccines.21

The opponents of the TRIPS waiver also argue that IP is the incentive for innovation and if it is undermined, future innovation will suffer. However, most of the COVID-19 medical innovations, particularly vaccines, are developed with public financing assistance. Governments spent billions of dollars for COVID-19 vaccine research. Notably, out of $6.1 billion in investment tracked up to July 2021, 98.12 per cent was public funding.22 The US and Germany are the largest investors in vaccine R&D with $2.2 billion and $1.5 billion funding.

Private companies received 94.6 per cent of this funding; Moderna received the highest $956.3 million and Janssen $910.6 million. Moreover, governments also invested $50.9 billion for advance purchase agreements (APAs) as an incentive for vaccine development. A recent IMF working paper also notes that public research institutions were a key driver of the COVID-19 R&D effort—accounting for 70 per cent of all COVID-19 clinical trials globally.23 The argument is that vaccines are developed with the support of substantial public financing, hence there is a public right to the scientific achievements. Moreover, private companies reaped billions in profits from COVID-19 vaccines.

One could argue that since the US, Germany and other HICs are spending money, their citizens are entitled to get vaccines first, hence vaccine nationalism is morally defensible. Nonetheless, it is not the case. The TRIPS Agreement includes several provisions which mandates promotion of technology transfer from developed countries to LDCs. For instance, Article 7 states that "the protection and enforcement of IP rights should contribute to the promotion of technological innovation and the transfer and dissemination of technology, to the mutual advantage of producers and users of technical knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations."24 Similarly, Article 66.2 also mandates the developed countries to transfer technologies to LDCs to enable them to create a sound and viable technological base. The LMICs opened their markets and amended domestic patent laws favouring developing countries’ products against this promise of technology transfer.

Another argument against the proposed TRIPS waiver is that a waiver would not increase the manufacturing of COVID-19 vaccines. Indeed, one of the significant factors contributing to vaccine inequity is the lack of manufacturing capacity in the global south. Further, a TRIPS waiver will not automatically translate into improved manufacturing capacity. However, a waiver would be the first but essential step to increase manufacturing capacity worldwide. For instance, to export COVID-19 vaccine-related products, countries need to ensure that there are no IP restrictions at both ends – exporting and importing. The market for vaccine materials includes consumables, single-use reactors bags, filters, culture media, and vaccine ingredients. Export blockages on raw materials, equipment and finished products harm the overall output of the vaccine supply chain. If there is no TRIPS restriction, more governments and companies will invest in repurposing their facilities.

Similarly, the arguments such as that no other manufacturers can carry out the complex manufacturing process of COVID-19 vaccines and generic manufacturing as that would jeopardise quality, have also been proven wrong in the past. For instance, in the early 1990s, when Indian company Shantha Biotechnics approached a Western firm for a technology transfer of Hepatitis B vaccine, the firm responded that “India cannot afford such high technology vaccines… And even if you can afford to buy the technology, your scientists cannot understand recombinant technology in the least.”25 Later, Shantha Biotechnics developed its own vaccine at $1 per dose, and the UNICEF (United Nations Children’s Emergency Fund) mass inoculation programme uses this vaccine against Hepatitis B. In 2009, Shantha sold over 120 million doses of vaccines globally.

India also produces high-quality generic drugs for HIV/AIDS and cancer treatment and markets them across the globe. Now, a couple of Indian companies are in the last stage of producing mRNA (Messenger RNA) vaccines.26 Similarly, Bangladesh and Indonesia claimed that they could manufacture millions of COVID-19 vaccine doses a year if pharmaceutical companies share the know-how.27 Recently, Vietnam also said that the country could satisfy COVID-19 vaccine production requirements once it obtains vaccine patents.28 Countries like the United Arab Emirates (UAE), Turkey, Cuba, Brazil, Argentina and South Korea have the capacity to produce high-quality vaccines but lack technologies and know-how. However, Africa, Egypt, Morocco, Senegal, South Africa and Tunisia have limited manufacturing capacities, which could also produce COVID-19 vaccines after repurposing.

