### 1

#### Interpretation: Topical affirmatives must specify which medicines they defend.

#### Violation: They don’t

#### Standards:

#### Ground - Not specifying destroys neg ground because they can shift and clarify which medicines they defend in the 1AR to no link DAs and perm CPs

#### Topic education – vague terms like medicine prevent us from having in-depth discussion about the topic

#### Topicality is a voter for fairness and education – drop the debater

#### No RVIs – it’s illogical – you should be punished for not being a T but shouldn’t get a cookie for being T

### 2

#### CP Text: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines through IP/C/W/669 also called the TRIPS waiver proposal except plant patents for medical marijuana

#### Plant patents key to optimization of medical marijuana

Wyse and Luria 21, Joseph, Superintendent/President of the Shasta-Tehama-Trinity Joint Community College District, Gilad, Dr. Eyal Bressler & Co. Patent Attorneys, Journal of Cannabis Research, “Trends in intellectual property rights protection for medical cannabis and related products”, <https://jcannabisresearch.biomedcentral.com/articles/10.1186/s42238-020-00057-7>, Accessed 8/24/21 VD

An additional IPR protection for plant varieties, unique to the USA, termed a plant patent, exists. Plant patents extend the owner’s control and protection to asexual reproduction of a distinct and new variety of plant that expresses characteristics determined by its genotype. Plant patents can be granted for mutants (induced or spontaneous), hybrids, or transformed plants. The exercise of IPR in the MC field incentivizes, accelerates, and rewards progress in this knowledge domain. Nations and regions all have their own particular histories and legacies entwined with ever changing social, economic, and cultural conditions. This influences local legislation on the scope and exploitation of IPR in MC. Numerous articles have been published regarding cannabis plants and IPR but they are focused and localized to either a specific geographical territory (Rowand and Mcmahon 2018), a specific type of IPR (Jacobs 2017), specific fields in the cannabis plant industry (Flores-Sanchez and Ramos-Valdivia 2017; Gerra et al. 2010; Ranieri et al. 2016) or a specific species of Cannabis (Hahn 2019). Therefore, there is still a need for a broader analysis of IPR data concerning cannabis plants. As the authors have noted, innovation in MC encompasses multiple activities in the journey from plant-to-drug. Therefore, it is not at all surprising that the relevant IPR instruments and policies are quite intricate, varied, and heterogenous, both regionally and nationally. In this study, we present IPR trends relevant to innovations in MC along the entire MC supply chain from upstream agritech (improved strains, genetic modification, plant material assessment, harvesting technology, and postharvesting processing), midstream chemistry/analytics (extractions, purification methods, and separation methods), and downstream medical/biology (diseases, medical devices, compositions, formulations, and dosage forms). In this review, these categories will be applied. Furthermore, within this study, the researcher will be directed towards topics within IPR that bear consequences on MC research, including IPR-derived risks and limitations.

#### Weed key to crypto

Thomson 21, Greg, cryptocurrency and blockchain journalist with a passion for unearthing the rarest stories from within the crypto landscape, Coin Telegraph, “Federal reform could transform crypto’s cannabis use case”, <https://cointelegraph.com/news/federal-reform-could-transform-crypto-s-cannabis-use-case>, Accessed 9/17/21 VD

Even in states where cannabis is legal, dispensary owners have still been forced to operate outside the traditional banking sphere. Federal prohibition has so far meant that most banks have been unwilling to risk doing business with cannabis stores, effectively forcing owners to run a cash business. Cryptocurrency and cannabis, particularly in relation to legalization in the United States, both came of age in the same decade. Both have traditionally faced many of the same difficulties in gaining social acceptance, whether from lawmakers and regulators, or even the general public. Perhaps it should be no surprise that cryptocurrency projects stepped in to fill the void the banks had left in the legal cannabis industry. As well as giving birth to numerous marijuana-inspired cryptocurrency tokens, and seeing blockchain technology used to shake up the seed-to-sale supply chain, the emergence of crypto in the cannabis industry also gave dispensary owners an alternative to cash payments, and a way to store wealth. But if cannabis really were to be legalized at the federal level, what would happen to the burgeoning relationship between weed and crypto? Would cryptocurrency effectively be robbed of a use case?Michael Wagner, the CEO of Multichain Ventures, which provides blockchain payment solutions for the cannabis industry, told Cointelegraph it was possible that acceptance from normal banks could negate the need for business owners to use cryptocurrency. Wagner said: “As to the utility of cryptocurrencies should traditional financial centers open up to these businesses, I will admit that it decreases the attractiveness of a solution founded on blockchain." However, the impact of such an occurrence probably wouldn’t make itself felt, says Wagner, who says the lack of legal clarity around crypto has made it difficult for cannabis users to get on board so far. “It has been my experience, in countless conversations with cannabis operators, that cryptocurrency is not widely adopted despite the friction present in financial services today. A lack of clarity surrounding legality of crypto, as well as understanding of the technology, produced a considerable barrier to entry." The drive to produce a digital payment system for the cannabis industry, which saw Multichain Ventures work alongside the State of Nevada on a blockchain-based pilot, is an example of an attempt to break down that barrier, says Wagner. But regardless of cannabis’ legal status, Wagner says using cryptocurrency comes with its own benefits, beyond simply being a means of storing wealth.

“Further, our internal thesis has been, and continues to be, that decentralized financial ecosystems provide substantial utility on their own […] To that end, while traditional banking would open up competitors, the innovation that is cryptocurrency continues to be superior in virtually every way. Faster and cheaper transactions. Greater transparency."

#### Crypto solves a host of existential threats

Hayase 19, Nozomi, Ph.D is a depth/liberation psychologist whose writing and activism is dedicated to the empowerment of people, Bitcoin Magazine, “OP ED: HOW BITCOIN’S PROTOCOL OF PEACE CAN END THE NUCLEAR AGE”, <https://bitcoinmagazine.com/culture/op-ed-how-bitcoins-protocol-of-peace-can-end-the-nuclear-age>, Accessed 9/17/21 VD

Working with careful balance of risk and reward, in combination with game theory, Satoshi created a new economic incentive that makes miners work honestly and enforces rules of the network without applying pressure. This process leads to both the creation of money and clearing of transactions. Most importantly, it enables unprecedented security backed by laws of nature. Nature does not create waste. The market that dynamically adjusts according to a demand with a tight feedback loop every two weeks engages miners to strive for high efficiency in a brutally competitive environment. It channels misused forces of nature in the arms race and redirects energy into building a global security. The law of nature that is now restored in Bitcoin’s noble architecture commands the industrial hardware manufacturers to challenge the military industrial complex. The computing power of specialized hardware, through a method of decentralization, re-networks the supercomputer of the old world. Power that is now redistributed begins to free people who are enslaved by the proprietary software of nuclear programs and state-sponsored terrorism. Bitcoin mining, largely driven by renewable energy, counters energies that are used to maintain the existing security state that creates overconsumption, pollution and environmental destruction. This newly created network can now start to transform the death-spiraling war economy into a resilient, asset-based ecosystem. The way of peace is in harmony with nature. It is a society that acknowledges interconnectedness of all living beings and their freedom of expression. It embraces the equality of all creation in its diversity and solves conflicts through nonviolent means. Now, from what was once the land of the rising sun, from the ashes of Hiroshima and Nagasaki, a protocol of peace arises. Bitcoin is a new sun, ascending to replace the explosive nuclear power. This sun radiates through the heat generated through the heart of liberty-loving people around the world. With algorithmic regulation, it expands every 10 minutes without ever exploding, circulating an abundant flow of life to all directions across the network. Can this cryptocurrency preserve the value of peace and defend against mighty swords, missiles, tanks and atomic bombs? The security of this system cannot be given from outside — by governments, institutions, politicians and even by cypherpunks. It can only be guaranteed through sovereign individuals across the world freely choosing to adopt this protocol of peace, a way of nonviolence as a new code of conduct for the world they wish to live in. Peace can be ensured through a decentralized network created by users running full nodes and enforcing consensus rules as a universal law of nature. In a piece of mathematics, we can now enshrine a constitution of peace that can act as a truly neutral arbitrator to settle conflicts and disputes among people. This new sort of security can guard our children and a future generation from resource wars. It can shelter people against currency wars and wealth confiscation, protecting the planet from ecological destruction. Through each individual upholding this networked constitution powered by this sublime golden sun, we could end the nuclear age and leave humanity’s destructive past behind.

