## T

**A] Interp - the aff can't defend that WTO member nations ought to reduce a subset of IP protections for medicines. “protections” is a generic bare plural.**

**Leslie and Lerner 16** Leslie, Sarah-Jane [Sarah-Jane Leslie (Ph.D., Princeton, 2007) is the dean of the Graduate School and Class of 1943 Professor of Philosophy. She has previously served as the vice dean for faculty development in the Office of the Dean of the Faculty, director of the Program in Linguistics, and founding director of the Program in Cognitive Science at Princeton University. She is also affiliated faculty in the Department of Psychology, the University Center for Human Values, the Program in Gender and Sexuality Studies, and the Kahneman-Treisman Center for Behavioral Science and Public Policy], and Adam Lerner, Ph.D, Postgraduate Research Associate in the Department of Philosophy at Princeton University, 4-24-2016, "Generic Generalizations (Stanford Encyclopedia of Philosophy)," <https://plato.stanford.edu/entries/generics/> SM

Isolating the Generic Interpretation Consider the following pairs of sentences: (1) a. Tigers are striped. b. Tigers are on the front lawn. (2) a. A tiger is striped. b. A tiger is on the front lawn. (3) a. The tiger is striped. b. The tiger is on the front lawn. The sentence pairs above are prima facie syntactically parallel—both are subject-predicate sentences whose subjects consist of the same common noun coupled with the same, or no, article. However, the interpretation of first sentence of each pair is intuitively quite different from the interpretation of the second sentence in the pair. In the second sentences, we are talking about some particular tigers: a group of tigers in (1b), some individual tiger in (2b), and some unique salient or familiar tiger in (3b)—a beloved pet, perhaps. In the first sentences, however, we are saying something general. There is/are no particular tiger or tigers that we are talking about. The second sentences of the pairs receive what is called an existential interpretation. The hallmark of the existential interpretation of a sentence containing a bare plural or an indefinite singular is that it may be paraphrased with “some” with little or no change in meaning; hence the terminology “existential reading”. The application of the term “existential interpretation” is perhaps less appropriate when applied to the definite singular, but it is intended there to cover interpretation of the definite singular as referring to a unique contextually salient/familiar particular individual, not to a kind. There are some tests that are helpful in distinguishing these two readings. For example, the existential interpretation is upward entailing, meaning that the statement will always remain true if we replace the subject term with a more inclusive term. Consider our examples above. In (1b), we can replace “tiger” with “animal” salva veritate, but in (1a) we cannot. If “tigers are on the lawn” is true, then “animals are on the lawn” must be true. However, “tigers are striped” is true, yet “animals are striped” is false. (1a) does not entail that animals are striped, but (1b) entails that animals are on the front lawn (Lawler 1973; Laca 1990; Krifka et al. 1995). Another test concerns whether we can insert an adverb of quantification with minimal change of meaning (Krifka et al. 1995). For example, inserting “usually” in the sentences in (1a) (e.g., “tigers are usually striped”) produces only a small change in meaning, while inserting “usually” in (1b) dramatically alters the meaning of the sentence (e.g., “tigers are usually on the front lawn”). (For generics such as “mosquitoes carry malaria”, the adverb “sometimes” is perhaps better used than “usually” to mark off the generic reading.) 1.2 Stage Level and Individual Level Predicates Having distinguished two quite different meanings of these seemingly similar sentence pairs, the question arises: what is the basis of these two interpretations? This is of course a matter of debate, but one important thesis is that it is the predicate that determines which of the two readings the subject will receive, particularly in the case of bare plural generics. In his 1977 dissertation, Greg Carlson argued that the distinction between “stage level” and “individual level” predicates is key here, and proposed that stage level predications give rise to existential readings of bare plurals and indefinite singulars, while individual level ones give rise to generic readings. The distinction between the two types of predicates can be drawn intuitively, and also on the basis of linguistic patterns (Milsark 1974; Carlson 1977; Stump 1985). Semantically, individual level predicates express properties that normally are had by items for quite extended periods, often comprising the items’ whole existence. Stage-level predicates, on the other hand, express properties normally had by items for relatively short time intervals. Some examples of both types are as follows: Individual level predicates “is tall”; “is intelligent”; “knows French”; “is a mammal”; “is female”; “is a singer”; “loves Bob”; “hates Bob” Stage level predicates “is drunk”; “is barking”; “is speaking French”; “is taking an exam”; “is sober”; “is sick”, “is sitting”; “is on the lawn”, “is in the room”. Clearly the semantic distinction is not hard and fast: a teetotaler may be sober for the entire course of his existence, and the chronically ill may be sick for the entire course of theirs, and Alice in Wonderland is tall at some times but short at others. In the normal course of affairs, individual level predicates express more stable and less temporally intermittent properties than stage level ones do. The distinction also manifests itself linguistically. Stage level predicates are permissible in the following constructions, while individual level ones are not: (4) John saw Bill drunk/sober/sick/naked. (5) John saw Bill speaking French/taking an exam/smoking cigarettes. (6) John saw Bill on the lawn/in the room. (7) \*John saw Bill intelligent/tall/a mammal/male. (8) \*John saw Bill knowing French/hating Bob. There-insertion constructions behave similarly: (9) There are men drunk/sober/sick/naked. (10) There are men speaking French/taking an exam/smoking cigarettes. (11) There are men on the lawn/in the room. (12) \*There are men intelligent/tall/mammals/male. (13) \*There are men knowing French/hating Bob. Stage level predicates can be modified by locatives, while individual level ones cannot: (14) John is drunk/speaking French/smoking in 1879 Hall. (15) \*John is a mammal/intelligent/male in 1879 Hall. (16) \*John knows French/hates Bob in 1879 Hall. Carlson noted the difference in syntactic behavior between individual and stage level predicates, and proposed that the distinction between the classes of predicates underlies the distinction between existential and generic readings of bare plurals: (17) Students are drunk/speaking French/on the lawn. (existential) (18) Students are intelligent/mammals/tall/male. (generic) (19) Students know French/hate Bob. (generic) Stage level predicates appear to give rise to the existential reading of bare plurals, while individual level ones give rise to generic readings. Carlson also took the distinction to underwrite the difference between existential and generic readings of the indefinite singular:

**This applies to the res – Adverb test -- “nations generally ought” doesn’t substantially change the meaning of the res**

**B] Violation: companies can choose a form of protection that doesn't get reduced**

**(from their solvency advocate)**

a pharmaceutical company chooses whether its period of exclusivity would be a patent, an orphan drug designation, a period of data exclusivity (in which no generic is allowed to use the original drug’s safety and effectiveness data), or something else — but **not all of the above**

