## 1

#### Permissibility and presumption negate

#### 1] Obligations- the resolution indicates the affirmative has to prove an obligation, policies require positive justification and permissibility would deny the existence of an obligation.

#### 2] Falsity- Statements are more often false than true because proving one part of the statement false disproves the entire statement. Presuming all statements are true creates contradictions which would be ethically bankrupt.

#### 3] Negating is harder – A] Aff gets first and last speech which control the direction of the debate B] Affirmatives can strategically uplayer in the 1ar giving them a 7-6 time skew advantage, splitting the 2nr C] They get infinite prep time

#### 4] Affirmation theory- Affirming requires unconditionally maintaining an obligation

Affirm [is to]: maintain as true.

That’s Dictionary.com- “affirm” https://www.dictionary.com/browse/affirm

#### The role of the ballot is to determine whether the resolution is a true or false statement –

#### They justify substantive skews since there will always be a more correct side of the issue but we compensate for flaws in the lit.

#### Most educational since otherwise we wouldn’t use math or logic to approach topics. Scalar methods increases intervention –persuasion sway decisions – T/F binary is descriptive and technical.

#### The ballot says vote aff or neg based on a topic – five dictionaries[[1]](#footnote-1) define to negate as to deny the truth of and affirm[[2]](#footnote-2) as to prove true which means it’s constitutive and jurisdictional, that outweighs since it’s a procedural question of arguments that they can evaluate

#### Skepticism negates

#### 1] Resolution can never be true because the aff has to prove they prescribe an obligatory moral action as indicated by ought, but the fallibility of moral actions negates textually, it makes no sense to affirm if the word ought in the resolution is unachievable

#### 2] Aff has 100% burden of proof, agents are categorically bound by your framework, if we don’t fulfill obligation under that then we are acting immorally since we are omitting. Those ethical obligations have to be 100% correct and have a 100% certainty behind them because ethical theories will collapse if obligations can be contingent

#### Every reason is equally as violent in its creation.

**Derrida,** Jacques Derrida, “Force of Law: The Mystical Foundation of Authority” //Massa

But **justice,** however unpresentable it may be, doesn't wait.· It **is that which must not wait.** To be direct, simple and brief, let us say this: **a just decision is always required immediately, "right away." It cannot furnish itself with** infinite information and the **unlimited knowledge of conditions,** rules or hypothetical imperatives **that could justify it.** And **even if it did** have all that at its disposal, even if it did give itself the time, all the time and all the necessary facts about the matter, **the moment of decision,** as such, **always remains a finite moment of urgency** and precipitation, since it must not be the consequence or the effectof this theoretical or historical knowledge, of this reflection or this deliberation, **since it always marks the interruption of the** juridico- or ethico- or politico-**cognitive deliberation that precedes it,** that must precede it. The instant of decision is a madness, says Kierkegaard. This is particularly true of the instant of the just decision that must rend time and defy dialectics. It is a madness. **Even if time** and prudence,the patience of knowledge and the mastery of conditions **were** hypothetically **unlimited, the decision would be structurally finite,** however late it came, decision of urgency and precipitation, **acting in** the night of **non-knowledge and non-rule**

## 2

#### We’re hijacking a priori morality first- that means intuitions

#### 1) Intuitions are defined a priori- some truths are intuitively clear.

**Parfit** [David Parfit(Senior Research Fellow @ Oxford). The Blackwell Guide to Ethical Theory. Second Edition. February 21, 2000. Accessed 1/8/20. <https://books.google.com/books?id=FcUi2AxNW3gC&printsec=frontcover#v=onepage&q&f=false//> Recut Houston Memorial DX]

To introduce this argument, I shall sum up some of my claims. (A) There are some irreducibly normative reason-involving truths, some of which are moral truths. (B) Since these truths are not about natural properties, our knowledge of these truths cannot be based on perception, or on evidence provided by empirical facts. (C) Positive substantive normative truths cannot be analytic, in the sense that their truth follows from their meaning. Therefore (D) Our normative beliefs cannot be justified unless we are able to recognize in some other way that these beliefs are true. We do, I believe, have this ability. We have reasons to have certain normative beliefs, and we can respond to these reasons. Normative beliefs can also be self-evident, and intrinsically credible. One such belief is (E) Torturing children merely for fun is wrong. There are similar non-normative beliefs, such as (F) No statement can be both wholly true and wholly false. Since our normative beliefs are neither caused by what we believe, nor based on empirical evidence, we need another word to refer to our way of forming these beliefs. On the view that I have called Intuitionism: We have intuitive abilities to respond to reasons and to recognize some normative truths. Though it is intuitively clear that certain acts are wrong, most of our moral beliefs cannot depend only on such separate intuitions. We must also assess the strength of various conflicting reasons, and the plausibility of various principles and arguments, trying to reach what Rawls calls reflective equilibrium. This kind of intuitively-based reflective thinking is not only, as Scanlon writes, the best way of making up one’s mind about moral matters . . . it is the only defensible method. We have similar abilities to recognize truths about what is rational, and about what we have reasons to believe, and want, and do. Many recent writers reject such claims. Schiffer, for example, doubts that moral intuitions are worth discussing, and Field and Boghossian call the idea of rational intuition ‘obscurantist’ and ‘a mystery’. But these criticisms are aimed at the view that intuition is a special quasi-perceptual faculty. That is not the view that I am defending here. When I use the word ‘intuitive’, I mean what Boghossian means when he describes one of his claims as ‘intuitively plausible’ and ‘intuitively quite clear’. Intuitionism can also be challenged with claims about disagreement. When Boghossian denies that beliefs can be intrinsically credible, or self-evident, he points out that (G) different people might find conflicting beliefs self-evident. If we claim that we have some ability, however, it is no objection that we might have lacked this ability. Different people might have conflicting visual experiences, which were like dreams and hallucinations, and were not a source of knowledge. But that is not in fact true. Different people’s visual experiences seldom conflict, and believing what we seem to see is a fairly reliable way of reaching the truth. It may be similarly true that, after careful reflection, different people would seldom find conflicting beliefs self-evident. Believing what seems self- evident, after such reflection, may be another fairly reliable way of reaching the truth. When Schiffer argues that there are no moral truths, he claims that (H) even in ideal conditions, when everyone knows the relevant facts and is reasoning equally well, we and others could rationally disagree about any moral question. For example, Schiffer claims that, though we could rationally believe that (E) torturing children merely for fun is wrong, it would be equally rational to reject this belief. This claim assumes that we cannot have decisive reasons to have our moral beliefs. If we had such reasons to believe (E), it would not be equally rational either to have or to reject this belief. What Schiffer calls his error theory might be true, since we might never have decisive reasons to have any moral belief. But Schiffer cannot support this theory by claiming that we and others could rationally disagree about any moral question, since this claim assumes that we have no such reasons. Nor could we reject Schiffer’s theory merely by claiming that we and others could not rationally disagree. When we are trying to decide whether we have decisive reasons to have certain beliefs, we cannot usefully appeal to claims about whether, when considering these beliefs, we and others could rationally disagree.

