# Biocolonialism 1AC

## I affirm. Part 1: An Open Space.

#### [Pratt et al 1] AMERICAN EDUCATION IS BUILT ON A COLONIZING LEGACY – schools prioritize Western knowledge production at the expense of Indigenous thought.

Pratt et al 1 – brackets in original text: Pratt, Yvonne Poitras [The University of Calgary], Dustin Louie [The University of Calgary], Aubrey Hanson [The University of Calgary], Jacqueline Ottmann [University of Saskatchewan]. “Indigenous Education and Decolonization.” *Oxford Research Encyclopedia of Education*, January 2018. CH

Even when explicitly assimilative institutions no longer exist as such—as is the case with Canada’s residential schools—colonizing dynamics can prevail in contemporary schooling. Hegemonic forces such as Eurocentrism, paired with vestigial colonial structures and policies, can persist in marginalizing Indigenous people and perspectives. Jacob et al. (2015) assert that “[s]ome countries such as Vietnam continue to perpetuate active assimilation policies that in many ways threaten indigenous peoples’ ability to preserve their languages, cultures, and identities” (p. 7). In another example, colonial structures in postcolonial contexts in Africa have “impeded the inclusion of bearers of local, indigenous knowledges in formal, institutionalized education” (Dei, 2000, p. 44). Colonization in contemporary schooling can occur at multiple levels despite an ethos of multiculturalism or other inclusive discourses: at the epistemological level of knowledge systems, at the material level of representation, at the discursive level of curriculum, or at the human level of whose bodies are safe and whose experiences are valued. Colonization may occur in the name of integration or “under the disguise of equality,” but ultimately works “to suppress and destroy cultural identities of Indigenous students” (Almeida, 1998, p. 7). Hidden curriculum and the streaming of students into non-academic versus academic programming are two examples of how colonizing dynamics exist in contemporary schooling. The curriculum in formal schooling immerses students into the assumptions and language of the dominant or colonial culture. The “hidden curriculum” includes the “unwritten rules, regulations, standards and expectations that form part of the learning process in schools and classrooms, not specifically taught to students through the planned or open curriculum and the content” (Rahman, 2013, p. 660). The hidden curriculum conveyed through the colonizer’s language reflects dominant worldviews, beliefs, and value systems and informs how the written, mandated curriculum is delivered. Rahman (2013) explains that this hidden curriculum forces Indigenous students to negotiate, and perhaps abandon, their own cultural ways of being and doing within inflexible dominant systems in order to survive in school.

#### [ROJ] The Role of the Judge is to Decolonize Educational Spaces, which means keeping the space open to non-Eurocentric ways of knowing. This is key to any other framework, since we can’t test it if we arbitrarily exclude ways of knowing.

#### [Pratt et al 2] Successful decolonizing demands recognition of how dominant power hierarchies function, a necessity for all exploring any non-Western knowledge.

Pratt et al 2: Pratt, Yvonne Poitras [The University of Calgary], Dustin Louie [The University of Calgary], Aubrey Hanson [The University of Calgary], Jacqueline Ottmann [University of Saskatchewan]. “Indigenous Education and Decolonization.” *Oxford Research Encyclopedia of Education*, January 2018. CH

Indigenous education attends to understandings of education that are indigenous to particular lands and places, and “the path and process whereby individuals gain knowledge and meaning from their indigenous heritages” (Jacob, Cheng, & Porter, 2015, p. 3). There are as many unique approaches to Indigenous education as there are diverse Indigenous nations around the globe—yet a central aim is “holistically nurturing future leaders who will be able to speak and act on behalf of their people” (p. 2). In a contemporary context, it is a continuance of Indigenous Knowledges, yet also entails fostering ethical, reciprocal relations between Indigenous and other knowledge systems (Ermine, 2007). Returning to the epistemological and ontological systems of a country’s Indigenous peoples in order to shape educational systems or institutions in that place is a way of Indigenizing education. Indigenous educators also recognize that colonialism continues to shape contemporary schooling: colonial education can exist even when explicitly assimilative systems of formal education have been closed and condemned. Colonial dynamics in contemporary schooling are often less visible because of how deeply and unknowingly educators can be entrenched in hegemonic assumptions, arising from colonial mentalities and further entrenched by dominant structural systems. Indigenous Knowledges are bodies of knowledge that arise from the long-term occupancy of a specific place over time. Such knowledges include “traditional norms and social values [alongside] mental constructs that guide, organize, and regulate the people’s way of living and making sense of their world” (Dei, Hall, & Goldin Rosenberg, 2000, p. 6). Such knowledges arise from the collective experiences and understandings of a people.

