# 1AC vs OES AH

### Framing

#### The meta-ethic is procedural moral realism.

#### This entails that moral facts stem from procedures while substantive realism holds that moral truths exist independently of that in the empirical world. Prefer procedural realism –

#### Next is regress -

#### That justifies universalizability –

#### Thus, the standard is Consistency with the Categorical Imperative. Prefer:

#### [1] Performativity –

#### [2] Humanity –

#### [3] Ethical frameworks must be theoretically legitimate. All frameworks are functionally topicality interpretations of the word ought so they must theoretically justified. Prefer our standard –

#### [4] Frameworks all share equal value.

#### [5]The neg may not read consequentialism –

### Offense

#### I affirm: Resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines. Presumption & Permissibility affirms

#### 1] Patents attempt to assert ownership over nature and impede individuals’ abilities to pursue their own ends

Long 95 [(Roderick T., professor of philosophy at Auburn University, editor of the Journal of Ayn Rand Studies, director and president of the Molinari Institute and a Senior Fellow at the Center for a Stateless Society) “The Libertarian Case Against Intellectual Property Rights,” Free Nation Foundation, 1995] JL recut Lex VM

The moral case against patents is even clearer. A patent is, in effect, a claim of ownership over a law of nature. What if Newton had claimed to own calculus, or the law of gravity? Would we have to pay a fee to his estate every time we used one of the principles he discovered?

Defenders of patents claim that patent laws protect ownership only of inventions, not of discoveries. (Likewise, defenders of copyright claim that copyright laws protect only *implementations* of ideas, not the ideas themselves.) But this distinction is an artificial one. Laws of nature come in varying degrees of generality and specificity; if it is a law of nature that copper conducts electricity, it is no less a law of nature that this much copper, arranged in this configuration, with these other materials arranged so, makes a workable battery. And so on.

Suppose you are trapped at the bottom of a ravine. Sabre-tooth tigers are approaching hungrily. Your only hope is to quickly construct a levitation device I've recently invented. You know how it works, because you attended a public lecture I gave on the topic. And it's easy to construct, quite rapidly, out of materials you see lying around in the ravine.

But there's a problem. I've patented my levitation device. I own it — not just the individual model I built, but the universal. Thus, you can't construct your means of escape without using my property. And I, mean old skinflint that I am, refuse to give my permission. And so the tigers dine well.

This highlights the moral problem with the notion of intellectual property. By claiming a patent on my levitation device, I'm saying that you are not permitted to use your own knowledge to further your ends. By what right?

Another problem with patents is that, when it comes to laws of nature, even fairly specific ones, the odds are quite good that two people, working independently but drawing on the same background of research, may come up with the same invention (discovery) independently. Yet patent law will arbitrarily grant exclusive rights to the inventor who reaches the patent office first; the second inventor, despite having developed the idea on his own, will be forbidden to market his invention.

#### 2] IPR is nonuniversalizable and interferes with the freedom of people who need medicine

Merges 11 [(Robert, Wilson Sonsini Goodrich & Rosati Professor of Law and Technology, University of California, Berkeley, School of Law) “Justifying Intellectual Property,” Harvard University Press, 2011] JL recut Lex VM

Under Kant’s Universal Principle of Right (UPR), “laws secure our right to external freedom of choice to the extent that this freedom is compatible with everyone else’s freedom of choice under a universal law.”8 As I explained in Chapter 3, Kant’s theory of property rights expresses a special instance of this general principle: property is widely available, yet denied when individual appropriation interferes with the freedom of others. Kant says that although the need for robust property drives the formation of civil society, property rights are nonetheless subject to this “universalizing” principle. Under the operation of the UPR, property rights are constrained: they must not be so broad that they interfere with the freedom of fellow citizens. In a Kantian state, individual property is both necessary— to promote autonomy and self- development; see Chapter 3— and necessarily restricted under the UPR.9