### 3

#### The black female body continues to be exploited within the medical industrial complex – they refuse to consider how the so-called “benefits” of the aff will be distributed unequally and among racial lines

**da Silva 07,** Denise Ferreira, Professor and Director of the Institute for Gender, Race, Sexuality, and Social Justice at the University of British Columbia, University of Minnesota Press, “Toward a Global Idea of Race”, <https://www.upress.umn.edu/book-division/books/toward-a-global-idea-of-race>, Accessed 7/5/21 VD

My point is that the metaphor of the veil reproduces the effect of power of the sociohistorical logic of exclusion —which, as I show in Part 2, consists in a powerful tool of the analytics of raciality — which is to render racial emancipation contingent on the obliteration of racial difference. In Against Race, Paul Gilroy (2000) provides perhaps the best example of the perverse effects of this desire to recuperate the racial subaltern into an unbounded humanity. When advancing another claim for the erasure of the racial from modern political grammar, Gilroy announces that the demise of race is already under way, thanks to the radical alteration of bodies promised by genetic manipulation and the commodification of the black male body as an object for global and suburban white consumption. Any impulse to celebrate this “emancipation” from the (racial) body dies when one learns the answer to the question of how biotechnology ushers liberation from race in Gilroy’s interpretation of “the tragic story of Henrietta Lacks,” a working -class U.S. black woman whose cervical cells have been crucial to the advancement of cancer research, which exemplifies the passage from the “biopolitics of ‘race’” to “nano -politics.” For Gilroy, the fact that her blackness is irrelevant to medical research suggests a redefinition of the idea of humanity, for the “awareness of the indissoluble unity of all life at the level of genetic materials” displaces the idea of “specifically racial differences” (20, italics in the original). It would be all too easy to stop at pointing to the irony of how humanist desire needs science (genetics) to once again denounce race’s scientific irrelevance. But it is more interesting, I think, to point to how this desire cannot reduce or sublate the materiality (body and social position) of the economically dispossessed black female, which resists the liberating powers of “transfiguration,” “commodification,” and biotechnology. How did Henrietta Lacks’s cervical cells become available to scientific research? Why did the cellular biologist at Johns Hopkins University see it as ethical to appropriate her cells without her consent? How has the use of economically dispossessed black neighborhoods as testing camps ensured advances in public health research at that university? What cells do not reveal is how the female racial subaltern has been consistently (re)produced as a kind of human being to whom neither juridic universality nor self -determination applies. Not only does her femaleness place Henrietta Lacks under patriarchal (divine or natural) law, away from the domain of the laws of the body politic. Her blackness also produces her as radically distinct from the kind of subject presumed in the ethical principles governing modern social configurations. Across the earth, women still die of cervical cancer despite the advances Lacks’s stolen cells have enabled, but they do not die the same way. Economically dispossessed women of color, like Lacks, die with more pain and no hope. Not only do they lack the financial means to access even the basic technologies available for the prevention and treatment of cervical cancer; in many cases (as in the case of a Brazilian federal program for the treatment of economically dispossessed cancer patients), when given access to this technology they are treated as little more than test subjects. This is not because blackness determines the kind of cells that will grow in their bodies, but because it determines how they live with or die from cancer. That cancer cells do not indicate dark brown skin or flat noses can be conceived of as emancipatory only if one forgets, or minimizes, the political context within which lab materials will be collected and the benefits of biotechnological research will be distributed. Whether inspired by humanism or not, any critical ontoepistemological account couched upon the transparency thesis will ignore the conditions of production of modern subjects, how the arsenal of the modern “Will to Truth,” tools of reason, institute social (juridical, economic, ethical) subjects, the men and women who produce and reproduce (and the institutions that regulate) their own social trajectories. Whatever else can be said about the critical position Gilroy inhabits, it certainly holds onto the promises of historicity and universality, which animate postmodern humanist desires for a postracial, transparent future: “The spaces in which ‘races’ come to life,” Gilroy laments, “are a field from which political interaction has been banished” (41). What would be left, I ask, to the project of social or global justice if modern subjects were freed from raciality? This is not just a rhetorical question. It requires a critique of modern thought that addresses scientific knowledge as a major productive site of power, one that addresses how the racial, the scientific signifier, produces social subjects who stand differentially before the institutions the transparency thesis sustains. Perhaps it is evident now that the answer to the question of what lies behind the veil is more complicated than it appears to be. At least for the economically dispossessed racialized gendered person for whom, as for Henrietta Lacks, physical death is only the most evident effect of the post -Enlightenment desire for transparency and the historical and scientific signifying strategies that (re)produce it. What I am suggesting is that the moral ease with which the sociohistorical logic of exclusion captures racial subjection derives from how it (re)produces the transparency thesis by translating the obliteration of the kind of particularity the latter postulates into a demand for the obliteration of the signifier that institutes it, namely, the racial —a gesture that consistently reinstitutes the transparent subject of science and history, the proper name of the man. For this reason, I claim, only an excavation of modern thought, an analysis of the economy of signification governed by the transparency thesis and the analytics of raciality, will enable critical ontoepistemological projects and the ethical principle that usually accompany them, which can aid in the project of global justice.