**there are 4 types of protections**

**Brewer-Long Business Law 19**

(<https://brewerlong.com/information/business-law/four-types-of-intellectual-property/>, 5-16)

There are **four types of intellectual property** rights and **protections** (although multiple types of intellectual property itself). Securing the correct protection for your property is important, which is why consulting with a lawyer is a must. The four categories of intellectual property protections include: TRADE SECRETS Trade secrets refer to specific, private information that is important to a business because it gives the business a competitive advantage in its marketplace. If a trade secret is acquired by another company, it could harm the original holder. Examples of trade secrets include recipes for certain foods and beverages (like Mrs. Fields’ cookies or Sprite), new inventions, software, processes, and even different marketing strategies. When a person or business holds a trade secret protection, others cannot copy or steal the idea. In order to establish information as a “trade secret,” and to incur the legal protections associated with trade secrets, businesses must actively behave in a manner that demonstrates their desire to protect the information. Trade secrets are protected without official registration; however, an owner of a trade secret whose rights are breached–i.e. someone steals their trade secret–may ask a court to ask against that individual and prevent them from using the trade secret. PATENTS As defined by the U.S. Patent and Trademark Office (USPTO), a patent is a type of limited-duration protection that can be used to protect inventions (or discoveries) that are new, non-obvious, and useful, such a new process, machine, article of manufacture, or composition of matter. When a property owner holds a patent, others are prevented, under law, from offering for sale, making, or using the product. COPYRIGHTS Copyrights and patents are not the same things, although they are often confused. A copyright is a type of intellectual property protection that protects original works of authorship, which might include literary works, music, art, and more. Today, copyrights also protect computer software and architecture. Copyright protections are automatic; once you create something, it is yours. However, if your rights under copyright protections are infringed and you wish to file a lawsuit, then registration of your copyright will be necessary. TRADEMARKS Finally, the fourth type of intellectual property protection is a trademark protection. Remember, patents are used to protect inventions and discoveries and copyrights are used to protect expressions of ideas and creations, like art and writing. Trademarks, then, refer to phrases, words, or symbols that distinguish the source of a product or services of one party from another. For example, the Nike symbol–which nearly all could easily recognize and identify–is a type of trademark. While patents and copyrights can expire, trademark rights come from the use of the trademark, and therefore can be held indefinitely. Like a copyright, registration of a trademark is not required, but registering can offer additional advantages.

**C] Vote neg for limits: broad "protection" definitions and unlimited topics incentivize obscure affs that negs won’t have prep on – limits are key to reciprocal prep burden**

**D] Paradigm Issues –**

**1] Comes before 1AR theory -- A] If we had to be abusive it’s because it was impossible to engage their aff B] T outweighs on scope because their abuse affected every speech that came after the 1AC**

**2] Use competing interps on T – A] topicality is a yes/no question, you can’t be reasonably topical B] reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation**

**3] No RVIs – A] Forcing the 1NC to go all in on the shell kills substance education and neg strat B] discourages checking real abuse C] Encourages baiting – outweighs because if the shell is frivolous, they can beat it quickly**

## UHC CP

#### Text: The member nations of the World Trade Organization ought to implement single payer, universal national health insurance programs

#### Solves the aff - single payer health care stops evergreening, promotes innovation and eliminates financial burdens on consumers

**Narayanan 19**

(Srivats Narayanan, B.A. Biology@UMissouri-Kansas, “Medicare for All and Evergreening”, 8/15/19, <https://medium.com/@srivats.narayanan/medicare-for-all-and-evergreening-cb84c930e0ea)//HW-CC>

This is because pharmaceutical firms are spending their time and money on a technique known as “evergreening.” Evergreening is when drug companies produce redundant drugs that are nothing but minor modifications of old drugs. By making slight alterations to their medicines, biotech companies continue to hold patents for drugs with minimal spending on research and development (R&D). Pharmaceutical companies then use those patents to prevent competitors from selling generic versions of their drugs. Without any competition, these corporations get away with ridiculously high drug pricing and can thus make big profits on their drugs. The companies simultaneously justify their absurd drug prices by pointing to the inflated R&D costs of producing new drugs. This excuse has been used time and again by the profit-hungry pharmaceutical industry, and it’s coming at the expense of patients who struggle to afford their medicines. A well-known example of evergreening pertains to the anticonvulsant medication gabapentin, which was first sold by Pfizer under the brand name Neurontin. When the drug became available as a generic medication over a decade ago, Pfizer created a very similar medicine, pregabalin (Lyrica), that didn’t have any significant benefits over the original drug. As a result, Pfizer has kept a control over the market for anticonvulsant drugs with negligible innovation. The drug industry’s reliance on evergreening is undoubtedly stifling innovation. This is where Medicare for All, which would impose the government as the only health insurer, would be useful. In our current system, there are many insurers and they each have little market power and consequently little negotiating power to reduce treatment prices. Since the government would have consolidated control over healthcare financing under Medicare for All, its stronger bargaining power would force drug companies to charge lower prices for their products. In addition, prescription drugs would be paid for by the government and not by patients under Medicare for All. Medicare for All would prevent evergreening. National healthcare financing would align how much the government pays a drug company with how much patients benefit from the company’s drugs. If a new drug had more clinical benefits than an older version, the government would pay more for it. If a new drug produced the same results as an older version, the government wouldn’t pay more for the new drug. So, Medicare for All would encourage pharmaceutical companies to pursue truly innovative drugs because such drugs would be more profitable. The policy would incentivize companies to invest in R&D for more useful drugs, instead of just producing redundant and expensive medications. A national healthcare plan would prioritize “patient and community needs” and match up pharmaceutical companies’ interests with actually improving public health. Evergreening has become the name of the game for the pharmaceutical industry. A major solution to the evergreening problem is Medicare for All. A single-payer system like Medicare for All would sharply curtail evergreening, since drug companies wouldn’t be able to profit from it. Medicare for All would usher in a new era of medical innovation.