Death is the ultimate restraint on autonomy; there is no more “self” to guide after a person dies. So when a claim to property by person A leads to the death of person B, Kant’s Universal Principle would seem to rebut that claim. As with other issues, however, Kant’s views in this regard are not so simple. In par tic u lar, he expressed complex views on the legal defense of “necessity,” which bears a close resemblance to the property- limiting principle I am attributing to him here.10 Kant says, in effect, that in at least one important example of necessity— where A kills B, or at least puts B in immediate grave danger, to save A’s own life— one who commits a necessary act is culpable but not punishable.11 As with so much in the Kantian canon, there is a great deal of debate over just what Kant was trying to say about necessity. One view— at least as plausible as most others, and more plausible than some— holds that Kant thought of necessity as something like an excuse or defense: a wrong act is not made right by necessity, but it is insulated from formal legal liability.12 This view, well described by among others the Kant scholar Arthur Ripstein, depends on the distinction between formal, positive law (“external,” in Kant’s terminology; see Chapter 3) and “internal” morality. Property for Kant is an absolute right, and taking it without permission is always objectively wrong. But at the same time, some takings are not punishable by the state because they fall outside the proper bounds of legitimate lawmaking.

Because Kant did not explicitly discuss the necessity defense as it pertains to property rights, any application of his thinking to the case of pharmaceutical patents can only be speculation. Even so, there is one point to make. As I explained in some detail in Chapter 3, there is generally a high degree of symmetry between Kant’s thinking on law and3 his theory of property. The UPR is a good example; as I explained in Chapter 3, the idea that property can extend only up to the point that it interferes with the freedom of others is simply one specific application of the general Kantian take on law and freedom. Thus, the analysis of the pharmaceutical patents problem would turn on the issue of property’s effect on the freedom of those suffering from treatable diseases. To put it simply, it is difficult to be sure of the exact conclusion Kant would reach with regard to the issue, but I am sure that the analysis would turn on the freedom- restricting qualities of pharmaceutical patents. It is hard to know the right answer, but not hard to pose the right question: should property extend so far as to cut off or restrain the freedom of those who might be treated?

**And resolved is defined as[[1]](#footnote-1) firm in purpose or intent; determined and I’m determined. And resolved is in the past tense, meaning the resolution is already passed, causing an automatic aff ballot.**

#### The neg must concede the aff contention level arguments -

### Underview

#### [1] Aff gets 1AR theory otherwise the neg can be infinitely abusive and I can’t check back. It’s DTD, competing interps, and highest layer bc the 1AR is too short to win both theory and substance. No 2NR theory or paradigm issues cuz they can dump on it for 6 minutes and my 3-minute 2AR is screwed.

#### [2] Use a truth testing paradigm a) Logic –– b) Fiat is illusory –– c) ROBs that aren’t phrased as binaries maximize leeway for interpretation as to who is winning offense– d) Inclusion

#### [3] Practices are assumed to exist for the purposes of discussion. However, denying the assumptions behind statements just proves them valid. The only time the statement is invalid is when the consequent is false.

Stanford <https://web.stanford.edu/~bobonich/dictionary/dictionary.html> Abbreviated Dictionary of Philosophical Terminology An introduction to philosophy Stanford University //ACCS JM

[In a] Conditional statement: an “if p, then q” compound statement (ex. If I throw this ball into the air, it will come down); p is called the antecedent, and q is the consequent. A conditional asserts that if its antecedent is true, its consequent is also true; any conditional with a true antecedent and a false consequent must be false. For any other combination of true and false antecedents and consequents, the conditional statement is true.

#### Implications-

# Accessibility Formatting

#### 1] Patents attempt to assert ownership over nature and impede individuals’ abilities to pursue their own ends

A patent a claim over a law of nature it is nature that copper in this configuration makes a battery suppose sabre-tooth tigers are approaching you only hope is a device ive patented my device thus you cant construct without my property you are not highlights the moral problem with the notion of intellectual property. By claiming a patent on my levitation device, I'm saying that you are not permitted to use your own knowledge to further your ends

#### 2] IPR is nonuniversalizable and interferes with the freedom of people who need medicine

Property must not interfere with the freedom of fellow citizens death is the ultimate restraint on autnomoy; there is no more self to guide when a claim to property by person A leads to the death of person B Kant pharmaceutical patents would effect the freedom of those suffering from treatable diseases

#### [3] Practices are assumed to exist for the purposes of discussion. However, denying the assumptions behind statements just proves them valid. The only time the statement is invalid is when the consequent is false.

In a conditional if it s antecedent is true its consequent is also true any conditional with a true antecedent and a false consequent must be false. For any false antecedents the statement is true

1. http://www.dictionary.com/browse/resolved [↑](#footnote-ref-1)