#### The WTO regime is emblematic of the globalization of corporate capitalism and late stage capitalism’s imperialism – the affirmative’s call to take action through the WTO only reproduces imperialism and the world economy

Fukuda 10, Yasuo Fukuda, Professor of Graduate School of Economics at Hitotsubashi University, Tokyo, and author of Modern Market Economy and Inflation (1992), Commodification of Land and Urban Problems (1993), Distribution of Wealth and Income in Modern Japan (2002) and Corporate Globalization and Local Sovereignty (2010), “WTO REGIME AS A NEW STAGE OF IMPERIALISM: DECAYING CAPITALISM AND ITS ALTERNATIVE”, January 2010, <https://hermes-ir.lib.hit-u.ac.jp/hermes/ir/re/22161/0101106701.pdf>, accessed by apark 7/5/21

Lenin outlined five pillars by which to define imperialism. The first is monopoly capital gaining control of the major industries of a country. The growth of monopoly capital is a consequence of market concentration caused by competition among firms. Once market concentration reaches a certain point, it becomes possible for a small number of winners to form collusions, such as cartels, which transform the nature of the economy, leading to the dominance of monopoly capital. The second pillar is the formation of business relationships between industrial and financial monopoly capital. Monopoly capital also forms cozy relationships with government through the financing of political campaigns and through revolving doors. In short, monopoly capital wields governing power over national economies through market concentration, collusions among large firms, and direct political influence. The third pillar is foreign investment. Drawing on its political influence, monopoly capital effects the transfer of wealth from workers, farmers, small to medium-sized businesses, and the self-employed to monopoly capital. The resulting distortion of income distribution causes disproportionate growth among industries—especially between manufacturing and farming—and suppresses consumption. This leads to over-accumulation, which forces monopoly capital to export merchandise and invest abroad. The fourth pillar is global divisions among monopoly capital through cartels. These divisions occur in the same way as those which take place at the national level; competition among large firms, and the market concentration which follows, leads to the formation of global cartel agreements. The fifth pillar is colonization of less-developed countries by the Great Powers, operating at the behest of monopoly capital. Such colonization is an outcome of global competition among opposing elements of monopoly capital. Monopoly capital takes advantage of colonization to monopolize control of natural resources and export markets, and as a means to protect capital invested in less-developed countries against appropriation. Figure 1 shows how the five pillars are related. The figure starts with monopoly capital as governing powers, from which follows a causal relationship down to the last outcome, competition for colonization. In other words, colonization is the final outcome of the governing power of monopoly capital. This is why Lenin considered monopoly capital to be the key to imperialism. Looking at contemporary capitalism from the viewpoint of Lenin’s “Imperialism,” it is clear that four of the five pillars (excepting the fifth) are still applicable to capitalism under the WTO regime. First, a small number of multinational corporations typically control more than half the market-share of major industries. For example, in the commercial seed market, the world’s top three corporations (Monsanto, DuPont, and Syngenta of Switzerland) control almost half of the world market. Cargill, along with its top four competitors, handle 85 percent of world grain trade. In the pharmaceutical industry, the top ten corporations hold a combined 54.8 percent share of the world market (ETC Group 2008). In banking, the world’s top 45 banks account for nearly 40 percent of the gross tier 1 capital of the top 1,000, and about 45 percent of the total assets (The Banker, June 24, 2009). It hardly needs saying that these companies enhance their power considerably through close relationships with governments, and through political contributions, lobbying, revolving doors, and the like. Second, industrial and financial monopoly capital establish political action groups as a means to advance common political goals. The negotiation of the General Agreement on Trade in Services (GATS) represents a typical example of this sort of collusion between major companies of both the industrial and financial spheres. Third, no monopoly capital can survive without strategic foreign investment, including direct as well as portfolio investment. For instance, automobile companies will not survive without gaining access to Chinese and Indian markets. Fourth, in the course of intense competition over dominant market shares, large multinational corporations often collude to form price cartels (Connor 2001; Levenstein and Suslow 2001). The cartel-based character of monopoly capital culminated during GATT Uruguay Round negotiations, as large businesses cooperated to set market-rules specifically tailored to their own ends. There is no colonization occurring under the WTO regime. Modern capitalism lacks the fifth pillar of early 20th century imperialism. However, this does not mean that modern capitalism is without imperialism. Monopoly capital has gained new methods of obtaining the governing power over developing countries in place of colonization. First, major multinational corporations subcontract to firms in developing countries, thereby assimilating these firms into global business networks. For example, big food retailers such as Wal-Mart and Tesco have established global supply chain management networks which subcontract to farmers in developing countries, thereby bringing these farmers under centralized managerial control (South Centre and Traidcraft 2008). Here, prices fetched at farm gates are determined by monopolists at the top of the supply chain. Second, monopoly capital now dictates the rules of trade by directly involving itself in the crafting of trade policy. Big business coalitions took part in drafting the WTO Agreements. In the case of GATS, multinational corporations, including Citigroup, J. P. Morgan Chase, and Barclays Bank, drafted the proposal under the authorization of US and EU governments, and then used lobbying to push the agreement through at the time of negotiations (Balanyá et al. 2003). In the case of the negotiations for the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), it was the US Intellectual Property Committee (USIPC), a US business group, which wrote the initial draft, at the request of the US Trade Representative (Weissman 1996). Those party to the USIPC include Monsanto, Pfizer, DuPont, and IBM. Market and trade rules amount to a form of infrastructure vis-à-vis the markets. The body which decides the rules of trade has a considerable advantage over other stakeholders. Under the current setting, it is large multinationals, especially the agents of US monopoly capital, which control the rules of trade, specifically through cozy relationships with the US government. Therefore, it is the governance of trade rules which most distinguishes modern capitalism from the imperialist systems of the early 20th century. The IMF and the World Bank are monopoly capital’s third source of governing power over developing countries. The IMF and the World Bank are under the control of the G7 (the US, Japan, Germany, France, the UK, Canada, and Italy), which hold nearly 42 percent of the votes in these two organizations. Within the G7 itself, only the US (specifically the US Treasury Department) has the power of veto. Furthermore, US and EU companies routinely establish relationships with the IMF and the World Bank directly. Stanley Fisher, former deputy managing director of the IMF, became vice-chairman of Citibank shortly after finishing his IMF tenure. James Wolfensohn, a former World Bank president, came from a senior executive role at Salomon Brothers and, following his stint at the World Bank, returned to Wall Street as chairman of the International Advisory Board of Citigroup. In 1995, while president of the World Bank, Wolfensohn started a Staff Exchange Program in order to facilitate employee sharing between multinational corporations and the Bank (Cray 2006). It was against this backdrop that the IMF and World Bank, through loan conditionality, forced developing countries to adopt open door policies, resulting in a flood of imports from the developed world (Marsden 2003; Weissman 2000; Weisbrot et al. 2009). Thus, the WTO regime is nothing short of a regime of imperialism, whereby monopoly capital exercises governing power over both national markets and the world economy. Whereas the first four of the five pillars by which Lenin defined imperialism still apply under the WTO regime, in place of the fifth (colonization), monopoly capital has gained new tools of dominance, most specifically the ability to design market rules. In losing the policy space to protect and develop local firms, developing countries are obliged to become incorporated into a global network managed by monopoly capital. In this way, income is steadily transferred from the lower rungs of the global economy to monopoly capital at the top. In short, the WTO regime constitutes a new stage of imperialism, in which monopoly capital holds hegemony over market rules in place of colonization.