They add:

Colonizing is the physical and ideological domination of peoples in order to separate them from their culture and resources, while creating external and internalized assumptions of the supremacy of the colonizer. Conversely, the project of decolonizing challenges and disrupts assumptions of colonial superiority. For Smith (2012), decolonization is the revitalization of the ways of being and knowing prior to colonization, while unearthing the manner in which colonization was achieved. It is not enough to simply reconnect with the past; in order to pursue decolonization, we must also untangle the complex web of internalized oppression created by colonization. Furthermore, decolonization requires the colonizers to recognize and challenge their own socialized presumptions of superiority.

#### [ROB] Thus, the Role of the Ballot is to Endorse the Better Resistance Strategy Against Colonialist Violence. This means each side offers a method of rejecting oppression as a means of promoting authentic freedom.

## Part 2: Inherency

#### [Breske 1] Patents were designed to further the interests of multinational cooperation (MNCs) which breeding biopiracy for indigenous folks – the appropriation of traditional knowledge and national resources without due compensation.

**Breske 1:** Breske, Ashleigh. [Global Politics and Societies, Hollins University] “Biocolonialism: Examining Biopiracy, Inequality, and Power” *ResearchGate,* 2018. JP

There are parallels between current intellectual property rights on patenting both genetic material and biodiversity and the legal doctrines of early European colonialism in the Americas. Alejandro Madrazo gives a differing opinion on the language used to describe biopiracy from other authors, stating that he does not believe these cultivations can be considered true piracy since “piracy is an illegal activity or an activity at the margins of the law, whereas modern bioprospecting is a practice that is enabled precisely by the specific rules of current intellectual property law.” This raises an interesting point of what is legally allowable due to transnational property law. Currently, bioprospecting allows for indigenous systems of knowledge to become publicly available and enter “into the contested knowledge systems of colonialist corporations whose main concern is to privatize knowledge as patents on life forms.” **The global demand for medicinal drugs has led to an increase in biopiracy in the Global South. Once companies find something they believe will be profitable, they want to patent it straightaway so that no one else can capitalize off it.** Patents are an easily accessible source of income for those able to apply for them. In fact, patents act as an exclusive control on a product, and, **when corporations hold patents on biodiversity, they are creating a monopoly on food and health.** **In some ways it is impossible for those in developing countries to compete with MNCs due to how patents and intellectual property rights are sustained. Since patents are held nationally instead of internationally, most patent holders tend to be from more developed countries. Because of this divide, it is possible to inflate the price of patented medicines so that corporations can make an even greater profit, which leads to more global inequalities.** The World Trade Organization in 1994, international trade negotiations opened, and **western notions of intellectual property rights took a firm hold in pharmaceutical research and development, increasing the strength of MNCs.** This was classified under TRIPS, the Agreement on Trade Related Intellectual Property Rights. TRIPS was negotiated at the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) and set the standard for member states to recognize the same intellectual property rights. This then meant that industries could bypass local patent law by registering their patents in the most favorable jurisdiction.” **Before TRIPS, which set consistent requirements, intellectual property was considered a domestic issue with protections set on the national level. However, with TRIPS, transnational corporations are now much more successful at acquiring patents**. For example, looking at the number of patents held at the end of the twentieth century, most were filed by the United States (41.8%) and Europe (41.95%). **The TRIPS agreements and domestic patent laws, specifically US law, shapes international IPRs and show that the legal system is excluding indigenous or marginalized communities**. There has been a push for TRIPS, predominantly by the pharmaceutical industry, to restrict profit potential by indigenous communities. **Corporations make minor genetic or chemical formula changes for their intellectual property claims and patents and can then claim their product is no longer directly linked to the initial source.** Debra Harry has claimed that the main problem with biocolonialism is the “manipulation and ownership of life itself, and the ancient knowledge systems held by Indigenous peoples.” **The problem stems from the belief that indigenous peoples are merely the holders, not owners, of communal knowledge.** What are not considered are their territorial rights to the resources on their lands. Power over Knowledge Apparatuses of power can be institutional, political, or methodological and are constructed to have multiple effects upon society.xxxvi As stated earlier, **biopiracy is merely a new technique of power exploited by rich multinational corporations.** The western legal system and international intellectual property law have commodified indigenous knowledge and traditional resources.xxxvii By viewing biopiracy as a form of transnational governmentality, it is possible to see the commodification of biodiversity for the MNCs. **The constant privilege in the richer western countries alters their view of the world and allows them to perceive indigenous peoples and their resources as commodities. This privileged mentality is how the legitimacy of power is established:** We control your resources because we are more capable than you. It is a deeply flawed logic; but it is a profitable logic.