#### 2) Reason exists in 2 forms, intuitive and reflective. If I say what is 1+1, the answer of 2 is intuitive ie you don’t need to think about it. If I say what is 5/11, this is reflective, because you need to go through a system of conscious steps to reflect upon it. However, every step made in a deductive syllogism should be intuitively true, so intuitions control the internal link to reflective reasoning.

#### Independently we’re hijacking Agrippan Skepticism- the Kantian notion of “asking why” leading to the concession the authority of reason conflates the difference between epistemological truth and moral truths. Thus, when asking why of moral truths, the only answer is that it is some way because it is intuitive which only non-naturalism based a priori intuitions can resolve.

#### Thus the standard is consistency with a priori intuitions.

#### We have an intuitive preference for the squo.

**Henderson 16,** Rob. 2016. “How Powerful Is Status Quo Bias?” Psychology Today. Retrieved April 19, 2019 (<https://www.psychologytoday.com/us/blog/after-service/201609/how-powerful-is-status-quo-bias).//SS>

Status quo bias is a cognitive bias that explains our preference for familiarity. Many of us tend to resist change and prefer the current state of affairs. How powerful is this cognitive bias? Consider this thought experiment from the renowned philosopher, Robert Nozick: "Suppose there was an experience machine that would give you any experience you desired. Super-duper neuropsychologists could stimulate your brain so that you would think and feel like you were writing a great novel, or making a friend, or reading an interesting book. All the time you would be floating in a tank, with electrodes attached to your brain. Of course, while in the tank you won't know that you're there; you'll think that it's all actually happening. Would you plug into this machine for life?" For most of us, our intuition is to say no. We might say something like, “There is more to life than pleasure," and cite the importance of our relationships with loved ones and connection to reality. And perhaps that’s true. But consider this variant on the above proposal: "It is Saturday morning and you are planning to stay in bed for at least another hour when all of the sudden you hear the doorbell. Grudgingly, you step out of bed to go open the door. At the other side there is a tall man, with a black jacket and sunglasses, who introduces himself as Mr. Smith. He claims to have vital information that concerns you directly. Mildly troubled but still curious, you let him in. ‘‘I am afraid I have to some disturbing news to communicate to you’’ says Mr. Smith. ‘‘There has been a terrible mistake. Your brain has been plugged by error into an experience machine created by neurophysiologists. All the experiences you have had so far are n**othing but the product of a computer program** designed to provide you with pleasurable experiences. All the unpleasantness you may have felt during your life is just an experiential preface conducive toward a greater pleasure (e.g. like when you had to wait in that long line to get tickets for that concert, remember?). Unfortunately, we just realized that we made a mistake. You were not supposed to be connected; someone else was. We apologize. That’s why we’d like to give you a choice: **you can either remain connected to this machine (and we’ll remove the memories of this conversation taking place) or you can disconnect**. However, you may want to know that your life outside is not at all like the life you have experienced so far. What would you choose?" This question comes from an experiment by **Felipe De Brigard**, a researcher at Duke University, who challenged the intuitions many of us hold when we read the original happiness machine thought experiment. One might think that individuals, when faced with the choice between reality and simulation, would consider contact with reality to be critical and therefore a clear majority of people would opt to exit the machine. However, when De Brigard posed this question to participants and measured the responses, **he found** the opposite result. Among the respondents, **59 percent stated that they would prefer to remain connected to the machine**, while only 41 percent stated that they would prefer to disconnect. The result of this study has interesting implications for the way we think about our capacity for change and our preference for the familiar. **When individuals are faced with the choice to change their environment or remain in their current state of affairs**, even when the decision is between simulated familiarity and unknown reality, **most will choose the familiar**. It is likely that this is a form of risk aversion that is characteristic of status quo bias—that individuals averse to the risk of losing their current reality will choose to remain, even at the expense of living in real, rather than a virtual, reality. Research from Kahneman and Tversky suggests that losses are twice as psychologically harmful as gains are beneficial. In other words, individuals feel twice as much psychological pain from losing $100 as pleasure from gaining $100. One interpretation is that in order for an individual to change course from their current state of affairs is that the alternative must be perceived as twice as beneficial. This highlights the challenges we may face when considering a change to our usual way of doing things. When military members are considering their choices as their contract comes to an end, many consider re-enlisting simply because they are unaware of the many opportunities that exist for them. Even when we understand our current path is no longer beneficial or no longer makes us happy, we must still overcome the natural urge to stay on the path unless the alternative is sufficiently attractive. In order for us to readily pursue an alternate path, we must believe that the alternative is clearly superior to the current state of affairs. **The status quo effect is pervasive in both inconsequential and major decisions. Oftentimes we are held back by what we believe to be the safe option, simply because it is the default**. Bearing in mind our natural propensity for the status quo will enable us to recognize the allure of inertia and more effectively overcome it.

## 3

#### Yes Act-Omission Distinction

#### 1] Infinite obligations – no act-omission means you’re culpable for every possible omission implying they’re immoral for debating instead of curing cancer which is untenable. Answering this means you negate – (a) The 1AC is suboptimal compared to some alternative (b) State action would be frozen b/c they wouldn’t be able to decide b/t alternatives so the plan wouldn’t pass and you vote on presumption.