#### Capitalism is a project of white domination – racialized bodies are exploited and dominated within the system

**Acker 16,** Joan, American sociologist, researcher, writer and educator, Race, Class & Gender: An Anthology, “Is Capitalism Gendered and Racialized?”, <https://www.cengage.com/c/race-class-gender-an-anthology-9e-andersen/9781305093614/>,Accessed 6/28/21 VD

Industrial capitalism is historically, and in the main continues to be, a white male project, in the sense that white men were and are the innovators, owners, and holders of power. Capitalism developed in Britain and then in Europe and the United States in societies that were already dominated by white men and already contained a gender-based division of labor. The emerging waged labor force was sharply divided by gender, as well as by race and ethnicity with many variations by nation and regions within nations. At the same time, the gendered division of labor in domestic tasks was reconfigured and incorporated in a gendered division between paid market labor and unpaid domestic labor. In the United States, certain white men, unburdened by caring for children and households and already the major wielders of gendered power, buttressed at least indirectly by the profits from slavery and the exploitation of other minorities, were, in the nineteenth century, those who built the U.S. factories and railroads, and owned and managed the developing capitalist enterprise. As far as we know, they were also heterosexual and mostly of Northern European heritage. Their wives and daughters benefited from the wealth they amassed and contributed in symbolic and social ways to the perpetuation of their class, but they were not the architects of the new economy. Recruitment of the labor force for the colonies and then the United States had always been transnational and often coercive. Slavery existed prior to the development of industrialism in the United States: Capitalism was built partly on profits from that source. Michael Omi and Howard Winant (1994, 265) contend that the United States was a racial dictatorship for 258 years, from 1607 to 1865. After the abolition of slavery in 1865, severe exploitation, exclusion, and domination of blacks by whites perpetuated racial divisions cutting across gender and some class divisions, consigning blacks to the most menial, low-paying work in agriculture, mining, and domestic service. Early industrial workers were immigrants. For example, except for the brief tenure (twenty-five years) of young, native-born white women workers in the Lowell, Massachusetts, mills, immigrant women and children were the workers in the first mass production industry in the United States, the textile mills of Massachusetts and Philadelphia, Pennsylvania (Perrow 2002). This was a gender and racial/ethnic division of labor that still exists, but now on a global basis. Waves of European immigrants continued to come to the United States to work in factories and on farms. Many of these European immigrants, such as impoverished Irish, Poles, and eastern European Jews were seen as non-white or not-quite-white by white Americans and were used in capitalist production as low-wage workers, although some of them were actually skilled workers (Brodkin 1998). The experiences of racial oppression built into industrial capitalism varied by gender within these racial/ethnic groups. Capitalist expansion across the American continent created additional groups of Americans who were segregated by race and gender into racial and ethnic enclaves and into low-paid and highly exploited work. This expansion included the extermination and expropriation of native peoples, the subordination of Mexicans in areas taken in the war with Mexico in 1845, and the recruitment of Chinese and other Asians as low-wage workers, mostly on the west coast (Amott and Matthaei 1996; Glenn 2002). Women from different racial and ethnic groups were incorporated differently than men and differently than each other into developing capitalism in the late nineteenth and early twentieth centuries. White Euro-American men moved from farms into factories or commercial, business, and administrative jobs. Women aspired to be housewives as the male breadwinner family became the ideal. Married white women, working class and middle class, were housewives unless unemployment, low wages, or death of their husbands made their paid work necessary (Goldin 1990, 133). Young white women with some secondary education moved into the expanding clerical jobs and into elementary school teaching when white men with sufficient education were unavailable (Cohn 1985). African Americans, both women and men, continued to be confined to menial work, although some were becoming factory workers, and even teachers and professionals as black schools and colleges were formed (Collins 2000). Young women from first- and second-generation European immigrant families worked in factories and offices. This is a very sketchy outline of a complex process (Kessler-Harris 1982), but the overall point is that the capitalist labor force in the United States emerged as deeply segregated horizontally by occupation and stratified vertically by positions of power and control on the basis of both gender and race. Unequal pay patterns went along with sex and race segregation, stratification, and exclusion. Differences in the earnings and wealth (Keister 2000) of women and men existed before the development of the capitalist wage (Padavic and Reskin 2002). Slaves, of course, had no wages and earned little after abolition. These patterns continued as capitalist wage labor became the dominant form and wages became the primary avenue of distribution to ordinary people. Unequal wages were justified by beliefs about virtue and entitlement. A living wage or a just wage for white men was higher than a living wage or a just wage for white women or for women and men from minority racial and ethnic groups (Figart, Mutari, and Power 2002). African-American women were at the bottom of the wage hierarchy. The earnings advantage that white men have had throughout the history of modern capitalism was created partly by their organization to increase their wages and improve their working conditions. They also sought to protect their wages against the competition of others, women and men from subordinate groups (for example, Cockburn 1983, 1991). This advantage also suggests a white male coalition across class lines (Connell 2000; Hartmann 1976), based at least partly in beliefs about gender and race differences and beliefs about the superior skills of white men. White masculine identity and self-respect were complexly involved in these divisions of labor and wages. This is another way in which capitalism is a gendered and racialized accumulation process (Connell 2000). Wage differences between white men and all other groups, as well as divisions of labor between these groups, contributed to profit and flexibility, by helping to maintain growing occupational areas, such as clerical work, as segregated and low paid. Where women worked in manufacturing or food processing, gender divisions of labor kept the often larger female work force in low-wage routine jobs, while males worked in other more highly paid, less routine, positions (Acker and Van Houten 1974). While white men might be paid more, capitalist organizations could benefit from this “gender/racial dividend.” Thus, by maintaining divisions, employers could pay less for certain levels of skill, responsibility, and experience when the worker was not a white male. This is not to say that getting a living wage was easy for white men, or that most white men achieved it. Labor-management battles, employers’ violent tactics to prevent unionization, [and] massive unemployment during frequent economic depressions characterized the situation of white industrial workers as wage labor spread in the nineteenth and early twentieth centuries. During the same period, new white-collar jobs were created to manage, plan, and control the expanding industrial economy. This rapidly increasing middle class was also stratified by gender and race. The better-paid, more respected jobs went to white men; white women were secretaries and clerical workers; people of color were absent. Conditions and issues varied across industries and regions of the country. But, wherever you look, those variations contained underlying gendered and racialized divisions. Patterns of stratification and segregation were written into employment contracts in work content, positions in work hierarchies, and wage differences, as well as other forms of distribution. These patterns persisted, although with many alterations, through extraordinary changes in production and social life. After World War II, white women, except for a brief period immediately after the war, went to work for pay in the expanding service sector, professional, and managerial fields. African Americans moved to the North in large numbers, entering industrial and service sector jobs. These processes accelerated after the 1960s, with the civil rights and women’s movements, new civil rights laws, and affirmative action. Hispanics and Asian Americans, as well as other racial/ethnic groups, became larger proportions of the population, on the whole finding work in low-paid, segregated jobs. Employers continued, and still continue, to select and promote workers based on gender and racial identifications, although the processes are more subtle, and possibly less visible, than in the past (for example, Brown et al. 2003; Royster 2003). These processes continually recreate gender and racial inequities, not as cultural or ideological survivals from earlier times, but as essential elements in present capitalisms (Connell 1987, 103–106).

