# Advocacy

#### My job as the NEG is to prove not AFF, whether it be exposing disads to an AFF plan or disputing general offense.

#### I advocate for the status quo- I will prove that reducing certain aspects of IPR will have negative repercussions, proving the AFF’s world effectively worse than squo.

#### I will also dispute any arguments brought up in AFF offense as applicable.

# Framework:

## V: Societal Welfare

## VC: Consistency with pragmatism

#### Prefer because

#### A pragmatic approach to agency is necessary since the goal of rational thought is to solve problems

Roberto **Frega 12**. “Equal Accessibility to All: Habermas, Pragmatism, and the Place of Religious Beliefs in a Post-Secular Society.” Constellations Volume 19, Number 2, 2012.

**A pragmatic theory of rationality provides a description of the nature and function of human reason** whose theoretical bases lie in the naturalistic paradigm offered by classical pragmatists, especially J. Dewey and C. S. Peirce. Such an account deploys a conception of thinking [is] as human [an] activity embedded in experience (principle of continuity) and **[that is]** functionally **oriented to the advancement of experience itself.** According to such an account, thinking is conceived as an activity whose main function is the guide of conduct through the fixation of beliefs. As such it is considered as a form of inquiry. The main traits of reason so conceived are the following: Functionalism: **reason is inextricably intertwined with** the other dimensions of **experience and is analytically** distinguished and identified through its function, which is that of **facing and solving problems** emerging **in experience**; Contextualism: intelligence is always enacted by a specific problem arising in a situation that shakes our belief and, troubling our ordinary way of conduct, engenders doubt. Experimentalism: the natural history of knowledge has showed experimental thinking to be the most fruitful method for fixing human beliefs. Therefore, the enquiring attitude finds here its pragmatic justification. Inferentialism: intelligence is always directed towards future states of affairs, unknown conditions, prediction and control6. Judgmentalism: judgment as an act is the quintessential expression of human intelligence and stands for its paradigmatic form of activity (as opposed to purely theoretical forms of thinking activity like the grasping of thoughts7). Practicalism: intelligence is the qualitative trait of a specific kind of human agency, and the practical dimension of its exercise should find a full account in a practice-based epistemology. Intersubjectivism: thinking takes place in the wide open context of a social and cultural matrix that shapes its horizons. Therefore, thinking is not considered to be neither private nor mental but public in the twofold sense of taking place among peoples and in constant interaction with the environment. In this perspective, **rationality should be considered a specific trait** not simply of human discourse but more broadly **of human agency**. **Humans are said to be rational to the extent that their interaction with their environment is guided by a** reflective **attitude characterized by** the fact that **obstacles [being] perceived and faced as problems.** Rationality is an attribute of agency not because it loses its cognitively distinctive traits, but because the notion of agency overcome the duality of thinking and action towards the idea of a ‘reflective behaviour’ that is common to all the pragmatic tradition.

If we want to be considered rational beings, then we must take the most pragmatic and problem-solving course of action and create as few obstacles as possible.

# Offense

#### Patents are necessary to create return on investment in pharmaceutical research.

[Servier International Research Foundation 20](https://servier.com/en/news/why-patents-are-necessary-for-the-pharmaceutical-industry/): The innovation process is complex, lengthy and expensive. Only 1 in 10,000 molecules becomes a drug and enters the market. The average cost of developing a drug candidate is nearly one billion euros. Because of these significant investments, patent protection is vital to ensure a return on investment for companies and researchers and enable creation of new drugs. If a drug patent is granted for 20 years, it protects exclusivity for only 8 years because drugs require an average of 12 years of research before market entry.

#### No patent protection means market failure

**Mahdavi, 17** (Elle Mahdavi, 5-26-2017, accessed on 9-15-2021, California Management Review, "Patents and the Pharmaceutical Industry", https://cmr.berkeley.edu/2017/05/patents-and-pharmaceuticals/)

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by Elle Mahdavi

Patents are a way to prevent market failure and allow for greater investment in research. However, patent-protected drugs face no price caps nor competitors for about twenty years, giving patent holders market exclusivity. In an ideal world, medicine would be accessible to all. To continually create new and better medications, however, somebody has to invest in research for them, and unfortunately, the amount of financial capital required is no small figure. In 2014, the Tufts Center for the Study of Drug Development estimated that it takes around $2.6 billion and a ten-year long time commitment to develop and license a new prescription drug. Without patents, certain pharmaceutical companies wouldn’t invest in research themselves but would instead wait around for another group to discover and license the drug. Then, those companies could price the drug lower than their competition. This would result in a market failure, in terms of a positive externality, as other companies would benefit from the research of one group without having to pay for it.

Corporations wouldn’t want to invest their time and money in something they wouldn’t be able to profit from due to competition. **Thus, the amount of pharmaceutical innovations in society would be less than** the socially **optimal**

Similarly, corporations wouldn’t want to invest in research for drugs for treat only a small group of people such as people with “orphan diseases” like Lou Gehrig’s or Tourette’s. In the US, an “orphan disease” afflicts only around 200,000 people, which in the eyes of companies, constitutes a small market when considering the amount of research required for developing prescription drugs. To stimulate production of these drugs, the U.S. government passed the Orphan Drug Act, giving companies seven years of market exclusivity for treating certain rare conditions. Much like a patent protected drug, an orphan drug could be set at any price during these seven years, as it doesn’t face competition nor government restrictions. quantity. Patents are a way to combat this market failure. By giving pharmaceutical companies a twenty-year patent where prices can’t be regulated by the government or altered by competition, companies are incentivized to make these huge financial and temporal investments.

