# 1AC vs Byram Hills AK

## 1AC

### 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] Ethical frameworks must be theoretically legitimate –

#### [3] Frameworks all share equal value –

### Offense

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

#### 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?

### Underview

#### [1] Aff gets 1AR theory –

#### [2] Use a truth testing paradigm –

#### [3] Practices are assumed to exist for the purposes of discussion –

#### [4] RVI on NC theory –

#### [5] Reject neg fairness concerns –

#### [6] All neg interps are counter interps –

#### [7] Principle of Explosions-

#### [8] Dogmatism Paradox

Sorensen Sorensen, Roy, Professor of Philosophy at Washington University in St. Louis. "Epistemic Paradoxes.” Stanford Encyclopedia of Philosophy. 21 June 2006. <https://plato.stanford.edu/entries/epistemic-paradoxes/>. PeteZ

Saul Kripke’s ruminations on the surprise test paradox led him to a paradox about dogmatism. He lectured on both paradoxes at Cambridge University to the Moral Sciences Club in 1972. (A descendent of this lecture now appears as Kripke 2011). Gilbert Harman transmitted Kripke’s new paradox as follows: If I know that h is true, I know that any evidence against h is evidence against something that is true; I know that such evidence is misleading. But I should disregard evidence that I know is misleading. So, once I know that h is true, I am in a position to disregard any future evidence that seems to tell against h. (1973, 148)

#### [9] Vote aff because it’s simple – evaluating responses to this is complicated so don’t :D

Baker 04’ [Baker, Alan, 10-29-2004, "Simplicity (Stanford Encyclopedia of Philosophy)," <https://plato.stanford.edu/entries/simplicity/>]

With respect to question (ii), there is an important distinction to be made between two sorts of simplicity principle. Occam's Razor may be formulated as an epistemic principle: if theory T is simpler than theory T\*, then it is rational (other things being equal) to believe T rather than T\*. Or it may be formulated as a methodological principle: if T is simpler than T\* then it is rational to adopt T as one's working theory for scientific purposes. These two conceptions of Occam's Razor require different sorts of justification in answer to question (iii). In analyzing simplicity, it can be difficult to keep its two facets—elegance and parsimony—apart. Principles such as Occam's Razor are frequently stated in a way which is ambiguous between the two notions, for example, “Don't multiply postulations beyond necessity.” Here it is unclear whether ‘postulation’ refers to the entities being postulated, or the hypotheses which are doing the postulating, or both. The first reading corresponds to parsimony, the second to elegance. Examples of both sorts of simplicity principle can be found in the quotations given earlier in this section.

#### [10] Negative arguments presuppose the aff being true –

#### [11] If I win one layer vote aff –

#### [12] The neg may not contest aff paradigm issues, but if they win they can, only offensive theory can be contested

#### [13] Allow new 2ar responses to nc arguments but no 2n responses on reciprocity –

#### [14] 1NC theory on spikes is drop the argument

#### [15] Affirming is harder – all theory arguments have an implicit aff flex standard because of huge side bias – outweighs neg fairness arguments unless they prove how it uniquely outweighs the disparity since it’s structural. Put away your evidence ethics claims, this is from 2021 and the author does endorse substantive compensation for the aff

Sachin Shah 21 (Former debater and statistician) “A Statistical Study of Side Bias on the 2021 January-February Lincoln-Douglas Debate Topic by Sachin Shah” NSD Update, 2021, http://nsdupdate.com/2021/a-statistical-study-of-side-bias-on-the-2021-january-february-lincoln-douglas-debate-topic-by-sachin-shah/?fbclid=IwAR0xUs8IfbaV31bR1Vv66o6yxa8m0buAGnWNoSrTdtphVinz3YI-UtXmQ1Q. Accessed 10-15-2021, WWEY

It is also interesting to look at the trend over multiple topics. Of the 243 bid distributing tournaments from August 2015 to present, the negative won 52.30% of rounds (p-value < 10^-34, 99% confidence interval [51.82%, 52.78%]). Of elimination rounds, the negative won 55.85% of rounds (p-value < 10^-18, 99% confidence interval [54.16%, 57.54%]). Additionally, after fitting logistical regression to the entire dataset, the offset was found to be 12.57. That translates to 9% of rounds for the negative where the debater predicted to win changed as a result of the bias. This continues to suggest the negative side bias might be structural and not topic specific

# Accessible Formatting

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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

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Occam's Razor as an epistemic principle: if theory T is simpler than theory T\*, then it is rational (other things being equal) to believe T rather than T\*. “Don't multiply postulations beyond necessity

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over multiple topics neg won 9% of rounds where the win changed as a result of the bias neg side bias might be structural and not topic specific