#### Neoliberal capitalism will produce extinction – the system reproduces crises that depoliticize the left, undermine futural thought, and postpone its demise – the impacts are environmental collapse, endless war, and the rise of fascism

Shaviro 15  
(Steven Shaviro is an American academic, philosopher and cultural critic whose areas of interest include film theory, time, science fiction, panpsychism, capitalism, affect and subjectivity. He earned a PhD from Yale in 1981. “No Speed Limit: Three Essays on Accelerationism” <https://track5.mixtape.moe/qdkkdt.pdf> rvs)

The problem may be summarized as follows. Capitalism has indeed created the conditions for general prosperity and therefore for its own supersession. But it has also blocked, and continues to block, any hope of realizing this transformation. We cannot wait for capitalism to transform on its own, but we also cannot hope to progress by appealing to some radical Outside or by fashioning ourselves as militants faithful to some “event” that (as Badiou has it) would mark a radical and complete break with the given “situation” of capitalism. Accelerationism rather demands a movement against and outside capitalism—but on the basis of tendencies and technologies that are intrinsic to capitalism. Audre Lord famously argued that “the master’s tools will never dismantle the master’s house.” But what if the master’s tools are the only ones available? Accelerationism grapples with this dilemma. What is the appeal of accelerationism today? It can be understood as a response to the particular social and political situation in which we currently seem to be trapped: that of a long-term, slow-motion catastrophe. Global warming, and environmental pollution and degradation, threaten to undermine our whole mode of life. And this mode of life is itself increasingly stressful and precarious, due to the depredations of neoliberal capitalism. As Fredric Jameson puts it, the world today is characterized by “heightened polarization, increasing unemployment, [and] the ever more desperate search for new investments and new markets.” These are all general features of capitalism identified by Marx, but in neoliberal society we encounter them in a particularly pure and virulent form. I want to be as specific as possible in my use of the term “neoliberalism” in order to describe this situation. I define neoliberalism as a specific mode of capitalist production (Marx), and form of governmentality (Foucault), that is characterized by the following specific factors: 1. The dominating influence of financial institutions, which facilitate transfers of wealth from everybody else to the already extremely wealthy (the “One Percent” or even the top one hundredth of one percent). 2. The privatization and commodification of what used to be common or public goods (resources like water and green space, as well as public services like education, communication, sewage and garbage disposal, and transportation). 3. The extraction, by banks and other large corporations, of a surplus from all social activities: not only from production (as in the classical Marxist model of capitalism) but from circulation and consumption as well. Capital accumulation proceeds not only by direct exploitation but also by rent-seeking, by debt collection, and by outright expropriation (“primitive accumulation”). 4. The subjection of all aspects of life to the so-called discipline of the market. This is equivalent, in more traditional Marxist terms, to the “real subsumption” by capital of all aspects of life: leisure as well as labor. Even our sleep is now organized in accordance with the imperatives of production and capital accumulation. 5. The redefinition of human beings as private owners of their own “human capital.” Each person is thereby, as Michel Foucault puts it, forced to become “an entrepreneur of himself.” In such circumstances, we are continually obliged to market ourselves, to “brand” ourselves, to maximize the return on our “investment” in ourselves. There is never enough: like the Red Queen, we always need to keep running, just to stay in the same place. Precarity is the fundamental condition of our lives. All of these processes work on a global scale; they extend far beyond the level of immediate individual experience. My life is precarious, at every moment, but I cannot apprehend the forces that make it so. I know how little money is left from my last paycheck, but I cannot grasp, in concrete terms, how “the economy” works. I directly experience the daily weather, but I do not directly experience the climate. Global warming and worldwide financial networks are examples of what the ecological theorist Timothy Morton calls hyperobjects. They are phenomena that actually exist but that “stretch our ideas of time and space, since they far outlast most human time scales, or they’re massively distributed in terrestrial space and so are unavailable to immediate experience.” Hyperobjects affect everything that we do, but we cannot point to them in specific instances. The chains of causality are far too complicated and intermeshed for us to follow. In order to make sense of our condition, we are forced to deal with difficult abstractions. We have to rely upon data that are gathered in massive quantities by scientific instruments and then collated through mathematical and statistical formulas but that are not directly accessible to our senses. We find ourselves, as Mark Hansen puts it, entangled “within networks of media technologies that operate predominantly, if not almost entirely, outside the scope of human modes of awareness (consciousness, attention, sense perception, etc.).” We cannot imagine such circumstances in any direct or naturalistic way, but only through the extrapolating lens of science fiction. Subject to these conditions, we live under relentless environmental and financial assault. We continually find ourselves in what might well be called a state of crisis. However, this involves a paradox. A crisis—whether economic, ecological, or political—is a turning point, a sudden rupture, a sharp and immediate moment of reckoning. But for us today, crisis has become a chronic and seemingly permanent condition. We live, oxymoronically, in a state of perpetual, but never resolved, convulsion and contradiction. Crises never come to a culmination; instead, they are endlessly and indefinitely deferred. For instance, after the economic collapse of 2008, the big banks were bailed out by the United States government. This allowed them to resume the very practices—the creation of arcane financial instruments, in order to enable relentless rent-seeking—that led to the breakdown of the economic system in the first place. The functioning of the system is restored, but only in such a way as to guarantee the renewal of the same crisis, on a greater scale, further down the road. Marx rightly noted that crises are endemic to capitalism. But far from threatening the system as Marx hoped, today these crises actually help it to renew itself. As David Harvey puts it, it is precisely “through the destruction of the achievements of preceding eras by way of war, the devaluation of assets, the degradation of productive capacity, abandonment and other forms of ‘creative destruction’” that capitalism creates “a new basis for profit-making and surplus absorption.” What lurks behind this analysis is the frustrating sense of an impasse. Among its other accomplishments, neoliberal capitalism has also robbed us of the future. For it turns everything into an eternal present. The highest values of our society—as preached in the business schools—are novelty, innovation, and creativity. And yet these always only result in more of the same. How often have we been told that a minor software update “changes everything”? Our society seems to function, as Ernst Bloch once put it, in a state of “sheer aimless infinity and incessant changeability; where everything ought to be constantly new, everything remains just as it was.” This is because, in our current state of affairs, the future exists only in order to be colonized and made into an investment opportunity. John Maynard Keynes sought to distinguish between risk and genuine uncertainty. Risk is calculable in terms of probability, but genuine uncertainty is not. Uncertain events are irreducible to probabilistic analysis, because “there is no scientific basis on which to form any calculable probability whatever.” Keynes’s discussion of uncertainty has strong affinities with Quentin Meillassoux’s account of hyperchaos. For Meillassoux, there is no “totality of cases,” no closed set of all possible states of the universe. Therefore, there is no way to assign fixed probabilities to these states. This is not just an empirical matter of insufficient information; uncertainty exists in principle. For Meillassoux and Keynes alike, there comes a point where “we simply do not know.” But today, Keynes’s distinction is entirely ignored. The Black-Scholes Formula and the Efficient Market Hypothesis both conceive the future entirely in probabilistic terms. In these theories, as in the actual financial trading that is guided by them (or at least rationalized by them), the genuine unknowability of the future is transformed into a matter of calculable, manageable risk. True novelty is excluded, because all possible outcomes have already been calculated and paid for in terms of the present. While this belief in the calculability of the future is delusional, it nonetheless determines the way that financial markets actually work. We might therefore say that speculative finance is the inverse—and the complement—of the “affirmative speculation” that takes place in science fiction. Financial speculation seeks to capture, and shut down, the very same extreme potentialities that science fiction explores. Science fiction is the narration of open, unaccountable futures; derivatives trading claims to have accounted for, and discounted, all these futures already. The “market”—nearly deified in neoliberal doctrine—thus works preemptively, as a global practice of what Richard Grusin calls premediation. It seeks to deplete the future in advance. Its relentless functioning makes it nearly impossible for us to conceive of any alternative to the global capitalist world order. Such is the condition that Mark Fisher calls capitalist realism. As Fisher puts it, channeling both Jameson and Žižek, “it’s easier to imagine the end of the world than the end of capitalism.”