Moreover, COVID-19 vaccine IPR runs across the entire value chain – vaccine development, production, use, etc. A mere patent waiver may not be enough to address the issues related to its production and distribution. What is more important here is to share the technical know-how and information such as trade secrets. Therefore, the existing TRIPS flexibilities, such as compulsory and voluntary licensing, are insufficient to address this crisis. Further, compulsory licensing and the domestic legal procedures it requires is cumbersome and not expedient in a public health crisis like the COVID-19 pandemic.

India’s Role in Ensuring Vaccine Equity India's response to COVID-19 at the global level was primarily two-fold. First, its proactive engagements in the regional and international platforms. Second, its policies and programmes to provide therapeutics and vaccines to the world. Since the beginning of the COVID-19 pandemic, India has been advocating international cooperation and policy coordination in fighting it. For instance, in April 2020, India co-sponsored a UN resolution that called for fair and equitable access to essential medical supplies and future vaccines to COVID-19. Later, in October 2020, India also put pressure on developed countries with a joint WTO proposal for TRIPS waiver. India’s Vaccine Maitri initiative also aims vaccine equity. As of 29 May 2021, India has supplied 663.698 lakh doses of COVID-19 vaccines to 95 countries. It includes 107.15 lakh doses as a gift to more than 45 countries, 357.92 lakh doses by commercial sales, and 198.628 lakh doses to the COVAX facility.29 The COVAX initiative aims to ensure rapid and equitable access to COVID-19 vaccines for all countries, regardless of their income level. India has decided to supply 10 million doses of the vaccine to Africa and one million to the UN health workers under the COVAX facility. India has also removed the IPR of Covaxin that would help platforms like C-TAP once WHO and developed countries’ regulatory bodies approve the vaccine. If agreed, the waiver would benefit India in many ways. First, more vaccines will help the country to control the pandemic and its recurring waves. Second, it will be a boost to India's pharma industry, particularly the generic medicine industry. According to the Biotechnology Innovation Organization, 834 unique active compounds are involved in the current R&D of COVID-19 therapeutics, vaccines, and diagnostics. It means that thousands of new patents are awaited, and that will hinder India's ability to produce COVID-19 related medical products. Only through a waiver, this challenge can be addressed. Similarly, scientists note that mRNA is the future of vaccine technology. However, manufacturing mRNA vaccines involves complex processes and procedures. Only a very few Indian manufacturers have access to this technology; however, that too is limited. Once Indian companies have access to mRNA technology, it will help country’s generic medicine industry and boost India’s economy. Therefore, even if the WTO agrees on a waiver for a period shorter than proposed, India should accept it. In addition, mRNA vaccines can be produced in lesser time compared to the traditional vaccines. While traditional vaccines’ production takes four to five months, mRNA needs only six to eight weeks. Access to this technology will be vital for India in expediting the fight against COVID-19 and future pandemics. Finally, a waiver may strengthen India's diplomatic soft power. At present, what hinders India's Vaccine Maitri initiative is the scarcity of vaccines at home. On the other hand, China is increasing its standing in Africa, South America and the Pacific through vaccine diplomacy. The WHO approval of the Chinese vaccines and lack of access to vaccines by most developing countries, opens up huge space for China to do its vaccine diplomacy. Here, India should convince its Quad partners, particularly Australia and Japan, who oppose the waiver that vaccine production in developing countries through TRIPS waiver will enable the grouping to deliver its pledged billion doses of COVID-19 vaccine in the Indo-Pacific region. In short, the proposed waiver, if agreed, will help India in addressing the public health crisis by producing more vaccines and distributing them at home; economically, by boosting its generic pharmaceutical industry, and diplomatically, providing vaccines to the developing and least-developed countries. Therefore, India should use all available means and methods, from trade-offs to pressurising, to make the waiver happen.