#### 2] Trolley Problem – Omissions allow us to escape culpability in otherwise unavoidable situations like when someone pulls the lever to kill 1 instead of 2 – otherwise we’re always categorically wrong which makes morality inaccessible, only the distinction solves. O/ws on Bindingness, if an agent is permanently violating their ethical standard, they can’t take moral action.

#### Negate -- not reducing IPP is a legitimate moral action to avoid infinite culpability

## 4

#### Interpretation – All theoretical paradigm issues must be contextual to their corresponding interpretations. To clarify, arguments that frame the evaluation of a particular shell should have particular framing arguments. //Massa

#### B] Violation – they don’t – *[Insert]*. Paradigm issues that apply to the content of all theoretical arguments violate the interpretation. For example, drop the debater on spec shells for x reason meets our interp but aff theory is DTD does not.

#### C] Prefer –

#### Norming – specific framing arguments erase frivolous application of norms and generate in depth discussions of interpretations.

#### 1] Contestation – no one engages in the particularities of a shell if they have the option to recycle the same reasonability block, but our model makes you discuss contextual interps

#### 3] Recourse – generic issues shouldn’t be the same, mus be from West Virginia is obviously different than 8 condo, but they’re weighed equally as a procedural which is intuitively false, but our interp makes you specify DTD or CI warrants.

#### 4] Theoretical Abuse –it’s near impossible to generate counter interp offense against some disclosure and spec shells, there’s just no good reason why you shouldn’t spec or disclose random things. Our interp solves, they need to justify why their unpredictable shell should be CI, DTD which is way more difficult to defend, its a voting issue – Proliferates adoption of false norms which floods debate with horrible models disincentivize people to compete because no one would compete to lose for nothing

#### Norming is a voter – //Massa

#### 1] Constitutive, every round should operate under the interps we’ve argued are good, it’s the most logical conclusion of theory.

#### 2] Internal link to all voters, fairness and education are nonsense without a norm that constitutes it

#### Drop the debater –

#### 1] No argument to drop – our interpretation indicts an omission, the only possible recourse is a punishment model.

#### 2] Magnitude– they’ve justified skewing an overarching model of debate and every subsequent norm that operates under it - dropping a 2 second argument doesn’t match.

#### Competing Interps –

#### 1] Reasonability bad for norming, it doesn’t require debaters to defend counter norms – since they can meet a threshold.

#### 2] Contestation - it is always comparatively better to debate in depth norms and offense– dumping paradigm issues without engaging with specific interps locks in dogmatism

#### No RVIs –

#### 1] Norming, discussions about rules that make the activity better is good – forcing us to defend a bad norm is bankrupt, doesn’t give us argumentative credence to try to check norms in the future. It’s contextual – it only matters given the assumption our shell’s impact matters.

#### 2] RVIs flip the shell, but you can’t drop us because drop the debater was only justified in the context of IF we won our norm is good but that’s impossible if you’ve won the counter interp.

## UV

#### Reject 1AR Theory arguments – 1) double bind – either you can put minor ink next to answer of my responses and extend your arguments to auto-win or the judge has to intervene to see if the 2ar answers to the 2n are good enough. Intervention o/w since it takes the round out of debater’s hands 2) they have 2 speeches on theory while I have 1 which means they can structurally preempt my answers and respond to them and I can’t do either 3) infinite abuse in the context of aff abuse doesn’t make sense since you can read 1ac theory and uplayer with other 1ar offs like Ks 4) they have 1 more minute on the theory debate due to a 7-6 skew which o/w since theory is mainly about substance 5) they can blow up dropped arguments , we cant frame them out but they can which means only dropped arguments for them are game over.

#### Resolvability OW infinite abuse

#### 1] Jurisdiction- If the judge can’t resolve an argument they don’t have the jurisdiction to vote on it because there is a risk of an incorrect decision

#### 2] Magnitude- resolvability means judge intervention which is worse than a shell with reasonability on it

#### 3] Probability- Judge intervention is 100% likely because no matter what 2NR responses don’t get answered to but you can resolve the theory debate with DTA

#### 4] Irreversibility- Judge intervention is the worst violation of fairness because it takes the debate out of the hands of the debaters which is irreversible since the decision would be incorrect

#### 1AR theory is drop the argument – they can initiate theory in the aff and the 1ar which means they have 2 speeches to devastate the 1n with no risk auto-loss issues.

#### All theory paradigm issues the aff thinks are good must be in the 1ac since they have 1 more speech than me on theory so they should take a stance sooner so I don’t have to answer all of them in one speech while they can go for them in multiple – 2n issues are reciprocally answered by the 2ar.

## Offense

#### 1] Reducing protections of IP leads to theft and the free riding of ideas.

Van Dyke 18 [Raymond Van Dyke, Technology and Intellectual Property Attorney and Patent Practitioner, 7-17-2018, accessed on 8-8-2021, IPWatchdog, "The Categorical Imperative for Innovation and Patenting", https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/] //D.Ying recut Lex VM