#### Neoliberalism strips language of its critical possibility and produces race neutrality – this reifies whiteness and lets white people think they are free of responsibility – thus the ROTB is to challenge racial capitalism

**Giroux 03,** Henry, American and Canadian scholar and cultural critic, Communication Education, “Spectacles of Race and Pedagogies of Denial: Anti-Black Racist Pedagogy Under the Reign of Neoliberalism”, <https://www.tandfonline.com/doi/abs/10.1080/0363452032000156190?journalCode=rced20>, Accessed 6/28/21 VD

Under the reign of neoliberalism in the United States, society is largely defined through the privileging of market relations, deregulation, privatization, and consumerism. Central to neoliberalism is the assumption that profit making be construed as the essence of democracy, thus providing a rationale for a handful of private interests to control as much of social life as possible to maximize their financial investments. Strictly aligning freedom with a narrow notion of individual interest, neoliberalism works hard to privatize all aspects of the public good and simultaneously narrow the role of the state as both a gatekeeper for capital and a policing force for maintaining social order and racial control. Unrestricted by social legislation or government regulation, market relations as they define the economy are viewed as a paradigm for democracy itself. Central to neoliberal philosophy is the claim that the development of all aspects of society should be left to the wisdom of the market. Similarly, neoliberal warriors argue that democratic values be subordinated to economic considerations, social issues be translated as private dilemmas, part-time labor replace full-time work, trade unions be weakened, and everybody be treated as a customer. Within this market-driven perspective, the exchange of capital takes precedence over social justice, the making of socially responsible citizens, and the building of democratic communities. There is no language here for recognizing antidemocratic forms of power, developing nonmarket values, or fighting against substantive injustices in a society founded on deep inequalities, particularly those based on race and class. Hence, it is not surprising that under neoliberalism, language is often stripped of its critical and social possibilities as it becomes increasingly difficult to imagine a social order in which all problems are not personal, social issues provide the conditions for understanding private considerations, critical reflection becomes the essence of politics, and matters of equity and justice become crucial to developing a democratic society. It is under the reign of neoliberalism that the changing vocabulary about race and racial justice has to be understood and engaged. As freedom is increasingly abstracted from the power of individuals and groups to participate actively in shaping society, it is reduced to the right of the individual to be free from social constraints. In this view, freedom is no longer linked to a collective effort on the part of individuals to create a democratic society. Instead, freedom becomes an exercise in self-development rather than social responsibility, reducing politics to either the celebration of consumerism or a privileging of a market-based notion of agency and choice that appear quite indifferent to how power, equity, and justice offer the enabling conditions for real individual and collective choices to be both made and acted upon. Under such circumstances, neoliberalism undermines those public spaces where noncommercial values and crucial social issues can be discussed, debated, and engaged. As public space is privatized, power is disconnected from social obligations, and it becomes more difficult for isolated individuals living in consumption-oriented spaces to construct an ethically engaged and power-sensitive language capable of accommodating the principles of ethics and racial justice as a common good rather than as a private affair. According to Bauman (1998), the elimination of public space and the subordination of democratic values to commercial interests narrow the discursive possibilities for supporting notions of the public good and create the conditions for “the suspicion against others, the intolerance of difference, the resentment of strangers, and the demands to separate and banish them, as well as the hysterical, paranoiac concern with ‘law and order”’ (p. 47). Positioned within the emergence of neoliberalism as the dominant economic and political philosophy of our times, neoracism can be understood as part of a broader attack against not only difference but also the value of public memory, public goods, and democracy itself. The new racism both represents a shift in how race is defined and is symptomatic of the breakdown of a political culture in which individual freedom and solidarity maintain an uneasy equilibrium in the service of racial, social, and economic justice. Individual freedom is now disconnected from any sense of civic responsibility or justice, focusing instead on investor profits, consumer confidence, the downsizing of governments to police precincts, and a deregulated social order in which the winner takes all. Freedom is no longer about either making the powerful responsible for their actions or providing the essential political, economic, and social conditions for everyday people to intervene in and shape their future. Under the reign of neoliberalism, freedom is less about the act of intervention than it is about the process of withdrawing from the social and enacting one’s sense of agency as an almost exclusively private endeavor. Freedom now cancels out civic courage and social responsibility while it simultaneously translates public issues and collective problems into tales of failed character, bad luck, or simply indifference. As Amy Elizabeth Ansell (1997) points out: The disproportionate failure of people of color to achieve social mobility speaks nothing of the justice of present social arrangements, according to the New Right worldview, but rather reflects the lack of merit or ability of people of color themselves. In this way, attention is deflected away from the reality of institutional racism and towards, for example, the “culture of poverty”, the “drug culture”, or the lack of black self-development. (p. 111) Appeals to freedom, operating under the sway of market forces, offer no signposts theoretically or politically for engaging racism, an ethical and political issue that undermines the very basis of a substantive democracy. Freedom in this discourse collapses into self-interest and as such is more inclined to organize any sense of community around shared fears, insecurities, and an intolerance of those “others” who are marginalized by class and color. But freedom reduced to the ethos of self-preservation and brutal self-interests makes it difficult for individuals to recognize the forms that racism often take when draped in either the language of denial, freedom or individual rights. In what follows, I want to explore two prominent forms of the new racism, color blindness and neoliberal racism and their connection to the New Right, corporate power, and neoliberal ideologies. Unlike the old racism, which defined racial differences in terms of fixed biological categories organized hierarchically, the new racism operates in various guises proclaiming among other things race neutrality, asserting culture as a marker of racial difference, or marking race as a private matter. Unlike the crude racism with its biological referents and pseudoscientific legitimations, buttressing its appeal to white racial superiority, the new racism cynically recodes itself within the vocabulary of the civil rights movement, invoking the language of Martin Luther King, Jr. to argue that individuals should be judged by the “content of their character” and not by the color of their skin. Amy Elizabeth Ansell (1997), a keen commentator on the new racism, notes both the recent shifts in racialized discourse away from more rabid and overt forms of racism and its appropriation particularly by the New Right in the United States and Britain: The new racism actively disavows racist intent and is cleansed of extremist intolerance, thus reinforcing the New Right’s attempt to distance itself from racist organizations such as the John Birch Society in the United States and the National Front in Britain. It is a form of racism that utilizes themes related to culture and nation as a replacement for the now discredited biological referents of the old racism. It is concerned less with notions of racial superiority in the narrow sense than with the alleged “threat” people of color pose—either because of their mere presence or because of their demand for “special privileges”—to economic, socio-political, and cultural vitality of the dominant (white) society. It is, in short, a new form of racism that operates with the category of “race”. It is a new form of exclusionary politics that operates indirectly and in stealth via the rhetorical inclusion of people of color and the sanitized nature of its racist appeal. (pp. 20––21) What is crucial about the new racism is that it demands an updated analysis of how racist practices work through the changing nature of language and other modes of representation. One of the most sanitized and yet pervasive forms of the new racism is evident in the language of color-blindness. Within this approach, it is argued that racial conflict and discrimination is a thing of the past and that race has no bearing on an individual’s or group’s location or standing in contemporary American society. Color blindness does not deny the existence of race but denies the claim that race is responsible for alleged injustices that reproduce group inequalities, privilege Whites, and negatively impacts on economic mobility, the possession of social resources, and the acquisition of political power. Put differently, inherent in the logic of color blindness is the central assumption that race has no valence as a marker of identity or power when factored into the social vocabulary of everyday life and the capacity for exercising individual and social agency. As Charles Gallagher (2003) observes, “Within the color-blind perspective it is not race per se which determines upward mobility but how much an individual chooses to pay attention to race that determines one’s fate. Within this perspective race is only as important as you allow it to be” (Gallagher, 2003, p. 12). As Jeff, one of Gallagher’s interviewees, puts it, race is simply another choice: “you know, there’s music, rap music is no longer, it’s not a black thing anymore … when it first came out it was black music, but now it’s just music. It’s another choice, just like country music can be considered like white hick music, you know it’s just a choice” (Gallagher, 2003, p. 11). Hence, in an era “free” of racism, race becomes a matter of taste, lifestyle, or heritage but has nothing to do with politics, legal rights, educational access, or economic opportunities. Veiled by a denial of how racial histories accrue political, economic, and cultural weight to the social power of whiteness, color blindness deletes the relationship between racial differences and power, and in doing so reinforces whiteness as the arbiter of value for judging difference against a normative notion of homogeneity (Goldberg, 2002, takes up this issue brilliantly, especially in pp. 200––238). For advocates of color blindness, race as a political signifier is conveniently denied or seen as something to be overcome, allowing Whites to ignore racism as a corrosive force for expanding the dynamics of ideological and structural inequality throughout society (Marable, 1998, p. 29). Color blindness is a convenient ideology for enabling Whites to ignore the degree to which race is tangled up with asymmetrical relations of power, functioning as a potent force for patterns of exclusion and discrimination, including, but not limited to, housing, mortgage loans, health care, schools, and the criminal justice system. If one effect of color blindness’s functions is to deny racial hierarchies, another consequence is that it offers Whites the belief not only that America is now a level playing field, but that the success that Whites enjoy relative to minorities of color is largely due to individual determination, a strong work ethic, high moral values, and a sound investment in education. Not only does color blindness offer up a highly racialized (though paraded as race-transcendent) notion of agency, but it also provides an ideological space free of guilt, self-reflection, and political responsibility, despite the fact that Blacks have a disadvantage in almost all areas of social life: housing, jobs, education, income levels, mortgage lending, and basic everyday services (see Bonilla-Silva, 2001, for specific figures in all areas of life, especially the chapter “White Supremacy in the Post-Civil Rights Era”). In a society marked by profound racial and class inequalities, it is difficult to believe that character and merit—as color blindness advocates would have us believe—are the prime determinants for social and economic mobility and a decent standard of living. The relegation of racism and its effects in the larger society to the realm of private beliefs, values, and behavior do little to explain a range of overwhelming realities, such as soaring black unemployment, decaying cities, and segregated schools. Paul Street (2002) puts the issue forcibly in a series of questions that register the primacy of, and interconnections among, politics, social issues, and race.