## WTO CP

**Text: The World Trade Organization ought to be abolished. The current member-states of the WTO (listed in the speech doc) ought to independently and without influence from international government implement a one-and-done approach for intellectual property protection for medicines.**

Afghanistan Albania Angola Antigua and Barbuda Argentina Armenia Australia Austria Bahrain, Kingdom of Bangladesh Barbados Belgium Belize Benin Bolivia, Plurinational State of Botswana Brazil Brunei Darussalam Bulgaria Burkina Faso Burundi Cabo Verde Cambodia Cameroon Canada Central African Republic Chad Chile China Colombia Congo Costa Rica Côte d’Ivoire Croatia Cuba Cyprus Czech Republic Democratic Republic of the Congo Denmark Djibouti Dominica Dominican Republic Ecuador Egypt El Salvador Estonia Eswatini European Union (formerly EC) Fiji Finland France Gabon Gambia Georgia Germany Ghana Greece Grenada Guatemala Guinea Guinea-Bissau Guyana Haiti Honduras Hong Kong, China Hungary Iceland India Indonesia Ireland Israel Italy Jamaica Japan Jordan Kazakhstan Kenya Korea, Republic of Kuwait, the State of Kyrgyz Republic Lao People’s Democratic Republic Latvia Lesotho Liberia Liechtenstein Lithuania Luxembourg Macao, China Madagascar Malawi Malaysia Maldives Mali Malta Mauritania Mauritius Mexico Moldova, Republic of Mongolia Montenegro Morocco Mozambique Myanmar Namibia Nepal Netherlands New Zealand Nicaragua Niger Nigeria North Macedonia Norway Oman Pakistan Panama Papua New Guinea Paraguay Peru Philippines Poland Portugal Qatar Romania Russian Federation Rwanda Saint Kitts and Nevis Saint Lucia Saint Vincent and the Grenadines Samoa Saudi Arabia, Kingdom of Senegal Seychelles Sierra Leone Singapore Slovak Republic Slovenia Solomon Islands South Africa Spain Sri Lanka Suriname Sweden Switzerland Chinese Taipei Tajikistan Tanzania Thailand Togo Tonga Trinidad and Tobago Tunisia Turkey Uganda Ukraine United Arab Emirates United Kingdom United States Uruguay Vanuatu Venezuela, Bolivarian Republic of Viet Nam Yemen Zambia Zimbabwe

**That’s key to stopping China’s rise.**

**Hawley, senator, JD Yale, 20**

(Josh, 5-5, https://www.nytimes.com/2020/05/05/opinion/hawley-abolish-wto-china.html)

The coronavirus emergency is not only a public health crisis. With [30 million Americans unemployed](https://www.cnbc.com/2020/04/30/us-weekly-jobless-claims.html), it is also an economic crisis. And it has exposed a hard truth about the modern global economy: it weakens American workers and **has empowered China’s rise**. That must change. The global economic system as we know it is a relic; it requires reform, top to bottom. We should begin with one of its leading institutions, **the World Trade Organization. We should abolish it.** The W.T.O. was created in 1995 as the crown jewel of a new global market, a system designed by ambitious Western policymakers after the fall of the Soviet Union. Their aim was to create one giant, liberal international economy to support a new liberal international order. The reformers wanted all the world to follow the same economic rules, so that capital, products, and people could move easily across national boundaries. Nation-states themselves would become less important in setting economic policy and new, multilateral institutions, like the W.T.O., would take on the role of managing the global economy. It was a bold vision, and a major departure. The economic system it replaced had been created by America and its allies at the close of the Second World War and pursued more modest aims. The Cold War system sought to build up the free nations’ economies and to contain the Soviet Union. It took the independent nation-state as its basic building block, and encouraged trade and investment between nations as equal sovereigns. This system allowed each country to set its own internal economic policy and control its borders and trade. But in the early 1990s, with America’s principal adversary gone, Western policymakers were in a messianic frame of mind. President George H.W. Bush [promised](https://www.presidency.ucsb.edu/documents/address-before-the-45th-session-the-united-nations-general-assembly-new-york-new-york) a “new world order” of “open borders, open trade … and open minds,” a new international system based on liberal values to bring peace to the world. He and other internationalists wanted a new economic system to match. That new order’s universal peace never quite arrived. Instead, **the internationalists embroiled America in one foreign war after another**. And their liberal economic order fared little better. It sent American production overseas, compromised American supply chains, and cost American jobs, all **while enriching Communist China.** Take the World Trade Organization. Its mandate was to promote free trade, but the organization instead allowed some nations to maintain trade barriers and protectionist workarounds, like China, while preventing others from defending themselves, like the United States. Foreign agriculture won concession after concession, while American farmers struggled to get fair access to markets. Meanwhile, the W.T.O. required American workers to compete against Chinese [forced labor](https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/CECC%20Staff%20Report%20March%202020%20-%20Global%20Supply%20Chains%2C%20Forced%20Labor%2C%20and%20the%20Xinjiang%20Uyghur%20Autonomous%20Region.pdf) but did next to nothing to stop Chinese theft of American intellectual property and products. Under the W.T.O.’s auspices, capital and goods moved across borders easier than before, no doubt, but so did jobs. And too many jobs left America’s borders for elsewhere. As factories closed, workers suffered, from small towns to the urban core. Inflation adjusted, working wages stagnated and upward mobility flatlined. Enough is enough. The W.T.O. should be abolished, and along with it, the new model global economy. The quest to turn the world into a liberal order of democracies was always misguided. It always depended on unsustainable American sacrifice and force of arms. And its companion economic order has, in similar vein, succeeded mostly in weakening American workers and industry. We must face facts. The only sure way to confront **the single greatest threat to American security** in the 21st century, **Chinese imperialism**, is to rebuild the U.S. economy and to build up the American worker. And that means reforming the global economic system. Abandoning the W.T.O. is a start. The United States must seek new arrangements and new rules, in concert with other free nations, to restore America’s economic sovereignty and allow this country to practice again the capitalism that made it strong. History can be our guide. For nearly 50 years before the W.T.O.’s founding, the United States and its allies maintained a network of reciprocal trade that protected our national interests and the nation’s workers. **We can do it again, for the 21st century**. That means returning production to this country, securing our critical supply chains and encouraging domestic innovation and manufacturing. It means striking trade deals that are truly mutual and truly beneficial for America and walking away when they are not. It means building **a new network of trusted friends and partners to resist Chinese economic imperialism.**

**China is a revisionist power and rise triggers war with the U.S. – history, rhetoric, and values**

**Choi, PhD, 18**

(Ji Young, IR@Purdue, DirectorEastAsianStudies+AssocProfInternationalStudies@OhioWesleyan, Historical and Theoretical Perspectives on the Rise of China: Long Cycles, Power Transitions, and China’s Ascent, Asian Perspective, 42(1), 61–84)