As we shall see, applying Kantian logic entails first acknowledging some basic principles; that the people have a right to express themselves, that that expression (the fruits of their labor) has value and is theirs (unless consent is given otherwise), and that government is obligated to protect people and their property. Thus, an inventor or creator has a right in their own creation, which cannot be taken from them without their consent. So, employing this canon, a proposed Categorical Imperative (CI) is the following Statement: creators should be protected against the unlawful taking of their creation by others. Applying this Statement to everyone, i.e., does the Statement hold water if everyone does this, leads to a yes determination. Whether a child, a book or a prototype, creations of all sorts should be protected, and this CI stands. This result also dovetails with the purpose of government: to protect the people and their possessions by providing laws to that effect, whether for the protection of tangible or intangible things. However, a contrary proposal can be postulated: everyone should be able to use the creations of another without charge. Can this Statement rise to the level of a CI? This proposal, upon analysis would also lead to chaos. Hollywood, for example, unable to protect their films, television shows or any content, would either be out of business or have robust encryption and other trade secret protections, which would seriously undermine content distribution and consumer enjoyment. Likewise, inventors, unable to license or sell their innovations or make any money to cover R&D, would not bother to invent or also resort to strong trade secret. Why even create? This approach thus undermines and greatly hinders the distribution of ideas in a free society, which is contrary to the paradigm of the U.S. patent and copyright systems, which promotes dissemination. By allowing freeriding, innovation and creativity would be thwarted (or at least not encouraged) and trade secret protection would become the mainstay for society with the heightened distrust. Also, allowing the free taking of ideas, content and valuable data, i.e., the fruits of individual intellectual endeavor, would disrupt capitalism in a radical way. The resulting more secretive approach in support of the above free-riding Statement would be akin to a Communist environment where the State owned everything and the citizen owned nothing, i.e., the people “consented” to this. It is, accordingly, manifestly clear that no reasonable and supportable Categorical Imperative can be made for the unwarranted theft of property, whether tangible or intangible, apart from legitimate exigencies. On the positive front, there is a Categorical Imperative that creators should be encouraged to create, which is imminently reasonable and supportable. Likewise, the statement set forth in the Constitution that Congress should pass laws “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries” is supportive, as a Categorical Imperative, for the many reasons elucidated two centuries ago by Madison and others, and endorsed by George Washington, Thomas Jefferson, and later by Abraham Lincoln. A Categorical Imperative, universality, however, may be a stretch outside of the United States since other cultures may not treasure the progress of science and the useful arts and freedoms that we Americans do. Nonetheless, it is certainly a supportable proposition in the United States, and even a Categorical Imperative that we must do it!

#### 2] No aff solvency for turns – the aff reduces protections rather than eliminating them which still allows for freedom violations – Presume neg.

#### 3] IP is a form of property

Zeidman et al. 16 [Bob Zeidman &amp; Eashan Gupta, "Why Libertarians Should Support a Strong Patent System", IPWatchdog, 1-5-2016, https://www.ipwatchdog.com/2016/01/05/why-libertarians-should-support-a-strong-patent-system/id=64438/, accessed: 8-9-2021.] //Lex VM

Many libertarians believe that intellectual property, being intangible, is not real property. A formal libertarian definition of property is difficult to formulate, but we would say that property is that which can be produced or contribute to production. Intellectual property falls clearly within these constraints. Yet some libertarians complain that intellectual is not tangible and is defined by government regulation—the patent laws—such that it would not exist without government definition. Let us look at this argument closer. Land is unquestionably property in the minds of libertarians. Yet the land upon which a house is built was not created by the property owner. It was created by nature or God, depending on your inclination, but no one would claim it to be created by the owner, whereas intellectual property is unquestionably created by the inventor. And how far do property lines extend? Property lines are determined by local governments. One can argue that property lines are negotiated by owners and enforced by governments, but when we moved into our homes, there were no negotiations with surrounding property owners. And how far above ground and below ground do property rights extend? These limitations are definitely not negotiated with other property owners but are determined by laws enforced by governments. Patents also have limitations in terms of scope and time that are determined by government laws. One can see that limitations on patents are similar to those on physical property and in some respects are more closely connected to production. For these reasons, libertarians should recognize patents as they do other forms of property. As a secondary but important example, libertarians are generally concerned about government spying on private conversations. When the government captures a phone conversation, it is not physically taking property. It is simply copying intangible data that exists as a form of transient electrical signals. Copying does not involve removing the original—the phone conversation is not destroyed when it is copied. Yet libertarians recognize that this copying of intangible data is a kind of theft of property. Libertarians should thus be wary of making the argument that intangible patents cannot be property or they may lose their contrary argument that private conversations are personal property to be protected.

#### Means the state can’t remove protections.

Zeidman et al. 2 [Bob Zeidman &amp; Eashan Gupta, "Why Libertarians Should Support a Strong Patent System", IPWatchdog, 1-5-2016, https://www.ipwatchdog.com/2016/01/05/why-libertarians-should-support-a-strong-patent-system/id=64438/, accessed: 8-9-2021.] //Lex VM

Libertarians believe in property rights and government protection of those rights as one of the few necessary requirements of government. Ownership of property and free markets leads to competitive production and trade of goods, which in turn leads to prosperity for all of society. Intellectual property is property like other forms of property, and so government must protect IP as it protects other forms of property because it too leads to competition and trade and prosperity. Libertarians should encourage a strong patent system and object to any “reforms” that limit intellectual property ownership or introduce more government regulation than is required.

#### 4] Patents protect private companies.

Na 19 [Blake Na, "Protecting Intellectual Property Rights in the Pharmaceutical Industry", Chicago-Kent | Journal of Intellectual Property, 4-19-2019, https://studentorgs.kentlaw.iit.edu/ckjip/protecting-intellectual-property-rights-in-the-pharmaceutical-industry/, accessed: 8-24-2021.] //Lex VM