#### The alternative is one of *revolutionary intercommunalism,* where the people of the world develop a community of care to improve material conditions, can establish communism and resolve the contradictions of racism.

**Newton 04** (Huey Percy Newton was an African-American revolutionary, most known for co-founding the Black Panther Party with Bobby Seale. Together, Newton and Seale created the party's manifesto, the ten-point program.), “Revolutionary Intercommunalism & The Right of Nations to Self-Determination”, 2004, pg. 31-33 NT

We say that the world today is a dispersed collection of communities. A community is different from a nation.. A community is a small unit with a comprehensive collection of institutions that exist to serve a small group of people. And we say further that **the struggle in the world today is between the 32 small circle that administers and profits from the empire of the United States and the peoples of the world who want to determine their own destinies.** We call this situation intercommunalism. We are now in the age of **reactionary intercommunalism**, in which a ruling circle, a small group of people, control all other people by using their technology. At the same time, we say that this technology can solve most of the material contradictions people face, that the material conditions exist that would allow the people of the world to **develop a culture that is essentially human** and would nurture those things that would allow the people to resolve contradictions in a way that would not cause the mutual slaughter of all of us. **The development of such a culture would be revolutionary intercommunalism.** Some communities have begun doing this. They liberated their territories and have established provisional governments. We recognize them, and say that these governments represent the people of China, North Korea, the people in the liberated zones of South Vietnam, and the people in North Vietnam. We believe their examples should be followed so that the order of the day would not be reactionary intercommunalism (empire) but revolutionary intercommunalism. The people of the world, that is, must seize power from the small ruling circle and expropriate the expropriators, pull them down from their pinnacle and make them equals, and distribute the fruits of our labor, that have been denied us, in some equitable way. We know that the machinery to accomplish these tasks exists and we want access to it. 33 Imperialism has laid the foundation for world communism, and imperialism itself has grown to the point of reactionary intercommunalism because the **world is now integrated into one community**. The communications revolution, combined with the expansive domination of the American empire, has created the "global village." The peoples of all cultures are under siege by the same forces and they all have access to the same technologies. There are only differences in degree between what's happening to the Blacks here and what’s happening to all of the people in the world, including Africans. **Their needs are the same and their energy is the same.** And the contradictions they suffer will only be resolved when the people establish a revolutionary intercommunalism where they share all the wealth that they produce and live in one world. The stage of history is set for such a transformation: the technological and administrative base of socialism exists. When the people seize the means of production and all social institutions, then there will be a qualitative leap and a change in the organization of society. It will take time to resolve the contradictions of racism and all kinds of chauvinism; but because the people will control their own social institutions, **they will be free to re-create themselves and to establish communism**, a stage of human development in which human values will shape the structures of society. At this time the world will be ready for a still higher level, of which we can now know nothing.

## Case

### Util

#### Extend ROB - Representations and epistemology in regards to racial capitalism comes before extinction –

#### [1] There’s no epistemological obligation to debating over ethics and util – debate should be used to set racial capitalism norms because it interrogates what args are epistemologically viewed as valid

#### [2] Reps comes first specifically on this topic – IP is not solely a legal process but is sustained through discourse – you should be forced to defend your position on IP is representatively good

#### [3] Reps controls policy and your impacts – how we represent impacts formulates our attitudes towards those impacts – it’s what justified the US bombing the middle east in reaction to terrorism

#### Util is racist -

#### [1] Util only applies to who the government deems as recognizable and rhetorically valuable which clearly doesn’t apply to colonized and black people

#### [2] Extinction is all lives matter – you’ve basically said you won’t care about black people when it’s only about black people but now that white people’s lives are threatened, you’ll care about black people

#### LBL on their standards –

### Case

#### The idea of innovation is rooted in racial scripts that portray non-white people as unimaginative and unable to innovate – their conception of innovation only serves to define citizenship as whiteness