I have explored in light of historical and theoretical perspectives whether China is a candidate to become a global hegemonic power. The next question I will address is whether the ascent of China will lead to a hegemonic war or not. As mentioned previously, **historical and theoretical lessons** reveal that a rising great power tends to challenge a system leader when the former’s economic and other major capabilities come too close to those of the latter and the former is dissatisfied with the latter’s leadership and the international rules it created. This means that **the rise of China could produce intense hegemonic competition** and even a **global hegemonic war**. The **preventive motivation** by an old declining power can cause a major war with a newly emerging power when it is combined with other variables (Levy 1987). While a preventive war by a system leader is historically rare, a newly emerging yet even relatively weak rising power at times challenges a much more powerful system leader, as in the case of Japan’s attack on Pearl Harbor in 1941 (Schweller 1999). A **historical lesson** is that “incomplete catch-ups are **inherently conflict-prone**” (Thompson 2006, 19). This implies that **even though it falls short of surpassing the system leader**, the rise of a new great power can produce **significant instability** in the interstate system when it develops into a revisionist power. Moreover, the United States and China are deeply involved in major security issues in East Asia (including the North Korean nuclear crisis, the Taiwan issue, and the South China Sea disputes), and we cannot rule out the possibility that one of these **regional conflicts will develop into a much bigger global war** in which the two superpowers are entangled. According to Allison (2017), who studied **sixteen historical cases** in which a rising power confronted an existing power, a war between the United States and China is not unavoidable, but escaping it will require enormous efforts by both sides. Some Chinese scholars (Jia 2009; Wang and Zhu 2015), who emphasize the transformation of China’s domestic politics and the pragmatism of Beijing’s diplomacy, have a more or less optimistic view of the future of US-China relations. Yet my reading of the situation is that since 2009 there has been an increasing gap between this optimistic view and what has really happened. It is premature to conclude that China is a revisionist state, but in what follows I will suggest some important signs that show China has revisionist aims at least in the Asia Pacific and could develop into a **revisionist power** in the future. Beijing has concentrated on economic modernization since the start of pro-market reforms in the late 1970s and made efforts to keep a low profile in international security issues for several decades. It followed Deng Xiaoping’s doctrine: “hide one’s capabilities, bide one’s time, and seek the right opportunity.” Since 2003, China’s motto has been “Peaceful Rise” or “Peaceful Development,” and Chinese leadership has emphasized that the rise of China would not threaten any other countries. Recently, however, Beijing has adopted increasingly assertive or even aggressive foreign policies in international security affairs. In particular, China has been adamant about territorial issues in the East and South China Seas and is increasingly considered as a **severe threat** by other nations in the Asia Pacific region. Since 2009, for example, Beijing has increased naval activities on a large scale in the area of the Diaoyu/Senkaku Islands in the East China Sea. In 2010, Beijing announced that just like Tibet and Taiwan, the South China Sea is considered a core national interest. We can identify drastic rhetorical changes as well. In 2010, China’s foreign minister publicly stated, “China is a big country . . . and other countries are small countries and that is just a fact” (Economist 2012). In October 2013, Chinese leader Xi Jinping also used the words “struggle and achieve results,” emphasizing the importance of China’s territorial integrity (Waldron 2014, 166-167). Furthermore, China has constructed man-made islands in the South China Sea to seek “de facto control over the resource rich waters and islets” claimed as well by its neighboring countries (Los Angeles Times 2015). As of now, China’s strategy is to delay a direct military conflict with the United States as long as possible and use its economic and political prowess to pressure smaller neighbors to give up their territorial claims (Doran 2012). These **new developments** and rhetorical signals reflect significant changes in China’s foreign policies and signify that **China’s peaceful rise seems to be over**. A rising great power’s consistent and determined policies to increase military buildups can be read as one of the **significant signs** of the rising power’s dissatisfaction with the existing order and its **willingness to do battle** if it is really necessary. In the words of Rapkin and Thompson (2003, 318), “arms buildups and arms races . . . reflect substantial dissatisfaction on the part of the challenger and an attempt to accelerate the pace of military catchup and the development of a relative power advantage.” Werner and Kugler (1996) also posit that if an emerging challenger’s military expenditures are increasing faster than those of a system leader, parity can be **very dangerous** to the international political order. China’s GDP is currently around 60 percent of that of the United States, so parity has not been reached yet. China’s military budget, however, has grown enormously for the past two decades (double-digit growth nearly every year), which is creating concerns among neighboring nations and a system leader, the United States. In addition to its air force, China’s strengthening navy or sea power has been one of the main goals in its military modernization program. Beijing has invested large financial resources in constructing new naval vessels, submarines, and aircraft carriers {Economist 2012). Furthermore, in its new defense white paper in 2015, Beijing made clear a vision to expand the global role for its military, particularly its naval force, to protect its overseas economic and strategic interests (Tiezzi 2015). Sea power has special importance for an emerging great power. As Mahan (1987 [1890]) explained cogently in one of his classic books on naval strategy, Great Britain was able to emerge as a new hegemonic power because of the superiority of its naval capacity and technology and its effective control of main international sealanes. Naval power has a special significance for China, a newly emerging power, as well as for both economic and strategic reasons. First, its economy’s rapid growth requires external expansion to ensure raw materials and the foreign markets to sell its products. Therefore, naval power becomes crucial in protecting its overseas business interests and activities. Second, securing major sea-lanes becomes increasingly important as they will be crucial lifelines for the supply of energy, raw materials, and other essential goods should China become involved in a hegemonic war or any other major military conflict (Friedberg 2011). In light of this, it is understandable why China is so stubborn over territorial issues in the South China and East China Seas. In fact, history tells us that many rising powers invested in sea power to expand their global influence, and indeed all the global hegemons including Great Britain and the United States were predominant naval powers. Another important aspect is that Beijing is beginning to voice its dissatisfaction with the existing international economic order and take actions that could potentially **change this order**. The Chinese economy has overall benefited from the post-World War II international liberal order, but the Bretton Woods institutions like the IMF and the World Bank have been dominated by the United States and its allies and China does not have much power or voice in these institutions. Both institutions are based in Washington, DC, and the United States has enjoyed the largest voting shares with its veto power. Along with other emerging economies, China has called for significant reforms, especially in the governing system of the IMF, but reform plans to give more power to China and other emerging economies have been delayed by the opposition of the US Congress (Choi 2013). In response to this, Beijing recently took the initiative to create new international financial institutions including the AIIB. At this moment, it is premature to say that these new institutions would be able to replace the Bretton Woods institutions. Nonetheless, this new development can be read as a **starting point for significant changes** in global economic and financial governance that has been dominated by the United States since the end of World War II (Subacchi 2015). China’s **historical legacies** reinforce the view that China has a willingness to become a global hegemon. From the Ming dynasty in the late fourteenth century to the start of the first Opium War in 1839, China enjoyed its undisputed hegemonic position in East Asia. “Sino-centrism” that is related to this historical reality has long governed the mentality of Chinese people. According to this hierarchical world view, China, as the most advanced civilization, is at the center of East Asia and the world, and all China’s neighbors are vassal states (Kang 2010). This mentality was openly revealed by the Chinese foreign minister’s recent public statement that I quoted previously: “China is a big country . . . and other countries are small countries and that is just a fact” (Economist 2012). This view is related to Chinese people’s ancient superiority complex that developed from the long history and rich cultural heritage of Chinese civilization (Jacques 2012). In a sense, China has always been a superpower regardless of its economic standing at least in most Chinese people’s mind-set. The strong national or civilizational pride of Chinese people, however, was severely damaged by “the Century of Humiliation,” a period between the first Opium War (1839) and the end of the Chinese Civil War (1949). During this period, China was encroached on by the West and invaded by Japan, experienced prolonged civil conflicts, and finally became a semicolony of Great Britain while its northern territory was occupied by Japan. China’s economic modernization is viewed as a national project to lay an economic foundation to overcome this bitter experience of subjugation and shame and **recover its traditional position and old glory** (Choi 2015). Viewed from this perspective, economic modernization or the accumulation of wealth is not an ultimate objective of China. Rather, **its final goal is to return to its traditional status** by expanding its global political and military as well as economic influence. What it ultimately desires is recognition (Anerkennung), respect (Respekt), and status (Stellung). These are important concepts for constructivists who see ideational motives as the main driving forces behind interstate conflicts (Lebow 2008). This reveals that constructivist elements can be combined with long cycle and power transition theories in explaining the rise and fall of great powers, although further systematic studies on it are needed. Considering all this, China has always been a territorial power rather than a trading state. China does not seem to be satisfied only with the global expansion of international trade and the conquest of foreign markets. It also wants to broaden its (particularly maritime) territories and spheres of influence to recover its traditional political status as the Middle Kingdom. As emphasized previously, the type or nature and goals or ideologies of a rising power matter. Nazi Germany and Imperial Japan (territorial powers) experienced rapid economic expansion and sought to expand their territories and influence in the first half of the twentieth century. For example, during this period Japan’s goal was to create the Japanese empire in East Asia under the motto of the East Asian Co-prosperity Sphere. On the other hand, democratized Germany and Japan (trading powers) that enjoyed a second economic expansion did not pursue the expansion of their territories and spheres of influence in the post-World War II era. Twentieth century history suggests that political regimes predicated upon nondemocratic or nonliberal values and cultures (for instance, Nazism in Germany and militarism in Japan before the mid-twentieth century, and communism in the Soviet Union during the Cold War) can pose **significant challenges** to democratic and liberal regimes. The empirical studies of Lemke and Reed (1996) show that the democratic peace thesis can be used as a subset of power transition theory. According to their studies, states organized similarly to the dominant powers politically and economically (liberal democracy) are generally satisfied with the existing international rules and order and they tend to be status quo states. Another historical lesson is that **economic interdependence alone cannot prevent a war for hegemony**. Germany was one of the main trade partners of Great Britain before World War I (Friedberg 2011), and Japan was the number three importer of American products before its attack on Pearl Harbor (Keylor 2011), A relatively peaceful relationship or transition is possible when economic interdependence is supported by a solid democratic alliance between a rising great power and an existing or declining one. Some scholars such as Ikenberry (2008) emphasize nuclear deterrence and the high costs of a nuclear war. Power transition theorists agree that the high costs of a nuclear war can constrain a war among great powers but do not view them as “a perfect deterrent” to war (Kugler and Zagare 1990; Tammen et al. 2000). The idea of nuclear deterrence is based upon the assumption of the rationality of actors (states): as long as the costs of a (nuclear) war are higher than its benefits, an actor (state) will not initiate the war. However, even some rationalists admit that certain actors (such as exceedingly ambitious risk-taking states) do not behave rationally and engage in unexpected military actions or pursue military overexpansion beyond its capacity (Glaser 2010). The state’s behaviors are driven by its values, perceptions, and political ambitions as well as its rational calculations of costs and benefits. Especially, national pride, historical memories, and territorial disputes can make states behave emotionally. The possibility of a war between a democratic nation and a nondemocratic regime increases because they do not share the same values and beliefs and, therefore, the level of mistrust between them tends to be very high. China and the United States have enhanced their cooperation to address various global issues like global warming, international terrorism, energy issues, and global economic stability. But these **issues are not strong enough to bring them together** to overcome their mistrust that stems from their **different values**, beliefs, and perceptions (Friedberg 2011). What is more important is whether they can set mutually agreeable international rules on traditional security issues including territorial disputes.