Patent Rights A pharmaceutical company may apply for a patent from the PTO at any time in the development lifetime of a drug.[12] A drug is patentable if it is non-obvious, new, and useful.[13] The drug must be non-obvious when comparing the drug with another previously invented drug, i.e., it does not bring the same type of information as the other drugs. The drug must also not exist, and it must have a purpose. Intellectual property rights, especially patent rights, are the foundation of the pharmaceutical industry. The industry heavily depends on the future profits which innovation (and as a result, exclusivity) enable. Drug patents grant the originator company to market exclusivity for a fixed term of 20 years from the patent’s original filing date. By giving this 20-year patent term in which the government cannot regulate the price, market exclusivity allows pharmaceutical companies to have a monopoly over the market. To maximize their profit, pharmaceutical companies work on extending the exclusivity of a drug. For example, AbbVie extended the manufacturing exclusivity of Humira by delaying generic companies from manufacturing generic entrants until 2023. The market exclusivity can be lengthened anywhere between 180 days to 7 years. Thus, due to efforts to derive profits from patents, pharmaceutical companies’ patents contribute to roughly 70-80 percent of their overall revenues. Patents in the pharmaceutical industry are normally referred to as their product portfolio and are the most effective method for protecting innovation and creating significant returns on investments. Accordingly, as mentioned above, patents help in recouping costs related to research, development, and marketing of a drug. Patents not only help pharmaceutical companies recoup investments, they can also act as a shield against infringement claims. Strong patent protection can safeguard drugs from potential infringers. Without consent from the patentee, other competing companies cannot use, make, or distribute the invention. However, because a drug can be easily imitated by competitors, bringing an infringement suit can also protect a patentee’s rights. Recently, DUSA Pharmaceuticals, Inc.—an arm of the Indian pharmaceutical company Su Pharma and ranked among the top 50 global Pharma Companies—was recently granted injunctive relief from a U.S. court against Biofrontera Inc. in a patent infringement case[14]. The court’s order prohibited Biofrontera from making use of information, including sales data, marketing data, technical information, and unpublished clinical data, of DUSA Pharmaceuticals[15]. Although bringing an infringement suit is a valuable remedial measure for patentees, pharmaceutical companies often face difficulty with the high costs and uncertainty of litigation

#### 5] The CI only mandates that buyers aren’t treated exclusively as means to an end – manufacturers don’t do that – their interpretation of Kant would say that all transactions are exploitative

White 07 [(Mark D., Chair of the Department of Philosophy at the College of Staten Island, teaches courses in the intersections of economics, philosophy, and law, PhD in philosophy from the University of Cincinnati) “A Kantian Critique of Antitrust: On Morality and Microsoft,” Journal of Private Enterprise, 1/2007] JL re-highlighted Lex VM

“OK, but don‘t firms who merge and restrict terms of trade use their consumers or competitors as means to their own profit-making, while not considering them as ends at the same time (a violation of the second formula of the categorical imperative)?” If this were so, then all business owners would be guilty of this sin, including Adam Smith‘s tradesmen who sell their wares not for the good of their customers, but to improve the well-being of their families. But note that the second formula states that persons cannot use others simply as means, without at the same time as ends. We use other people all the time: we use grocers to obtain food, mechanics to keep our automobiles running, and friends when they‘re not. But we do so while treating these persons with respect, chiefly through eliciting their services or help voluntarily. It is in this way that we treat them as ends and not just means. What, then, would violate the second formula in terms of commerce? Deceit and fraud, specific instances of the general phenomenon of lying and therefore violations of perfect duty, would be obvious answers, as well as blatant coercion. As long as the seller behaves honestly and openly, and the buyer is free to accept or reject the terms of trade as offered, then the seller is not using the buyer merely as a means, but is at the same time respecting the buyer by being truthful and honorable in his business. So no duties prohibiting mergers or restrictions on terms of trade can be derived from this formula of the categorical imperative either, unless we throw away the baby with the bathwater and condemn all commercial activity.

#### 6] IP is property in the same way our health and labor are too.

D’Amato 14 [David S. D’Amato, David S. D’Amato is an attorney, a regular opinion contributor at The Hill, and an expert policy advisor to the Future of Freedom Foundation and the Heartland Institute. His writing has appeared in Forbes, Newsweek, The American Spectator, the Washington Examiner, Investor’s Business Daily, The Daily Caller, RealClearPolicy, Townhall, CounterPunch, and many others, as well as at nonpartisan, nonpartisan policy organizations such as the American Institute for Economic Research, the Centre for Policy Studies, the Institute for Economic Affairs, the Foundation for Economic Education, and the Institute for Ethics and Emerging Technologies, among others. He earned a JD from New England School of Law and an LLM in Global Law and Technology from Suffolk University Law School. He lives and writes in Chicago. "Libertarian Views of Intellectual Property: Rothbard, Tucker, Spooner, and Rand", Libertarianism.org, 5-28-2014, https://www.libertarianism.org/columns/libertarian-views-intellectual-property-rothbard-tucker-spooner-rand, accessed: 8-25-2021.] //Lex VM

Since Spooner finds the foundation of property in each individual’s natural right to provide for her own subsistence and happiness, it is perhaps unsurprising that he regards “the right of property in intellectual wealth” as necessary and legitimate. After all, ideas are no less important to the ends served by property than are labor and natural resources, which would remain idle and useless without the application of intellect and ingenuity. Confronting the argument that a thing must have “corporeal substance” to be the subject of a property right, Spooner protests that tangible, physical substances “are not the only things that have value”—that denying a property right in ideas is akin to arguing that an individual does not own her labor, also intangible. If labor is properly the subject of property, belonging to the individual and deserving of payment, then so too are ideas, which he compares to the “new forms and new beauties” that human labor gives to physical objects. Engaging ideas from tort law, Spooner goes on to observe that health, strength, and the physical senses too are incorporeal, susceptible to loss “without the loss of any corporeal substance,” but are nevertheless “valuable possessions, and subjects of property.” A tortfeasor who impairs or harms these non‐​physical qualities must make his victim whole, paying damages as compensation. For Spooner, then, it is clear that property rights can (indeed, must) extend their reach beyond physical objects, that the acquisition of property itself depends fundamentally upon something that cannot be seen or touched, human effort.

#### 7] Property rights aren’t founded on the idea that tangible objects are scarce, rather that it’s produced by an agent’s labor.