Vats 20, Anjali Vats is an Associate Professor of Communication and African and African Diaspora Studies at Boston College. She is also an Associate Professor (by courtesy) at Boston College Law School, where she currently teaches Critical Race Theory. Vats holds a Ph.D. in Communication from the University of Washington, a J.D. from Emory University School of Law, and an LL.M. in Intellectual Property Law and Policy from the University of Washington School of Law. “The Color of Creatorship: Intellectual Property, Race, and the Making of Americans”, Stanford University Press, September 29, 2020, Kindle, Accessed 8/14/21, sb

WITH THE PASSAGE OF THE first federal intellectual property and naturalization statutes in the United States in the late 1700s, creatorship, citizenship, and whiteness came to be formally linked. Knowledge production, which had always functioned as a racialized practice, came to mark the boundaries of Americanness and the ideals of citizenship, in part through the rhetorical inclusion of whites and the rhetorical exclusion of people of color from those respective categories. 1 As the overtly racist purposes and ideologies of intellectual property law came to be constituted with national identity and race, they set the stage for future doctrinal approaches to repeat and rewrite their logics. Racial scripts that emerged before or coextensively with nation building also shaped copyright, patent, and trademark law, and the legal boundaries of citizenship. “Common sense” and “scientific” understandings of the intersections among race, creativity, innovation, hard work, and intelligence enshrined in law and popular culture became important heuristics through which intellectual property developed. 2 Doctrinal standards that, absent formal exclusions, would appear to be race neutral operated as mechanisms for shoring up white Americanness through production, ownership, and management of knowledge.

Significantly, the racial scripts that came to be intertwined with intellectual property doctrine in this era did not disappear but remained, in rhetorical and ideological “fragments,” in the words of Michael McGee, 3 scattered through copyright, patent, and trademark doctrine, for centuries. This is not to say that race was or is always a dispositive factor in the outcome of intellectual property cases. Rather, it is to say that while markets could theoretically operate in race neutral ways, given the trajectories of racial capitalism and intellectual property law, they did not and do not do so. It is therefore imperative to study when and how racial exclusions from this era remain embedded in intellectual property law, as “sediments” 4 built into theory and practice.

This chapter examines how, historically and through formal exclusion, race, intellectual property law, and citizenship came to be consistently intertwined and racial scripts about the unimaginativeness, intelligence, laziness, disloyalty, hypersexuality, and dangerousness of people of color became central to defining who was and was not American. Between the 1700s and the mid-1900s, creatorship and citizenship were coproduced, with both of them drawing from the broader “rhetorical culture” 5 around race to articulate their core principles. The citizen creator was the idealized maker, the Romantic creator who comported with the fetishization of imagination, human progress, and consumer desire. Even as the nation’s racial politics became more progressive, or at least less formally racist, intellectual property discourses and policies consistently returned to the rhetorical and structural resources through which creatorship was cast as fundamentally white.

#### Rhetorics of innovation and ingenuity only serve to draw the boundaries of citizenship and deny access to racialized bodies that don’t meet these standards

Vats 20, Anjali Vats is an Associate Professor of Communication and African and African Diaspora Studies at Boston College. She is also an Associate Professor (by courtesy) at Boston College Law School, where she currently teaches Critical Race Theory. Vats holds a Ph.D. in Communication from the University of Washington, a J.D. from Emory University School of Law, and an LL.M. in Intellectual Property Law and Policy from the University of Washington School of Law. “The Color of Creatorship: Intellectual Property, Race, and the Making of Americans”, Stanford University Press, September 29, 2020, Kindle, Accessed 8/14/21, sb

As Jessica Silbey contends, intellectual property’s narratives are really origin stories about the nation and its people, used to define and negotiate the boundaries of Americanness itself. 15 Collective myths around intellectual property citizenship reinforce and update Euro-American ideals of Romantic authorship/Romantic inventorship, 16 rendering them legible for the cultural politics of the era through evolving rhetorical constructions of hard work, innovation, ingenuity, and ruggedness. In the American imaginary, authors are creatives who produce valuable cultural works; inventors are geniuses who transform flashes of brilliance into practical inventions; trademark owners are producers of goods who protect hard-earned authenticity and quality. 17 Intellectual property citizenship is a mythical ideal defined in part through its relation to these characteristics of individuals who attain the American Dream. Further, it helps to show that intellectual property is a racialized concept, which obscures whiteness and racial power through the mobilization of national feelings of hope, optimism, and pride, as well as fear, anxiety, and protectiveness.

#### No solvency – the TPP is the future model for IP that goes farther than TRIPS – even if the WTO can reduce IP, the TPP will reverse any progress made

‘t Hoen 16, Ellen, lawyer and public health advocate with over 30 years of experience working on pharmaceutical and intellectual property policies, Private Patents and Public Health: Changing Intellectual Property Rules for Access to Medicine”, <https://haiweb.org/wp-content/uploads/2016/07/Private-Patents-Public-Health.pdf>, Accessed 8/24/21 VD

The more recent TPP has created tremendous concern among health advocates, not least because the negotiated texts have been closely guarded secrets of which only a few leaked portions have been publicly available. The TPP talks involve 12 countries (the US, Japan, Australia, Peru, Malaysia, Vietnam, New Zealand, Chile, Singapore, Canada, Mexico, and Brunei Darussalam) and seem, from a leaked copy of the IP chapter in October 2015, to contain TRIPS-plus standards for IP.156 Public discourse and democratic scrutiny of the provisions of the TPP (and other trade agreements) are very difficult because of the lack of transparency. Negotiations take place in secret and draft negotiating text is not available until after a deal is reached. 157 The TPP’s leaked drafts, however, give us an idea of the contours of the IP-related demands that focus on obstructing generic competition and maintaining high drug prices.158 Some of those demands include: • Patent term extensions beyond the minimum requirement of 20 years in TRIPS; • Introduction or expansion of data exclusivity for biologics leading to market exclusivity even in the absence of patents,159 and resulting in a loss of diversity in data protection laws in TPP countries (see Table 7); • Requirements for patentability criteria that allow for the grant of secondary and new use patents, a practice that can lead to evergreening of patents and which is currently outlawed by a number of countries including India (see “Patentability criteria and evergreening of patents” in this chapter); and • Restrictions on the use of compulsory licensing.160 UNITAID, a financing mechanism for HIV, tuberculosis (TB) and malaria, made the following concerned statements over TRIPS-plus provisions in the TPP, particularly since the TPP is cast as a future model:161 “TRIPS-plus provisions also limit or undermine developing countries’ policy options for legislating and using TRIPS flexibilities, even though safeguards and flexibilities were included in the TRIPS Agreement to enable governments to protect public interests, including access to medicines. This has led to concerns that TRIPS-plus provisions in free trade agreements will undermine public health safeguards and objectives—notably access to medicines. These concerns are particularly pertinent with regard to the negotiation of a Trans-Pacific Partnership Agreement, which has been positioned as a “model” for the 21st century—implying that the same or similar provisions are likely to appear in future trade agreements, including those involving developing countries.”162 In particular, the inclusion of investor state dispute settlement (ISDS) mechanisms in trade agreements raises serious concerns. ISDS allows corporations to take legal action against countries to seek compensation for regulation that allegedly has negatively affected their investments. Such actions can further curtail flexibilities that are currently granted under TRIPS and may have a chilling affect on health regulation.163