#### Yes scale-up for covid.

Erfani et al 21 [Parsa; Lawrence Gostin; Vanessa Kerry; Parsa Erfani is a Fogarty Global Health Scholar at Harvard Medical School and the University of Global Health Equity. Lawrence Gostin is a professor at Georgetown University Law Center, director of the school’s O’Neill Institute for National and Global Health Law, and director of the World Health Organization Center on National and Global Health Law. Vanessa Kerry is a critical care physician at Massachusetts General Hospital, director of the Program for Global Public Policy at Harvard Medical School, and CEO of Seed Global Health, a nonprofit that trains health workers in countries with critical shortages; “Beyond a symbolic gesture: What’s needed to turn the IP waiver into Covid-19 vaccines,” STAT; 5/19/21; <https://www.statnews.com/2021/05/19/beyond-a-symbolic-gesture-whats-needed-to-turn-the-ip-waiver-into-covid-19-vaccines/>] Justin

Currently many idle suppliers can’t begin vaccine production until they upgrade and repurpose existing manufacturing capacity for new technology. Opponents often argue that this step is the true barrier to rapid scale-up. One high-profile detractor, BIO President and CEO Michelle McMurry-Heath, argues that “handing [needy countries] the blueprint to construct a kitchen that — in optimal conditions — can take a year to build will not help us stop the emergence of dangerous new Covid variants.”

This argument ignores two core truths: In many cases, manufacturing capacity needs only repurposing which can take mere months. And Covid-19, at the current global response and vaccination rates, will be a threat for years.

Both truths suggest that we pass the blueprint and build the kitchen.

Facilitating structures to transfer technology and capacity are already in place. The WHO launched the mRNA technology transfer hub model last month to provide manufacturers in low- and middle-income countries with the financial, training, and logistical support needed to scale up vaccine manufacturing capacity. Scores of manufacturers in these countries have already expressed interest. This initiative, however, requires recipient manufacturers to acquire the IP necessary for mRNA technologies— which is currently missing.

#### Independently strategic patenting harms innovation incentives during pandemics – encourages reproduction of generics and decrease breakthroughs.

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As the COVID-19 pandemic is sweeping through the world, thousands of people urgently need access to affordable medicines. Based on past experience of treatments for other life-threatening diseases, there is a fear that access to any vaccines and treatment that may be developed in the future will be affected by patents, leading to unaffordably high prices. However, the problem of high drug prices is not new. It had been inflating healthcare budgets and posing a serious risk to the affordability and accessibility of medicines for society well before the pandemic.Footnote3 This problem is further exacerbated by the fact that, despite the alleged surge in investments into pharmaceutical R&D, current statistics indicate that the number of new breakthrough medicines is decreasing.Footnote4 On the other hand, the number of drugs that contain modifications of existing medicines is growing, demonstrating that pharmaceutical companies have been increasingly focusing their research on incremental drug development, rather than on breakthrough innovation.Footnote5 Various reasons for high drug prices and the growing focus on incremental innovation are put forward by pharmaceutical companies, including the complexity of drug discovery and development, as well as the expensive and lengthy regulatory procedures involved.Footnote6 While these reasons play an important role in this regard, some practices by pharmaceutical companies substantially contribute to this problem.Footnote7 In particular, pharmaceutical companies have been increasingly engaging in strategic patenting to delay or even block generic competition.Footnote8 These practices attracted the attention of the European Commission, which discussed them more than a decade ago in its 2009 Pharmaceutical Sector Inquiry Report.Footnote9 The Commission identified a series of patent strategies which it described as aiming “to extend the breadth and duration of [originators’] patent protection”Footnote10 and “to delay or block the market entry of generic medicine”.Footnote11 Such findings have fuelled debates as to whether these strategies may be deemed unlawful and violate EU competition rules, while also being justifiable business practices under patent law. Until today, no agreement has been reached either on the legality of these practices, or on an efficient legal tool to assess them. As a result, despite there being solid evidence that such strategies may block generic competition, allowing originators to maintain artificially high drug prices and preventing patients from accessing cheaper generics, they remain outside the ambit of the Commission’s activities. Instead, the Commission has been focusing on more straightforward patent-related practices, such as reverse payment agreements.