D’Amato 14 [David S. D’Amato, David S. D’Amato is an attorney, a regular opinion contributor at The Hill, and an expert policy advisor to the Future of Freedom Foundation and the Heartland Institute. His writing has appeared in Forbes, Newsweek, The American Spectator, the Washington Examiner, Investor’s Business Daily, The Daily Caller, RealClearPolicy, Townhall, CounterPunch, and many others, as well as at nonpartisan, nonpartisan policy organizations such as the American Institute for Economic Research, the Centre for Policy Studies, the Institute for Economic Affairs, the Foundation for Economic Education, and the Institute for Ethics and Emerging Technologies, among others. He earned a JD from New England School of Law and an LLM in Global Law and Technology from Suffolk University Law School. He lives and writes in Chicago. "Libertarian Views of Intellectual Property: Rothbard, Tucker, Spooner, and Rand", Libertarianism.org, 5-28-2014, https://www.libertarianism.org/columns/libertarian-views-intellectual-property-rothbard-tucker-spooner-rand, accessed: 8-25-2021.] //Lex VM

Among the several other objections Spooner addresses is the common worry that “ideas have no ear‐​marks,” that it is impossible, as a practical matter, to attribute ownership of an idea to an individual accurately or justly. To this, Spooner points to the fact that, as things are now, individuals regularly register ownership of their ideas, and “with a great variety of other evidence” demonstrate that ownership to tribunals with sufficient certainty and definiteness. Spooner thus denies that the density and plurality of inventions’ causes means that the ideas behind them cannot be owned by distinct individuals, arguing that this objection, if sound, would also apply to property in tangible objects. Spooner urges his reader to consider the gold miner in California, who is no less propelled and aided by the “general progress of science, knowledge, and art,” the gold he discovers no less owing to others who came before him. Spooner takes on perhaps the most common objection to intellectual property rights among libertarians today, that private property in corporeal commodities is justified only by the fact that these are rivalrous, that they “cannot be completely and fully possessed and used by two persons at once.” Carried to its logical end, Spooner says, this argument is nothing but communism, allowing any individual the right to take for himself and use freely anything he wants, regardless of whether he has produced it by his own labor. Spooner arrives at this conclusion by arguing that private property has its proper foundation not on the rivalrousness of tangible objects, but on the fact that the property in question is “produced by one man’s labor.” The opponents of intellectual property therefore undermine the entire basis for private property, establishing a principle that, Spooner argues, in fact applies equally well to corporeal commodities under certain circumstances. For example, railways, roads and canals may be used simultaneously by several people, and yet are proper subjects of private property. Having set out his own case for private property in ideas and carefully attended to many of the objections to such property, Spooner’s “The Law of Intellectual Property” remains a pivotal moment in the case for pro‐​intellectual property libertarianism.

#### 8] An invention is the application of a discovery – they’re distinct.

D’Amato 14 [David S. D’Amato, David S. D’Amato is an attorney, a regular opinion contributor at The Hill, and an expert policy advisor to the Future of Freedom Foundation and the Heartland Institute. His writing has appeared in Forbes, Newsweek, The American Spectator, the Washington Examiner, Investor’s Business Daily, The Daily Caller, RealClearPolicy, Townhall, CounterPunch, and many others, as well as at nonpartisan, nonpartisan policy organizations such as the American Institute for Economic Research, the Centre for Policy Studies, the Institute for Economic Affairs, the Foundation for Economic Education, and the Institute for Ethics and Emerging Technologies, among others. He earned a JD from New England School of Law and an LLM in Global Law and Technology from Suffolk University Law School. He lives and writes in Chicago. "Libertarian Views of Intellectual Property: Rothbard, Tucker, Spooner, and Rand", Libertarianism.org, 5-28-2014, https://www.libertarianism.org/columns/libertarian-views-intellectual-property-rothbard-tucker-spooner-rand, accessed: 8-25-2021.] //Lex VM

Still another forceful exhibit in the case in favor of intellectual property rights comes from Ayn Rand, always a lightning rod and, like Spooner, an outspoken champion of copyright and patent protections. Indeed, Rand tracks Spooner quite closely in her conception of the proper basis for private property, which she argues is “a man’s right to the product of his mind.” “What the patent and copyright laws acknowledge,” Rand argues, “is the paramount role of mental effort in the production of material values.” Without such laws, true competition is compromised insofar as the first in time inventor, the “winner of the race,” is not protected—the “the potential” is mistaken for the “the actual.” In service of her defense of patents and copyrights, Rand draws a distinction between a “scientific or philosophical discovery” and an invention, the latter representing “only … the practical application of knowledge.” Intellectual property is only legitimate, in Rand’s view, because it protects creators in their fabrication of concrete things that did not previously exist in nature. Whether another individual might have invented the same, or did so in another local, is not the question. Instead, as with homesteading land, the critical question for Rand is who invented the object in question—be it a literary creation or a new machine—and who took the steps to give it a material form. Like Spooner, Rand thought that the theoretical case for private property in general was hollow without accounting for and protecting labors of the mind.

#### 9] The goal of IP and physical property are the same. Arguing a distinction is misguided.

Schultz 14 [Mark Schultz, "A free market perspective on intellectual property rights", American Enterprise Institute - AEI, 2-24-2014, https://www.aei.org/technology-and-innovation/intellectual-property/free-market-perspective-intellectual-property-rights/, accessed: 8-25-2021.] //Lex VM

Point 1. Intellectual property secures the same values as physical property As an institution, property secures rights in what we create through our work. In this regard, there’s no cause or need to distinguish intellectual property from any other forms of property. In all cases, a person employs his intellect and talents to impose his plan and will on his environment to bring something new into the world. This is the essence of productive labor, the fruits of which property protects. Distinguishing between physical and intellectual labor, as some would, is misguided, because both are, at heart, the same activity. Whether it is a carpenter building a house, a farmer planting a field, an author writing a book, a director filming a movie, or an inventor developing a new drug, the activity is, ultimately, productive labor. Moreover, both have the same moral status. The songwriter and the craftsman each deserves and needs to own the fruits of his labor to secure his life and liberty.

#### All of the affs offense is just "patents bad" BUT the resolution calls for a reduction NOT elimination of IP protections JUST for Medicine ONLY in WTO States which guts aff solvency. In the affs world there are still ip protections in non-WTO States, some ip protections for medicine AND IP protections for every other industry in the status quo remain which proves the plan doesn't solve their offense and they don't meet the standard text of CONSISTENCY with liberty since the affs world is inconsistent with their coercion offense. being consistent and inconsistent devolves in presumption and proves no aff solvency. Even if you don’t buy this – you should err heavily negative if we win sufficient defense on their offense since they still allow for coercions.