#### [Breske 2] Next, focusing solely on IPP’s economic purposes papers over MNC’s colonizing choice to profit off indigenous knowledge.

**Breske 2:** Breske, Ashleigh. [Global Politics and Societies, Hollins University] “Biocolonialism: Examining Biopiracy, Inequality, and Power” *ResearchGate,* 2018. JP

Power is often in the hands of transnational corporations and lobbyist groups with the global economy becoming larger than individual nation-state economies.iv Cori Hayden theorizes that bioprospecting is “an important site for thinking about how neoliberalism works.”v For Hayden, biopiracy is an institutionalized practice garnering transnational capital. In other words, the opening of the market on biodiversity is argued to be both a development strategy and an argument for conservation within an economic framework. For example, in Peru, foreign corporations have filed more than 11,690 patents on natural resources traditionally used by indigenous communities.vi Corporate interest in medicinal plants and seeds stems from long-term economic goals. This example illustrates the current trend of outside transnational corporations showing an interest in traditionally-used medicinal plants and seeds. Within the globalized economy, free trade agreements create a power imbalance between multinational corporations (MNCs) and the indigenous communities holding traditional knowledges and resources. Since indigenous knowledge is disseminated among the community and no one person owns it in the western, legal sense,vii MNCs use bioprospecting projects in areas with rich biodiversity for future development of products.viii It has been found that bioprospecting success rates greatly increase with the inclusion of indigenous knowledge or local guidance. These endeavors are financed as exploratory enterprises to find aspects of biodiversity and indigenous knowledge as resources that can be patented and used for future development. Bioprospecting can be considered a form of colonization using a “knowledge-based economy” with profit sought through marginalized peoples and their traditional resources.ix But, according to Hayden, “[b]ioprospecting is the new name for an old practice: it refers to corporate drug development based on medicinal plants, traditional knowledge, and microbes culled from the “biodiversityrich” regions of the globe—most of which reside in the so-called developing nations.” (Hayden 2003, 1). Bioprospecting can quickly lead to biopiracy, or the appropriation of traditional knowledge and natural resources without due compensation. **Biopiracy—and by extension, the intellectual property and patent system—is essentially a new apparatus of power used by MNCs**. Bioprospectors make claims on biological resources based on the assumption that the resources are available and open to everyone. **Initially, corporations present themselves as the protectors and innovators of these “universally” valuable resources.** They claim that if it were not for their investments, the information and original sources might be lost. **However, it was only after the development of international patents and free trade agreements that indigenous groups understood their exclusion from the economic yields gained by utilizing their knowledge.** **Essentially, biocolonialism, in the form of pharmaceutical and agricultural industry development by transnational corporations, is a “continuation of the oppressive power relations that have historically informed the interactions of western and indigenous cultures, and part of a continuum of contemporary practices that constitute forms of cultural imperialism.”** **More simply, it is a form of dispossession and conquest through the lens of neoliberalism.**

## Thus, I affirm:

#### [Vats 1] Resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

The aff uses the lens of dis-identification to center indigenous scholarship.