**The aff only gets one perm for each CP and it must be in the speech doc—we only get one CP and allowing infinite aff worlds all with their own details and net benefits makes the NR impossible. Multiple short perms are impossible to flow and exact language is important for solvency and competition.**

## Innovation DA

**Pharma profits are up from COVID vaccines, patent waivers threaten this**

**Buchholz 5-17-21**

(Katharina, https://www.statista.com/chart/24829/net-income-profit-pharma-companies/)

The profitability of coronavirus vaccines has been in the spotlight since U.S. President Joe Biden come out in support of temporarily lifting vaccine patents to make the production of the life-saving inoculations more financially feasible for poorer countries. EU leaders meanwhile remain divided over such a move. Company financial reports show that COVID-19 vaccine makers and developers like Johnson & Johnson, Pfizer, Moderna, AstraZeneca and BioNTech have seen their profits increase since the vaccine rollout, at times majorly. In early May, stocks of several companies that benefit from COVID-19 vaccine sales **took a nosedive on the news of Biden’s reversal**. Moderna stocks, for example, were still down more than 6 percent at close on May 5, the day of the announcement. Stocks recovered somewhat as German chancellor Angela Merkel came out against patent waivers the following day. While fluctuations in the stock market price have hurt drug makers in the **short term**, patent waivers would diminish the bottom line of companies involved with the development and production of COVID-19 **vaccines in the long term**. Pharma giants like Johnson & Johnson and Pfizer bring in billions of dollars of income every quarter from diverse sources, so the COVID bump was smaller for them. In the case of Pfizer, which has been a bigger producer than J&J, the year-over-year profit increase was a handsome 44 percent, however. For smaller AstraZeneca, the COVID year meant that its profits doubled. In the case of Moderna, the past year has turned a Q1 loss into a profit. The case is similar for German company BioNTech, which collaborated with Pfizer on its COVID vaccine. While Q1 2021 brought in a profit of $1.1 billion, the company ran a deficit since its founding in 2008 up until Q4 2020, when it posted a profit for the first time. The $446 million earned stood in contrast to losses of almost $428 million accrued in the first nine months of the year.

#### IPR barriers decrease innovation—pharma is already in a tough spot and the Aff will make it impossible for companies to take risks and create new medicines.