### Omni Will

#### 1] Labor defines the distinction between a discovery and a invention – labor transforms a discovery into an invention since they don’t occur naturally on earth.

#### 2] Irrelevant – IP in the context of medicines makes sense since you cannot patent herbal plants, but you can patent the covid vaccine since its manufactured and not found growing somewhere.

LBL

1] Innovation is wrong, its facilitated innovation thatll be stevens

2] Doesn’t suppress speech, patents are opens ourced in FDA orangebook

3] Biochemical equivalency proves that rightful possession is possible, the only difference is a delay

4] Censorship is false, their warrants are for binding speech but

### Foreclose Treatment

#### 1] The categorical imperative filters what people can do with their property – I.e I can’t use my property to store kidnapped human beings since that impedes on their freedom, for the same reason I can’t use my property to copy someone else’s work or methods because that impedes on their freedom and their right to their property.

#### 2] Property rights are only good insofar as they do not impede on other people’s property – If I win that IP is a form of property then a company cannot use their property to create a patented version of a vaccine because that’s an invasion of someone else’s property.

LBL

1] Incoherent since indiv that create IP have control

2] Uniqueness overwhelms the link,

3] No contradiction in conception, they own property that was above

4] Freedom isn’t constrained,

5] Unverifiable, their ev says it is difficult to be sure of the exact conclusion Kant would reach with regard to the issue

6] Read merges, it mentions categorical principle but functionally has no warrant

### Innovation

#### Group all of their innovation response, best analysis confirms our Link – strong IP protection are the only incentive for drug innovation.

Stevens and Ezell 20 Philip Stevens and Stephen Ezell 2-3-2020 "Delinkage Debunked: Why Replacing Patents With Prizes for Drug Development Won’t Work" <https://itif.org/publications/2020/02/03/delinkage-debunked-why-replacing-patents-prizes-drug-development-wont-work> (Philip founded Geneva Network in 2015. His main research interests are the intersection of intellectual property, trade, and health policy. Formerly he was an official at the World Intellectual Property Organization (WIPO) in Geneva, where he worked in its Global Challenges Division on a range of IP and health issues. Prior to his time with WIPO, Philip worked as director of policy for International Policy Network, a UK-based think tank, as well as holding research positions with the Adam Smith Institute and Reform, both in London. He has also worked as a political risk consultant and a management consultant. He is a regular columnist in a wide range of international newspapers and has published a number of academic studies. He holds degrees from the London School of Economics and Durham University (UK).)[Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF). He focuses on science and technology policy, international competitiveness, trade, manufacturing, and services issues. He is the coauthor of Innovating in a Service-Driven Economy: Insights, Application, and Practice (Palgrave Macmillan, 2015) and Innovation Economics: The Race for Global Advantage (Yale, 2012). Ezell comes to ITIF from Peer Insight, an innovation research and consulting firm he cofounded in 2003 to study the practice of innovation in service industries. At Peer Insight, Ezell led the Global Service Innovation Consortium, published multiple research papers on service innovation, and researched national service innovation policies being implemented by governments worldwide].//Elmer

The **Current System** Has **Produced a Tremendous Amount of Life-Sciences Innovation** The frontier for biomedical innovation is seemingly limitless, and the challenges remain numerous—whether it comes to diseases that afflict millions, such as cancer or malaria, or the estimated 7,000 rare diseases that afflict fewer than 200,000 patients.24 And while certainly citizens in developed and developing nations confront differing health challenges, those challenges are increasingly converging. For instance, as of this year, analysts expect that **noncommunicable** diseases such as cardiovascular disease and diabetes will account for 70 percent of natural fatalities **in developing countries**.25 Citizens of low- and middle-income countries bear 80 percent of the world’s death burden from cardiovascular disease.26 Forty-six percent of Africans over 25 suffer from hypertension, more than anywhere else in the world. Similarly, 85 percent of the disease burden of cervical cancer is borne by individuals living in low- and middle-income countries.27 To develop treatments or cures for these conditions, novel biomedical innovation **will be needed from everywhere**. Yet tremendous progress has been made in recent decades. To tackle these challenges, the global pharmaceutical industry invested over **$1.36 trillion in R&D** in the decade from 2007 to 2016—and it’s expected that annual R&D investment by the global pharmaceutical industry will reach $181 billion