Vats 1: Vats, Anjali Sunay. [Boston College] “Rhetorics of Race and Resistance in Intellectual Property Law.” *Department of Communication of University of Washington*, 2013. AC

Intellectual property law, specifically that governing trademarks, copyrights, and patents, is increasingly dominated by a narrative of “theft” in which racialized thieves steal knowledge produced by white creators, disrupting global flows of information**. Because of intellectual property’s increasingly important relationship to race and production and ownership of knowledge, trademarks, copyrights, and patents are important cultural texts through which racial formation unfolds and racial projects are carried out.** In other words, racial categories are created and formed through intellectual property discourses and policies which **reflect the racialized rhetorics of the legal regime used to shape policy.** Yet, erased and silenced from racialized narratives of intellectual property infringement are the global inequalities which facilitate the private ownership of knowledge in the first place. **As this project demonstrates, marginalized groups have recognized the problematic articulations of intellectual property rights with racial difference, finding rhetorical and performative ways to contest the racialized narratives of infringement that continue to justify Western intellectual property regimes. This project develops *rhetorical disidentification*, a concept built on the work of performance and gender studies scholar Jose Esteban Muñoz, as a means of theorizing how marginalized subjects act resistively within the boundaries of intellectual property law to unmake the links between racial difference and intellectual property rights infringement. Rhetorical disidentification with intellectual property law involves simultaneously complying with and contesting legal discourses in a manner which forces the acknowledgement of otherwise invisible histories of race in defining the public domain and articulating processes of knowledge production.** Through their disidentificatory acts, marginalized subjects confront racialized representations of infringement, casting white creators as thieves of indigenous knowledge and illegal occupiers of information that should be held collectively in the public domain. **Rhetorically and performatively intervening to counter the racialized narratives that dominate intellectual property law is a resistive act which reconfigures understandings of trademarks, copyrights, and patents to account for histories of difference, asserts the agency of racial Others, and creates space for marginalized rhetors to speak back to legal regimes.** While this project focuses on rhetorical disidentification within legal regimes related to knowledge production, the concept more broadly offers a theoretical and methodological tool for rhetoricians to study resistance by marginalized subjects that may not at first glance appear as resistance.

**They add,**

In a move analogous to what Lawrence Lessig describes as “remix,”36 acts of **rhetorical disidentification contest the racial mythologies and narratives of theft woven by contemporary discourses of trademark, copyright, and patent infringement, effectively reconstituting the core concepts in intellectual property law which facilitate racialization. Taken together, disidentificatory rhetorics and performances *remythologize* the racialization of infringement in intellectual property**, claiming a place for the marginalized authors and inventors in history. Just as remixing denotes the bricolage of fragments of public culture, **remythologization suggests the manipulation of existing boundaries of intellectual property to create new understandings of the relationship between race and infringement.** In the cases studied here, **remythologization manifests in material forms in a bricolage of artifacts of Americana, legal filings, works of literature, and indexes of traditional knowledge. These objects are not only markers of the exercise of agency but rhetorical artifacts which ensure continued focus on erased histories. In each of these cases, collections, archives, or databases emerge as material rhetorical markers through which the silences and misrepresentations of histories of intellectual properties are memorialized.** As a result, rhetorical disidentification is a productive tool for making visible and mapping racial and colonial histories, bringing them to the forefront of cultural consciousness in a process that Paul Gilroy terms a “historical ontology of races.”37 It is also a powerful tool for identifying and reading the resistive rhetorics and performances of marginalized groups in a manner that opens new possibilities for undoing the law’s racial exclusions.

## Part 3: Net Benefits

#### [Vats 2] Material solutions are produced through dis-identification within the legal structure that checks biopiracy – India’s TKDL database proves.

Vats 2: Vats, Anjali Sunay. [Boston College] “Rhetorics of Race and Resistance in Intellectual Property Law.” *Department of Communication of University of Washington*, 2013. AC