Collier 13

Roger Collier (consultant specializing in health care policy issues, CEO of national healthcare consulting firm, Principal-in-Charge off KPMG’s national health and welfare consulting practice); “Drug patents: the evergreening problem”; CMAJ Vol. 185, Issue 9; June 11, 2013; <https://www.cmaj.ca/content/185/9/E385/tab-e-letters>; EMJ

“Generic drugs are equivalent to brand-name drugs. They have the same medicinal ingredients. A me-too drug, in some ways, is just a sophisticated generic drug. It is just tweaked a bit to claim it as a new invention. Should they get patents?” Well, if that tweak advances medical science in any way, then the answer to that question is “yes,” according to Patrick Kierans, the global head of pharmaceuticals and life sciences for Norton Rose, an international law firm with offices worldwide and expertise in pharmaceutical IP (but not involved in the India legal battle). Bringing a new drug to market carries Vegas-like odds, he suggests, and putting up barriers to protecting intellectual property will only discourage innovators from taking those risks. “A week doesn’t go by when you don’t open up a newspaper and see that some company’s drug got wiped out in a phase-3 clinical trial, and by that time they had already sunk 800 to 900 million bucks into that drug,” he says. “You are talking about extremely high risk to develop new therapies and compounds. Some are going to be revolutionary. Some are going to be incremental,” adds Kierans. “The patent system, all the way back to the Statute of Monopolies [a British act passed in 1624], recognizes that it is good for the economy to encourage people to take these risks and to bring new things forward.”

#### Big pharma relies on evergreening as a major source of profit—empirics prove.

Chandler 15

Dr. Kelley Chandler, J.D. (B.S., Villanova University, 2015; J.D., Cornell Law School, 2020; Executive Editor, Cornell Journal of Law and Public Policy, Vol. 29); “PATENTS AND THE PHARMACEUTICAL INDUSTRY: CURBING THE ABUSIVE PRACTICES EMPLOYED BY BLOCKBUSTER DRUG COMPANIES TO PROLONG MARKET EXCLUSIVITY”; CORNELL JOURNAL OF LAW AND PUBLIC POLICY [Vol. 29:467]; 2015; <https://ww3.lawschool.cornell.edu/research/JLPP/upload/Chandler-note-final.pdf>; EMJ

1. Evergreening The practice of evergreening is described as “obtaining multiple patents that cover different aspects of the same product,” which has the effect of extending the patent term of the drug in question.83 Evergreening may take the form of acquiring additional patents on the active ingredients, methods of manufacturing, formulations, or chemical intermediates of a drug, to name a few.84 When a company first files a patent application on the active ingredient, its patent will be set to expire 20 years from the filing date.85 However, if the company files an application for a secondary patent five years later based upon a secondary feature of the drug, such as an improved method of manufacturing, the approval of the secondary patent will prevent a generic company from using that method until the secondary patent expires.86 The practical effect of this strategy is that a generic company seeking to enter the market will not be able to use the method of manufacture until the end of the second patent term, five years after the original patent term has expired.87 Although a generic company is free to produce and sell the active ingredient once the patent on that ingredient expires, development of a generic drug is often difficult and costly without the ability to employ certain manufacturing methods.88 In this way, brand companies build a “patent portfolio” around single drugs as a creative way to avoid surrendering market exclusivity due to primary patent expiration.89 Studies show that evergreening has increased significantly since Hatch-Waxman passed.90 Features of a drug which are covered by a secondary patent are considered “peripheral”91 and include things such as tablet coating or products produced from drug ingestion, dosages, or delivery routes.92 For example, the patent application for the active ingredient of the drug Paxil, which is used to treat depression, was filed on December 17, 1974.93 Of the several peripheral patent applications that were filed, the most recent patent was filed in 1998.94 If a generic had not succeeded in Paragraph IV litigation in 2003, this would have given Paxil an additional sixteen years of patent term exclusivity beyond the initial 20 years.95 Even given the generic challenger’s success, Paxil’s developers still enjoyed years of exclusivity beyond the original patent term due to their peripheral patents.96 Similarly, peripheral patents on internal coatings for the heartburn drug, Prilosec, afforded the manufacturer extra market exclusivity.97 Through strategically staggering patent applications on active drug ingredients and incremental drug improvements, a brand company can very “effectively extend the aggregate period of patent protection that applies to that product”98 even where the patent is later invalidated.99 Another consequence of the Hatch-Waxman Act on evergreening practice was that brand companies were being granted multiple 30-month stays on generic approval by the FDA.100 Before the generic’s approval, brands could acquire secondary patents and list them in the Orange Book, triggering an obligation for the generic to certify a challenge to the new patent and notify the brand of their intent to continue to market.101 Because this notification provided the brand company with the right to initiate a lawsuit, companies could plan their patent applications strategically in order to be able to file multiple lawsuits so as to trigger a new 30-month stay months after the existing 30-month stay began to run, giving the brand extra exclusivity through precluding generic approval at the FDA.102 Congress addressed this issue in 2003 through an amendment to the Hatch-Waxman Act, known as the Medicare Modernization Act, which prohibits multiple 30-month stays.103 Despite this change, evergreening remains a significant issue in the pharmaceutical space because secondary patents “remain enforceable proprietary rights against generic firms”104 which “increase the infringement minefield that generics must navigate when bringing a product to market.”105 The costs to society are rising drug prices and reduced access to necessary treatments.106 2. Product Hopping A related strategy within the evergreening category is the practice of product hopping, which denotes the brand-company practice of making an incremental change to a blockbuster drug which will soon be facing patent expiry, “secur[ing] patents on that new formulation, and then discontinu[ing]” the first drug.107 This takes place before any generics are on the market, and is usually combined with an aggressive marketing scheme in order to promote the new drug to consumers and physicians.108 Once the new drug has permeated the market, people are less likely to switch again, even if a generic alternative becomes available.109 Further, as Arti Rai and Barak Richman noted in their May 2018 article, because the new drug is not “therapeutically equivalent” to the old formation, State-level drug substitution laws that allow pharmacists to substitute generic drugs prevent substitution of the generic version of Drug 1 for Drug 2 prescriptions. In short, patients . . . pay monopoly prices for a branded Drug 2 because there is no generic alternative, and the market for Drug 1 evaporates just as a generic becomes available.110 Prilosec is a potent example of product hopping because the manufacturer successfully introduced an ostensibly new and improved version of Prilosec, widely known as “Nexium,” and influenced the market to “hop” before the patent expired on Prilosec.111 Although Prilosec was not completely withdrawn from the market, the manufacturer switched it from the prescription market to the over-the-counter market, and pharmacists were not able to substitute generic Prilosec for prescription Nexium due to the fact that they were technically different.112 While it is true that patients sometimes have the option to purchase the cheaper drug or the over-the-counter version when it remains on the market, the fact that pharmaceuticals represent a “unique market with noticeable information asymmetry” makes this much less likely.113 Additionally, because doctors are not actually purchasing the drugs, cost considerations are often overlooked when they are writing prescriptions, and they may have other incentives that factor into their decisions.114 3. The New Business Model Given the stakes, it is no surprise that brand pharmaceutical companies are increasingly turning to evergreening strategies to gobble up more market exclusivity for their blockbuster drugs.115 In the year 2000 alone, Prilosec’s manufacturer, AstraZeneca, reported that the drug brought in $6.3 billion,116 which is a substantial percentage of their overall revenue of $15.8 billion during that year.117 Due to the sheer amount of revenue that brand-pharmaceutical companies stand to gain or lose, it is reasonable to conclude that there is a new business model that pervades the pharmaceutical market.118 This model consists largely of evergreening and product hopping practices “turning out scores of minor variations, some of which become market blockbusters”119 which then “generate steady profits throughout the ups and downs of blockbusters coming off patents.”120 Notwithstanding that one of the goals of Hatch-Waxman was to spur brand companies to truly innovate and pioneer NCEs, only a miniscule percentage of brand company expenditures go towards researching new molecules.121 However, it would seem that the Hatch-Waxman Act lead to a pharmaceutical market which now “depend[s] less on the breakthrough research that executives emphasize than on rational actors exploiting ever broader and longer patents and other government protections against normal free market competition.”122 Contrary to Congressional intent, evergreeing and product hopping issues have only been exacerbated in the post-Hatch-Waxman atmosphere.123 It seems more and more that “when patent law realities are combined with…rational business decisions, all considerations point towards a focus on incremental drugs.”124 Hence, the new business model.125