by 2022.28 In no small part due to that investment, **943 new active substances have been introduced** globally over the prior 25 years.29 The U.S. Food and Drug Administration (FDA) has approved more than **500 new medicines since 2000** alone. And these medicines are getting to more individuals: Global medicine use **in 2020 will reach 4.5 trillion doses**, up 24 percent from 2015.30 Moreover, there are an estimated 7,000 new medicines under development globally (about half of them in the United States), with 74 percent being potentially first in class, meaning they use a new and unique mechanism of action for treating a medical condition.31 In the United States, over 85 percent of all drugs sold are generics (only 10 percent of U.S. prescriptions are filled by brand-name drugs).32 And while some assert that biotechnology companies focus too often on “me-too” drugs that compete with other treatments already on the market, the reality is many drugs currently under development are meant to tackle some of the **world’s most intractable diseases**, **including cancer and Alzheimer’s**.33 Moreover, such arguments miss that many of the drugs developed in recent years have in fact been first of their kind. For instance, in 2014, the FDA approved **41 new medicines** (at that point, the most since 1996) many of which were first-in-class medicines.34 In that year, 28 of the 41 drugs approved were considered biologic or specialty agents, and 41 percent of medicines approved were intended to treat rare diseases.35 Yet even when a new drug isn’t first of its kind, it can still produce benefits for patients, both through **enhanced clinical efficacy** (for instance, taking the treatment as a pill rather than an injection, with a superior dosing regimen, **or better treatment** for some individuals who don’t respond well to the original drug) and by generating competition that exerts downward price pressures. For example, a patient needing a cholesterol drug has a host of statins from which to choose, which is important because some statins produce harmful side effects for some patients. Similarly, patients with osteoporosis can choose from Actonel, Boniva, or Fosomax. Or take for example Hepatitis C, which until recently was an incurable disease eventually requiring a liver transplant for many patients. In 2013, a revolutionary new treatment called Solvadi was released that boosted cure rates to 90 percent. This was followed in 2014 by an improved treatment called Harvoni, which cures the Hepatitis C variant left untouched by Solvadi. Since then, an astonishing six new treatments for the disease have received FDA approval, opening up a wide range of treatment options that take into account patients’ liver and kidney status, co-infections, potential drug interactions, previous treatment failures, and the genotype of HCV virus.36 “If you have to have Hepatitis C, now is the time to have it,” as Douglas Dieterich, a liver specialist at the Icahn School of Medicine at Mount Sinai Hospital in New York, told the Financial Times. “We have these marvellous drugs we can treat you with right now, without side effects,” he added. “And this time next year, we’ll have another round of drugs available.”37 Moreover, the financial potential of this new product category has led to multiple competing products entering the market in quick succession, in turn placing downward pressure on prices.38 As Geoffrey Dusheiko and Charles Gore write in The Lancet, “The market has done its work for HCV treatments: after competing antiviral regimens entered the market, competition and innovative price negotiations have driven costs down from the initially high list prices in developed countries.”39 As noted previously, opponents of the current market- and IP-based system contend patents enable their holders to exploit a (temporary) market monopoly by inflating prices many multiples beyond the marginal cost of production. But rather than a conventional neoclassical analysis, an analysis based on “innovation economics” finds it is exactly this “distortion” that is required for innovation to progress. As William Baumol has pointed out, “Prices above marginal costs and price discrimination become the norm rather than the exception because … without such deviations from behaviour in the perfectly competitive model, innovation outlays and other unavoidable and repeated sunk outlays cannot be recouped.”40 Or, as the U.S. Congressional Office of Technology Assessment found, “Pharmaceutical R&D is a risky investment; therefore, high financial returns are necessary **to induce companies to invest** in researching new chemical entities.”41 This is also why, in 2018, the U.S. Congressional Budget Office estimated that because of high failure rates, biopharmaceutical **companies would need to earn a 61.8 percent rate of return on their successful new drug R&D projects in order to match a 4.8 percent after-tax rate of return on their investment**s.42 Indeed, **it’s the ability to recoup fixed costs, not just marginal** costs, through mechanisms such as patent protection that lies at the heart of all innovation-based industries and indeed all innovation and related economic progress. If companies could not find a way to pay for their R&D costs, and could only charge for the costs of producing the compound, **there would be no new drugs developed**, just as there would be no new products developed in any industry. Innovating in the life sciences remains expensive, risky, difficult, and uncertain. Just 1 in 5,000 drug candidates make it all the way from discovery to market.43 A 2018 study by the Deloitte Center for Health Solutions, “Unlocking R&D productivity: Measuring the return from pharmaceutical innovation 2018,” found that “the average cost to develop an asset [an innovative life-sciences drug] including the cost of failure, has increased in six out of eight years,” and that the average cost to create a new drug has risen to $2.8 billion.44 Related research has found the development of new drugs requires years of painstaking, risky, and expensive research that, for a new pharmaceutical compound, takes an average of 11.5 to 15 years of research, development, and clinical trials, at a cost of $1.7 billion to $**3.2 billion**.45 IP rights—including patents, copyrights, and data exclusivity protections—give innovators, whether in the life sciences or other sectors, the **confidence** to undertake the risky and expensive process of innovation, secure in the knowledge they’ll be able to capture a share of the gains from their efforts. And these gains are often only a small fraction of the true value created. For instance, Yale University economist William Nordhaus estimated inventors capture just 4 percent of the total social gains from their innovations; the rest spill over to other companies and society as a whole.46 Without adequate IP protection, private investors would never find it viable to fund advanced research because lower-cost copiers would be in a position to undercut the legitimate prices (and profits) of innovators, even while still generating substantial profits on their own.47 As the report “Wealth, Health and International Trade in the 21st Century” concludes, “Conferring robust intellectual property rights is, in the pharmaceutical and other technological-development contexts, **in the global public’s long-term interests.** Without adequate mechanisms for directly and indirectly securing the private and public funding of medicines and vaccines, research and development communities across the world will lose future benefits that would far outweigh the development costs involved.”48 Put simply, the current market- and IP-based life-sciences innovation system is producing life-changing biomedical innovation. As Jack Scannell, a senior fellow at Oxford University’s Center for the Advancement of Sustainable Medical Innovation has explained, “I would guess that one can buy today, at rock bottom generic prices, a set of small-molecule drugs that has greater medical utility than the entire set available to anyone, anywhere, at any price in 1995.” He continued, “Nearly all the generic medicine chest was created by firms who invested in R&D to win future profits that they tried pretty hard to maximize; short-term financial gain building a long-term common good.”49 For example, on September 14, 2017, the FDA approved Mvasi, the first biosimilar for Roche’s Avastin, a breakthrough anticancer drug when it came out in the mid-1990s for lung, cervical, and colorectal cancer.50 In other words, a medicine to treat forms of cancer that barely existed 20 years ago is now available as a generic drug today. It’s this dynamic that enables us to imagine a situation wherein drugs to treat diseases that aren’t available anywhere at any price today (for instance, treatments for Alzheimer’s or Parkinson’s) might be available as generics in 20 years. But that will only be the case if we preserve (and improve where possible) a life-sciences innovation system that is generally working. The current system does not require wholesale replacement by a prize-based system that—notwithstanding a meaningful success here or there—has produced nowhere near a similar level of novel biomedical innovation.

1. <http://dictionary.reference.com/browse/negate>, <http://www.merriam-webster.com/dictionary/negate>, <http://www.thefreedictionary.com/negate>, <http://www.vocabulary.com/dictionary/negate>, <http://www.oxforddictionaries.com/definition/english/negate> [↑](#footnote-ref-1)
2. *Dictionary.com – maintain as true, Merriam Webster – to say that something is true, Vocabulary.com – to affirm something is to confirm that it is true, Oxford dictionaries – accept the validity of, Thefreedictionary – assert to be true* [↑](#footnote-ref-2)