**Finally, Chapter Three examines India’s response to the commodification of yogic knowledge. In an attempt to stop the litany of copyrights and patents on yoga and yoga-related items in the United States, the Indian government created the TKDL, a digital database of indigenous knowledge. By identifying and memorializing yoga’s long history, India seeks to prevent the exploitation of centuries-old philosophies and ideas, countering the belief that yogic practice can be newly “invented” and owned as intellectual property. The Indian** government’s response to American-style corporatization and commodification of yoga and yoga-related products reclaims knowledge which has been colonized by and through Western theories of property rights. In an example of a move which **redefines the very boundaries of what is and is not in the public domain, through the TKDL,** those Indian government officials, Indians, and Indian Americans who object to the **Western commodification of yoga assert the rhetorical agency and authority of marginalized groups to redefine “prior art,” “patentability,” and “piracy.” In doing so, they assert that traditional knowledge, whether its history is recognized or not, is not exploitable because it is part of the public domain.** Moreover, their response suggests the need to rethink core concepts in patent law vis-à-vis histories of racial inequality. In making rhetorical moves to invert piracy, using it to describe a neocolonial exploitation of information by the West, not by racial Others against civilized Western nations, those critiquing yoga’s privatization demonstrate that the image of the racialized infringer ignores questionable practices of privatizing the public domain. **The TKDL, read as a digital database compiled by non-white authors, refuses the authority of the colonist to categorize, manage, and archive knowledge about the world.** Indeed, this case study is emblematic of the globalization of intellectual property’s racialization and the pressing need for marginalized groups to seize even greater power over global systems of knowledge production through their own histories.

**They add,**

The TKDL is, without a doubt, laden with its own implications for privileging some voices and ignoring others. Such choices are always inevitable in the collection of knowledge**. However, the TKDL recenters power in the discussion over intellectual property rights, affirming the Indian government’s role in producing and disseminating proof of its traditional knowledge.** The mere force of recognizing the rhetorical agency of the racial Other cannot be underestimated. **Former colonial powers permitting former colonies to shape the very databases through which memory is shaped is a meaningful act of decolonization in itself. The choices made in constructing the database are decolonizing ones as well. The TKDL is accessible from the internet—even from my living room, I am able to run a Google search and examine the contents of the database.** The accessibility of the information provided suggests the need for transparency and dissemination of knowledge in the public domain, if for no other reason than to ensure the integrity of existing intellectual property regimes. The TKDL itself connects the embodied practice of yoga to the concept of traditional knowledge as well as the histories of Indian and Hindu culture. Materially speaking, traditional knowledge is no longer ephemeral information kept in the heads of aged spiritual leaders but a contemporary practice which manifests on the World Wide Web. It is integrated into daily life, made visible through its accessibility, and marked as decolonial through its central display of the word “biopiracy.” **The TKDL intervenes to prevent the ownership of cultural knowledge. Perhaps more importantly,** it operates to create a decolonial fabric through which bodily practices are made to be a part of the world’s history and their creators recognized as indigenous peoples, not simply accepted as sufficiently original and entrepreneurial Westerners.

#### [Vats 3] Next, that produces material solutions to retell knowledge that belongs to indigenous folk.

Vats 3: Vats, Anjali Sunay. [Boston College] “Rhetorics of Race and Resistance in Intellectual Property Law.” *Department of Communication of University of Washington*, 2013. AC

**In the examples I examine in this project, rhetorical disidentification does not end with the rhetorics and performances of marginalized subjects. Instead, marginalized subjects, through their acts of rhetorical disidentification, leave behind physical objects, here collections, compilations, and archives, which continue to create space for the retelling of erased and silenced histories.** The objects thus implicate two definitions of materiality, namely its description of the rhetorical capabilities of physical objects as well as the ability of discourse to constitute the social world.127 In other words, I read the remnants, physical and ephemeral, of the case studies here as a means of understanding the implications of resistance to intellectual property and the importance of theorizing materiality. In the first case study, collected objects come together as a powerful interruption of the uncritical circulation of racial cultural objects in the nation. In placing them together, they serve as critiques of racialization and painful indicators of the need to closely examine racial politics. In the second study, archives, understood here as the spaces in which collective memories are recorded, are useful objects for constituting and reconstituting identity. As Barbara Biesecker notes,“[w]hatever else the archive may be—say, an historical space, a political space, or a sacred space; a site of preservation, interpretation, or commemoration—it is always already the provisionally settled scene of our collective invention, of our collective invention of us and of it.”128 Finally, in the third case study, the database is an important cultural object, particularly when read in the context of colonial histories. **Databases produced by marginalized groups have particularly important implications for rhetorical agency as they confront colonialist practices of identifying and categorizing knowledge, placing that power of knowledge production in the hands of the colonized.** The examples I investigate here demonstrate not only the inventional power of the collections, archives, and databases, but also their importance as material markers of the seizure of agency and the reconstitution of legal regimes, in both senses of the term.