**Strong IP protection spurs innovation by encouraging risk-taking and incentivizing knowledge sharing -- prefer statistical analysis of multiple studies**

**Ezell and Cory 19** [Stephen Ezell, vice president & global innovation policy @ ITIF, BS Georgetown School of Foreign Service. Nigel Cory, associate director covering trade policy @ ITIF, MA public policy @ Georgetown. "The Way Forward for Intellectual Property Internationally," Information Technology & Innovation Foundation, 4-25-2019, accessed 8-25-2021, https://itif.org/publications/2019/04/25/way-forward-intellectual-property-internationally] HWIC

IPRs Strengthen Innovation

Intellectual property rights power innovation. For instance, analyzing the level of intellectual property protections (via the World Economic Forum’s Global Competitiveness reports) and creative outputs (via the Global Innovation Index) shows that counties with stronger IP protection have more creative outputs (in terms of intangible assets and creative goods and services in a nation’s media, printing and publishing, and entertainment industries, including online), even at varying levels of development.46

IPR reforms also introduce strong incentives for domestic innovation. Sherwood, using case studies from 18 developing countries, concluded that poor provision of intellectual property rights deters local innovation and risk-taking.47 In contrast, IPR reform has been associated with increased innovative activity, as measured by domestic patent filings, albeit with some variation across countries and sectors.48 For example, Ryan, in a study of biomedical innovations and patent reform in Brazil, found that patents provided incentives for innovation investments and facilitated the functioning of technology markets.49 Park and Lippoldt also observed that the provision of adequate protection for IPRs can help to stimulate local innovation, in some cases building on the transfer of technologies that provide inputs and spillovers.50 In other words, local innovators are introduced to technologies first through the technology transfer that takes place in an environment wherein protection of IPRs is assured; then, they may build on those ideas to create an evolved product or develop alternate approaches (i.e., to innovate). Related research finds that trade in technology—through channels including imports, foreign direct investment, and technology licensing—improves the quality of developing-country innovation by increasing the pool of ideas and efficiency of innovation by encouraging the division of innovative labor and specialization.51 However, Maskus notes that **without protection from potential abuse of their newly developed technologies, foreign enterprises may be less willing to reveal technical information associated with their innovations**.52 The protection of patents and trade secrets provides necessary legal assurances for firms wishing to reveal proprietary characteristics of technologies to subsidiaries and licensees via contracts. Counties with stronger IP protection have more creative outputs (in terms of intangible assets and creative goods and services in a nation’s media, printing and publishing, and entertainment industries, including online), even at varying levels of development. The relationship between IPR rights and innovation can also be seen in studies of how the introduction of stronger IPR laws, with regard to patents, copyrights, and trademarks, affect R&D activity in an economy. Studies by Varsakelis and by Kanwar and Evenson found that **R&D to GDP ratios are positively related to the strength of patent rights**, and are conditional on other factors.53 Cavazos Cepeda et al. found a positive influence of IPRs on the level of R&D in an economy, with each 1 percent increase in the level of protection of IPRs in an economy (as measured by improvements to a country’s score in the Patent Rights Index) equating to, on average, a 0.7 percent increase in the domestic level of R&D.54 Likewise, a 1 percent increase in copyright protection was associated with a 3.3 percent increase in domestic R&D. Similarly, when trademark protection increased by 1 percent, there was an associated R&D increase of 1.4 percent. As the authors concluded, “Increases in the protection of the IPRs carried economic benefits in the form of higher inflows of FDI, and increases in the levels of both domestically conducted R&D and service imports as measured by licensing fees.”55 As Jackson summarized, regarding the relationship between IPR reform and both innovation and R&D, and FDI, “In addition to spurring domestic innovation, strong intellectual property rights can increase incentives for foreign direct investment which in turn also leads to economic growth.”56

## Case

**Solvency**

**Alt causes -- evergreening doesn't extend patent for the original product**

**Holman 20** [Chris Holman, Senior Fellow for Life Sciences & Senior Scholar @ Center for Intellectual Property x Innovation Policy, Professor at the University of Missouri-Kansas City School of Law. "Why Pharmaceutical Follow-On Innovation Should Be Eligible For Patent Protection", Geneva Network, 2-7-2020, accessed 9-5-2021, https://geneva-network.com/research/why-pharmaceutical-follow-on-innovation-should-be-eligible-for-patent-protection/] HWIC

Drug innovators are often accused of using secondary patents to “evergreen” the patent protection of existing drugs, based on an assumption that a secondary patent somehow extends the patent protection of a drug after the primary patent on the active ingredient is expired. As a general matter, this is a false assumption — a patent on an improved formulation, for example, is limited to that improvement and does not extend patent protection for the original formulation.

Once the patents covering the original formulation have expired, generic companies are free to market a generic version of the original product, and patients willing to forgo the benefits of the improved formulation can choose to purchase the generic product, free of any constraints imposed by the patent on the improvement. Of course, drug innovators hope that doctors and their patients will see the benefits of the improved formulation and be willing to pay a premium for it, but it is important to bear in mind that ultimately it is patients, doctors, and third-party payers who determine whether the value of the improvement justifies the costs.

Of course, this assumes a reasonably well-functioning pharmaceutical market. If that market breaks down in a manner that forces patients to pay higher prices for a patented new version of a drug that provides little real improvement over the original formulation, then it is the deficiency in the market which should be addressed, rather than the patent system itself.