This article argues that strategic patenting by pharmaceutical companies requires a long-overdue intervention by competition authorities. It aims to attract their attention to the harmful effects of strategic patenting. Specifically, it will contest the argument traditionally put forward by originator pharmaceutical companies that the intervention of competition law into patenting practices will reduce their incentives to innovate. The paper will argue to the contrary that, along with a more immediate negative effect in the form of high drug prices that is widely explored in the literature,Footnote12 strategic patenting also affects dynamic competition by stifling innovation. Importantly, it will be explained that the assessment of the effect of this practice should focus not only on innovation by originators, but should also take a wider market perspective by assessing its effect on follow-on innovation by generic companies. The latter argument is often overlooked. The paper will outline the current approach to strategic patenting that considers this practice lawful, and will provide arguments for the intervention of competition law. This, in turn, will open the possibility for competition authorities to investigate this practice in order to prevent its harmful effect on innovation and consumer welfare. Moreover, while patent law may provide certain mechanisms to deal with strategic patenting, such as raising the bar for patentability of pharmaceutical follow-on inventions,Footnote13 these tools may not be effective in all cases. Therefore, as will be explained further, competition law may be a more suitable tool to address the negative effects of strategic patenting.Footnote14

The article will be organised as follows. It will first discuss the complex structure of the pharmaceutical industry, focusing on its key players for the purpose of this article: originators and generic companies. It will further explore patenting practices employed by pharmaceutical companies and will define the notion of strategic patenting. The article will then argue that the latter strategy is against the rationale of patent and competition laws, as it stifles competition by impairing incentives to innovate of both originators and generic companies. Finally, it will discuss the current approach to strategic patenting that considers this practice lawful, and will argue that it should be subject to scrutiny under the rules of competition law, to address its negative effects.

Pharmaceutical Innovation and Generic Competition in the Pharmaceutical Industry

The pharmaceutical industry is unique in its complexity. It is characterised by heavy state regulation and, sometimes, by the competing interests of the pharmaceutical business and society. It also involves multiple actors, including originators,Footnote15 marketing authorisation bodies, generic companies,Footnote16 doctors, pharmacies and patients. Each of them plays their part in the lengthy and complicated process of transforming a chemical compound into an effective and affordable medicine, which is then prescribed, dispensed and consumed. In these complex relationships, the two key players have crucial roles. On the one hand, originators play an important role in developing new and improved medicines for the benefit of society. On the other hand, generic companies benefit society by supplying cheaper equivalents of the originators’ medicines, which leads to the reduction of drug prices and facilitates access to affordable medicines. When the interests of these two players are kept in balance, benefits are maximised for society, which receives innovative and improved medicines, as well as timely access to generic drugs. However, if the balance swings towards one of the players, then society loses out, as there will be insufficient access to either innovative or affordable medicines. Therefore, both pharmaceutical innovation and generic competition must be duly incentivised and protected.

Moreover, these two elements of the pharmaceutical industry are constantly interacting and have a profound impact on each other. In particular, pharmaceutical innovation is the backbone of the pharmaceutical industry, in which originators play an important role. The process of drug development is long and complicated, requires significant investments, and bears considerable commercial risks.Footnote17 It is also highly regulated, including, among other things, the requirement for originators to obtain a special authorisation from a designated state authority to market a drug. Such marketing authorisations are granted to the originators only if they can prove that the drug is safe and effective, which typically requires lengthy and expensive clinical trials.Footnote18