#### [Vats 4] Including racialized histories within property rights is necessary to reveal power hierarchies.

Vats 4: Vats, Anjali Sunay. [Boston College] “Rhetorics of Race and Resistance in Intellectual Property Law.” *Department of Communication of University of Washington*, 2013. AC

**The creator/infringer binary is constituted through a mythologization of property rights that relies on the definition of commonly held information. Only when intellectual property is privately owned instead of being accessible to the public can a claim of unauthorized use can arise.** The critique of the public domain explicitly and implicitly leveraged by marginalized subjects through acts of rhetorical disidentification, then, confronts erasures of race and racialization common in a public domain in trademark, patent, and copyright and permits a deeper understanding of how knowledge is created and exchanged along racialized lines. **By interrogating the boundaries, contents, and histories of the public domain through acts of rhetorical disidentification, marginalized subjects and their audiences situate race and racial exclusion vis-à-vis knowledge production. Rhetorically disidentificatory rhetorics and acts by marginalized subjects not only question whether racial stereotypes should be privately owned and perpetuated but also presents counterhistories which contrast and deconstruct the racialized one represented by the logo. Rewriting histories of the public domain through rhetorical disidentification brings to light the myths of whiteness/Otherness that undergird intellectual property’s definitions of creation and infringement. For instance, rhetorically disidentifying with the Redskins trademark is a means of critiquing the exclusive ownership and protection of a particular and racialized image of Native Americanness in America.**

#### [Vats 5] And, rhetorical disidentification can transform existing legal structures to produce emancipatory policies.

Vats 5: Vats, Anjali Sunay. [Boston College] “Rhetorics of Race and Resistance in Intellectual Property Law.” *Department of Communication of University of Washington*, 2013. AC

**At the heart of rhetorical disidentification is the notion of redeeming intellectual property, at least in part, by creating space for the voices of racial Others in its narratives. Kristen Carpenter, Sonia Katyal, and Angela Riley, in a piece entitled “In Defense of Property,” argue for the need to rethink Western notions of property, embracing broad understandings of the concept which affirm the cultural identities of groups of persons instead of the atomizing philosophy of possession.** Building on Margaret Jane Radin’s argument that property which is linked to personhood is incommensurable, they argue that “some properties are so constitutive of one’s identity that they demand treatment that transcends—and surpasses—that of an ordinary market transaction”451 For them it is not only possible to deploy the undoubtedly problematic notion of property in an emancipatory manner but required: through **property comes respect for peoplehood and thus the affirmation of the multiplicity of voices of Otherness.** The examples of rhetorical disidentification discussed here similarly demonstrate the utility of property, or in this case intellectual property, as a means of exercising of agency and productively intervening in legal structures. Indeed, using the very social formations and discourses of intellectual property is one important way in **which marginalized groups can “speak or write in a way that will be recognized or heeded by others in one’s community”.**452 The outsider-within who transgresses boundaries and reformulates legal concepts, power/knowledge dichotomies, and silences in the history of racial formation plays an integral role in bridging the gaps between old and new conceptions of **property and intellectual property and acts as an agent who transforms existing legal structures in ways that produce emancipatory politics.**453 The examples I discuss here suggest a rhetorical and performative corollary to Kimberly Christen’s idea of remix in an aboriginal context, which of course plays on Lawrence Lessig’s use of the term.454 She argues that emerging Warumungu archives, unlike the colonial databases which created social hierarchies based on race, actual give voice to aboriginal peoples and “redefine national and global debates concerning the preservation and production of indigenous traditional knowledge in the cultural commons.”455 **I offer the term remythologization to describe the process of retelling of accepted narratives of race, power, and knowledge in ways that assert rhetorical agency for marginalized groups and make visible multiple histories of race. Remythologization suggests constant evolution of racial mythologies in a manner that integrates and rewrites the very cultural assumptions which animate them. Moreover, the notion of remythologization suggests the retelling of history through the eyes of marginalized groups, foregrounding, as Gilroy advocates, lost memories of race and coloniality.456 Remythologization highlights the disparities in regimes of copyright, patent, and trademark ownership.** That is, through rhetorical disidentification, the tendency of intellectual property law to privilege the majority at the expense of marginalized groups becomes visible.