#### Creating market failure and disincentivizing research into medicines that help improve people's welfare is clearly an un-pragmatic action.  The most rational thing to do in this situation is to  continue providing that create investment in research and development that improves society as a whole.

Strong IP laws benefit developing countries by inducing foreign investment

Ezell and Cory 19 Stephen Ezell (vice president of global innovation policy at the Information Technol‑ ogy and Innovation Foundation; founder of Peer Insight, an innovation research and consulting firm) and Nigel Cory (associate director covering trade policy at the Infor‑ mation Technology and Innovation Foundation; formerly a researcher in the South‑ east Asia Program at the Center for Strategic and International Studies and worked for eight years in Australia’s Department of Foreign Affairs and Trade). “The Way For‑ ward for Intellectual Property Internationally.” Information Technology & Innovation Foundation. 25 April 2019. JDN. https://itif.org/publications/2019/04/25/way‑forward‑ intellectual‑property‑internationally **Studies have shown benefits from intellectual property to developing countries.** Diwan and Rodrik demonstrated that stronger patent rights in developing countries incentivize developed countries to research and invest there. IPR reform in the “global South” is associated with Foreign Direct Investment increases {from developed countries}.As northern firms shift their production south, this FDI accelerates industrial development, creating cyclical feedback that also benefits the North; {Conversely} appropriate to developing countries.42 Similarly, Taylor showed weak patent rights in developing countries lead enterprises from developed coun‑ tries to introduce substandard practices to developing countries.43 Inter‑ estingly, the relationship goes in both directions. Branstetter and Saggi showed that strengthened IPR protection not only improves the investment climate in the imple‑ menting countries, but also leads to increased FDI in the country producing the original innovation.44 They concluded that. Another study by Liao and Wong, which focused on firm‑level analysis, highlights the inter‑relationship of IPR reform in developed and developing countries. Their study concluded that , (although they note there is a need for redoubled R&D efforts in developed countries to spur needed innovations).45The 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 trade‑ marks, 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 coun‑ try’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 domesti‑ cally 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 prop‑ erty rights can increase incentives for foreign direct investment which in turn also leads to economic growth.”

#### Economic growth is a key indicator of societal well-being so incentivizing growth and investment is a very practical and helpful course of action.

1. Certain protections good:

Use patents offer unique financial incentives: [**Rai 14**](https://stm.sciencemag.org/content/6/248/248fs30)

**If a new use {for an old molecule}  proves to be therapeutically successful, FDA will approve the molecule only for that use in a “use patent” Use patents offer robust financial incentives**. **.** Moreover, because skinny labeling by a generic competitor is possible only in the context of an FDA-approved use that is no longer under patent protection, a use patent precludes skinny labeling and protects the developer of the original patent from generic entry. In fact, **a competitor that wishes to use the same molecule will have to conduct clinical trials to show novel effectiveness**. Thus, a use patent for a rescued drug functions like a product patent. Indeed, even if use patents do not prove as valuable as product patents, they are likely to be sufficient to drive development of rescued drugs, which have already been {certified safe} in trials. Howev In many respects, the developer of the entirely dif erent use will be in a position similar to that of a “me-too” drug developer—that is, the developer of a molecule that has the same mechanism of action and use as the originator molecule but manages to avoid the originator’s patent. T e availability of me-too competition has not prevented f rms from engaging in more pioneering discovery. To the contrary, the incidence of me-too drugs appears to have declined in recent years, perhaps because of price constraints that insurance f rms can impose when they are able to choose between multiple competing drugs in the same class (5). T us, a use patent for a rescued drug functions like a product patent (6). Indeed, even if use patents do not prove as valuable as product patents, they are likely to be suf - cient to drive development of rescued drugs, which have already been derisked to some extent in early-phase clinical trials for safety. Critics of evergreening should also have no cause for complaint. Because no medical use was established for the molecule, it is logically impossible for the new, patented use to be a trivial extension of a prior use. Although this strategy for use patenting appears to have been relatively rare in the past—according to one analysis,

#### The impact is increased innovation, because when people want more profit they have to find new uses for existing compounds or create new ones in order to have IP protections, so new treatments are constantly being created.

#### Use patents speed up medical development with minimal expenditure

Seymore 20 Vanderbilt Law Review (https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=2919&context=vlr )

New uses for aspirin are patentable. Indeed, the quest to find new uses for old drugs like aspirin deserves special attention. Over two-thirds of the value of worldwide patents accrues to chemical and pharmaceutical firms, and more than half accrues to a small number of large pharmaceutical firms.13 The cost of new drug development has led these firms to pursue drug repurposingthe quest to find new uses for old drugs.14 Since older drugs have already been tested in humans, much is known about their pharmacology and toxicity.15 The U.S. Food and Drug Administration **(“The** FDA”) approves drugs that have been shown to be safe and effective for the manufacturer’s intended use; however, it {and} also permits doctors to prescribe approved drugs for “off-label” indications. This allows repurposed drugs to bypass much clinical testing and reach the market more cheaply, more quickly, and with less risk than new drug candidates. **Revenues generated from repurposed drugs can** be substantial—**eclipse** those from the drug’s original indication19 and those from new drugs developed from scratch. **Repurposed drugs can also provide remarkable health outcomes for neglected diseases or for patients who otherwise have limited treatment options**.

#### One of the most practical things anyone can do is save money, so providing protections to repurpose drugs in continuing cost - effective research is extremely pragmatic.

#### To continue rational and helpful Intellectual property protections, negate.