In order to protect these significant efforts and investments, pharmaceutical companies rely heavily on the exclusivity granted by intellectual property rights, and in particular, patents.Footnote19 Patents provide a 20-year monopoly right, during which a pharmaceutical company enjoys market exclusivity and can charge a monopoly price for its products. Originators argue that strong patent protection is essential in order to recoup investments, as well as to incentivise them to engage in further innovation.Footnote20 Once such patent protection expires, however, other companies may develop generics of a branded drug, and start competing with the originator for the market. This is called generic competition. Generic drugs are bioequivalent versions of a branded drug that has lost its patent protection.Footnote21 It is estimated that the generic entry typically leads to, on average, an 80 per cent market share loss and a 20–30 per cent reduction of a drug price, with further price decreases with each additional generic entrant, leading, in some instances, to a fall in price of up to 90 per cent.Footnote22 A representative example of the effect of generic competition on the originators’ drug prices is the significant decrease in price and dramatic loss of profits by Eli Lilly. The expiration of a patent protecting its blockbusterFootnote23 antidepressant Prozac in 2001 resulted in a loss of almost 70 per cent of its market and $2.4 billion in annual U.S. sales.Footnote24 This effect of generic competition is beneficial for society, as it reduces the financial pressure on healthcare budgets and increases the accessibility of drugs.

Patenting Practices by Pharmaceutical Companies

As was mentioned above, generic competition is prevented during the life of a patent protecting an active compound of a drug (a so-called “basic” or “primary” patent).Footnote25 Such a basic patent covers an active ingredient itself and, therefore, provides the strongest protection for the product. Therefore, generic competition normally starts only after the basic patent expires, or if a generic company succeeds in invalidating it. While in the past pharmaceutical companies mainly protected their products with a single patent covering an active compound,Footnote26 they now increasingly seek additional patent protection on various aspects of a drugFootnote27 in order to protect their market position.Footnote28 Such additional patents are often called secondary patents.Footnote29 A pharmaceutical company may want to obtain secondary patents, which protect such aspects of a drug as, for example, its process of manufacture, formulation and/or specific form, etc. Therefore, even after the basic patent protecting an active compound expires, a drug may still be protected by other secondary patents. This may result in the extension of the scope and length of the protection of a product, especially if secondary patents have a later expiration date than a basic patent.Footnote30 This, in particular, may occur if, for example, the process of producing an active compound disclosed in the basic patent is sufficient only for reproducing this compound in a laboratory, but it is unsuitable for producing it on a large commercial scale.Footnote31 If the originator was able to secure a secondary patent that protects such a large scale manufacturing process, it would prevent generics from using this process for producing their generic versions of a drug; otherwise they would risk infringing this secondary patent.Footnote32 However, a unique feature of pharmaceuticals is that an active ingredient can be manufactured using different methods and processes, can exist in different forms or can be used in different formulations. Therefore, when a basic patent on an active ingredient expires, other companies can develop alternative methods of production, forms or formulations of this active compound and start competing with the originator company.Footnote33 While such patenting strategies by originators are lawful in principle, some of them may be problematic. In particular, in anticipation of the loss of patent protection, originators may engage in strategic patenting which artificially prevents generic competition and results in an extension of their market monopoly.Footnote34

#### Corona escalates security threats that cause extinction – cooperation thesis is wrong.

Recna 21 [Research Center for Nuclear Weapon Abolition; Nagasaki, Japan; “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report,” Journal for Peace and Nuclear Disarmament; 5/28/21; <https://www.tandfonline.com/doi/full/10.1080/25751654.2021.1890867>] Justin

The Challenge: Multiple Existential Threats

The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come.

The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5

Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order.

In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply.

The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the **existential risks** posed by retaining these capabilities – are all up for redefinition.

A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies.

In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon.

To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by m

* Compares two models of HARs and LARs
* Allows for mutation simulations

**Princeton University 8/17** Princeton University. "Vaccine stockpiling by nations could lead to increase in COVID-19 cases, novel variant emergence, study finds." ScienceDaily. ScienceDaily, 17 August 2021. <www.sciencedaily.com/releases/2021/08/210817152552.htm>. //Nato

The allocation of COVID-19 vaccine between countries has thus far tended toward vaccine nationalism, wherein countries stockpile vaccines to prioritize access for their citizenry over equitable vaccine sharing. The extent of vaccine nationalism, however, may strongly impact global trajectories of COVID-19 case numbers and increase the potential emergence of novel variants,