For example, if a drug company is found to have engaged in some anticompetitive activity to block generic competition in the market for the original product once it has gone off patent, then antitrust and competition laws should be invoked to address that problem. If doctors are prescribing an expensive new formulation of a drug that provides little benefit compared to a cheaper, unpatented original product, then that is a deficiency in the market that should be addressed directly, rather than through a broadside attack on follow-on innovation. In short, if is found that secondary patents are being used in a manner that creates an unwarranted extension of patent protection, it is that misuse of the patent system which should be addressed directly, rather than through what amounts to an attack on the patent system itself.

#### Their solvency advocate sucks-- evergreening isnt thru orphan drugs data exclusivity etc its by patenting related things ab process or new bit which the aff cant solve

**Innovation**

#### PFAD--1] 22% of new drugs being innovative is a lot 2] its not a q of percentage but actual number--even if its more old than new theres still a lot of new medicines being created

#### Arnold Ventures--evergreening may create monopolies over specific drugs but not the drug market in general--that encourages innovation of new unpatented techniques or looking into more drugs which is good and what 1AC Hotez talks about--turns case and means they have zero internal link

#### Radhakrishnan--Only warrant is “pharma companies don’t spend a lot on R&D” which 1] is not true, the ev says its 1/6 which is a ton for big companies 2] is non-unique

**Adv**

#### All critiques of evergreening are wrong—it’s essential to encourage competition in the market, and improvements come in increments.

Thomas 09

John R. Thomas (Georgetown Law Center faculty, Visiting Scholar at the Congressional Research Service, inaugural Thomas Alva Edison Visiting Scholar at the U.S. Patent and Trademark Office);

Although the practice of evergreening has attracted considerable criticism, many observers believe these critiques are misplaced. Indeed, some consider the term “evergreening” to be inappropriate, and even derogatory in nature.62 They explain that the patent laws promote both original and improvement inventions, that most technological advance occurs incrementally, that improvements may be developed by competitors of the original innovator, that many improvement patents cover advances that are of considerable medical significance, and that patents on improvements may not impede the ability of competitors to market products that were covered by expired patents on original technologies. This report reviews these assertions in turn. First, these observers note that the patent system allows patents to be obtained on both original and improvement technologies. As a result, the patent law encourages the development of both kinds of inventions. They also explain that under the Patent Act, each invention must fulfill a number of requirements in order to be subject to patent protection. Among these criteria are that the invention must be novel,63 nonobvious,64 and fully disclosed in an application submitted to the USPTO.65 These statutory standards are applied neutrally to each kind of invention, whether it may be characterized as an “original” (such as a medication that has never been previously approved by the FDA) or an “improvement” (such as a new formulation of a known medication). Patent law experts believe that these legal standards appropriately recognize that most technological progress occurs on an incremental basis. Attorney Ivar Kaardal explains that “most patents ... are granted for incremental, or even insignificant, technological advances.”66 Some observers believe that, on an individual or collective basis, patents on more marginal improvements may provide the public with valuable sources of technological information. As Jeanne C. Fromer, a member of the Fordham Law School faculty, states: while there are a rising number of patents for incremental technical advances, which individually might not be commercially or informationally valuable, the collectivity of incremental advances provides essential information for further innovation in many areas… Some commentators also believe the critique that many “evergreen” patents represent trivial variations of earlier technologies is misplaced. They assert that many patented improvements provide significant practical benefits. For example, a new formulation may make a known medication easier to use, leading to greater patient compliance, or cause fewer side effects.68 Observers also note that the developer of the “original” product is not always the same entity as the developer of “improvement” technologies. Sometimes competitors of the “original” patent proprietor, including generic drug companies, develop and patent the improvements.69 The ability of any innovator to obtain a patent is said to encourage competition among different firms, both in innovation and in the marketplace.70

#### The purpose of evergreening is to make money—medical advances are direct effects of the money big pharma makes.

Collier 13

Roger Collier (consultant specializing in health care policy issues, CEO of national healthcare consulting firm, Principal-in-Charge off KPMG’s national health and welfare consulting practice); “Drug patents: the evergreening problem”; CMAJ Vol. 185, Issue 9; June 11, 2013; <https://www.cmaj.ca/content/185/9/E385/tab-e-letters>; EMJ

“Typically, when you evergreen something, you are not looking at any significant therapeutic advantage. You are looking at a company’s economic advantage,” says Dr. Joel Lexchin, a professor in the School of Health Policy and Management at York University in Toronto, Ontario. “The response from the brand side is that they are trying to protect their markets so they can further invest in R&D [research and development]. And even if they make a modification to a drug, doctors are still quite able to prescribe the generic version of the older product. Having said that, the brand-name companies put an awful lot of money into marketing the newer version, and that marketing is designed to affect what doctors do.” Evergreening has been a hot topic of late because of the recent ruling by India’s Supreme Court to refuse to grant Swiss pharmaceutical company Novartis a patent for a new version of its cancer drug Gleevec (imatinib mesylate), or Glivec, as it’s known in some countries. Novartis claims the drug is more easily absorbed into the blood and, considering it is used to fight leukemia, that is enough of an improvement to warrant patent protection. But India’s trade and industry minister, Anand Sharma, has defended the decision, and was quoted by Agence France-Presse as saying it was “absolutely justified under the law” and that India’s patent law “does not accept evergreening.”

#### Squo solves—current patents check innovation and prevent evergreening.

Parker and Mooney 07

Scott Parker (senior associate in the Intellectual Property Group at Simmons & Simmons\*) and Kevin Mooney (partner in the Intellectual Property Group at Simmons & Simmons); Journal of Commercial Biotechnology, London Vol. 13, Iss. 4; August 7, 2007: 235. DOI:10.1057/palgrave.jcb.3050066; <https://www.proquest.com/docview/232906488/BEB34E662F134C80PQ/3>; EMJ

\*Simmons & Simmons is recognised worldwide as a pre-eminent law firm for the life sciences. It is Simmons &Simmons policy not to act for generic manufacturers in relation to patent expiry matters.

In summary, therefore, the patent system is inherently adapted to reflect how much innovation in fact takes place (by way of improvements to existing technology) and to prevent 'evergreening'. It allows the use of 'old' technology while protecting (and thus providing incentives for) improvements to that technology. Another factor to be taken into account in any debate on the patenting of 'minor variations' is that it is not only the company that owns the patents covering the originator product that can patent improvements thereto. Other companies (including generics) can (and do) do this, with the consequence that there may be a number of companies having similar products (some of which may for a variety of reasons be better suited to particular patients) and healthy competition in the marketplace.