#### I negate the resolution. Resolved: The member nations of the World Trade Organizations ought to reduce intellectual property protections for medicines.

#### The value is morality, and our criterion is consistency with individual rights. Freedom is necessary in all things.

## Side constraints against the government and others are the means in which we both protect and respect the inherent dignity of individuals:

Nozick 74, Robert **Nozick**, [American political philosopher, former professor at Harvard University], Anarchy, State, and Utopia, **74.**

Side constraints express the inviolability of other persons. But **why may not one violate persons for the greater social good?** Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid greater harm: we go to the dentist to avoid worse suffering later; we do some unpleasant work for its results; for example some save money to support themselves when they are older. Whatever the case, some cost is borne for the sake of the greater overall good.Why not, similarly, hold that some persons have to bear some costs that benefits other persons more, for the sake of the overall social good? But **there is no social entity** with a good that undergoes some sacrifice for its own good**. There are only individual people**, different individual people, with their own individual lives**. Using one of these people for the benefit of others, uses him and benefits others. Nothing more.** What happens is that something is done to him for the sake of others. Talk of an overall social good covers this up. (Intentionally?) **To use a person in this way does not sufficiently respect and take account of the fact that he owns his life.** He does not get some overbalancing good from his sacrifice, and **no one is entitled to force** this upon **him--least of all a** state or **government** that claims his allegiance (as other individuals do not and that therefore scrupulously must be neutral between its citizens.

## Individuals are self-owners, and it is not moral for someone to take part of a person.

**Feser,** Edward. "Robert Nozick (1938—2002)." https://iep.utm.edu/nozick/. Web. August 21, 2021. <https://iep.utm.edu/nozick/>.

In line with this, Nozick also describes **individual human beings as self-owners** (though it isn’t clear whether he regards this as a restatement of Kant’s principle, a consequence of it, or an entirely independent idea). The thesis of self-ownership, a notion that goes back in political philosophy at least to John Locke, is just the **claim that individuals own themselves – their bodies, talents and abilities, labor**, and by extension the fruits or products of their exercise of their talents, abilities and labor**.** They have all the prerogatives with respect to themselves that a slaveholder claims with respect to his slaves. But the thesis of self-ownership would in fact rule out slavery as illegitimate, since each individual, as a self-owner, cannot properly be owned by anyone else. (Indeed, many libertarians would argue that unless one accepts the thesis of self-ownership, one has no way of explaining why slavery is evil. After all, it cannot be merely because slaveholders often treat their slaves badly, since a kind-hearted slaveholder would still be a slaveholder, and thus morally blameworthy, for that. The reason slavery is immoral must be because it involves a kind of stealing – the stealing of a person from himself.)

## It is a violation of liberty to force some people to give up their resources so that it can be used as a way to help others.

**Nozick 74**,

NOZICK Nozick 74, Robert Nozick, [American political philosopher, former professor at Harvard University], Anarchy, State, and Utopia, 1974.

#### gsocial potso that it’s not clear what’s coming from where andwhat’s going where,[P]atterned principles of distributive justice involve appropriating the actions of other persons. Seizing the results of someone’s labor is equivalent to seizing hours from him and directing him to carry on various activities, If people force you to do certain work, or unrewarded work, for a certain period of time, they decide what you are to do and what purposes your work is to serve apart from your decisions. This process whereby they take this decision from you makes them a part-owner of you; it gives them a property right in you.

## Contention 1: Rights

### Contention 1 – Property Rights

#### The theory of property rights entails that patents for medicines are morally justified by individuals' property right in their own person and labor.

**Gewertz**, Nevin. "Intellectual Property And The Pharmaceutical Industry: A Moral Crossroads Between Health And Propert." Journal of Business Ethics 55:3. December, **2004**. Web. August 18, 2021. <https://www.jstor.org/stable/25123392?seq=1#metadata\_info\_tab\_contents>.

**Intellectual property**, much like physical property, **is the product of labor**. According to Locke, "**every man has Property in his own Person'** (Locke, 1690, 11:27). **The individual labor belongs to that individual, and in turn this produces several conditions of origination for property:** (a) Locke argues that a person acquires ownership rights over a certain un claimed piece of property by "mixing his labor" with that property, thereby increases its value; (b) the right of property is conditional upon a person leaving in the commons enough (and as good) for the other commoners; (c) a person cannot take more out of the commons than he or she can use to advantage (Locke, 1690, 11:34-37). **The justification of intellectual property**, as a form of property in accordance with Locke, **depends on two factors**: **a conception of community, and the relation of that community to the intellectual com mons** (Drahos, 1996). **The notion of property means the right of exclusive possession to the objects which people take from the commons**. Commons can be defined as any sets of resources that a community recognizes as being accessible to any member of that community. **A person's inclusive right to the com mons does not include a right to everything in the commons, but merely the right to be included in the commons for the purpose of exercising the natural rights of survival** (Tully, 1980). **Even though intellectual property is by nature non-exclusionary, it functionally satisfies** a **Lockean** conception of **property** **because an individual both mixes his or her labor and increases the value of the original property.** In the context of drug development, one may argue that no synthetic chemical component magically appears as a figment of one's imagination. Instead, individuals mix labor in the form of time and money invested in research, education, and various resources, all of which are necessary to facilitate the creation of new ideas and novel medications. The **value of the finished prod uct, a novel idea to synthesize a medication capable of treating a specific disease, can be of greater worth than any of the individual component parts from which it is synthesized.** The value of the physical object is of greater worth, at least economically, than the idea itself. **Intellectual property provides an individual with an exclusive right to his or her own ideas. In practice, intellectual property is rewarded by the state in the form of a patent. A patent is a grant of a limited monopoly to an inventor in exchange for disclosing the invention to society** (Goldman, 1989). Once the patent has been awarded, the inventor can either control the product and set up its price in the market, or can sell his or her rights. In the U.S., a patent is legally defined as "the right to exclude others from making, using, offering for sale, or selling" a particular invention in the United States. **Additionaly, granting a patent rewards an inventor's creativity, labor, investment and accomplishments. Without proprietary protection of a patent, others could freely appropriate and put the invention to their own use** (Goldman, 1989).

#### The state has an obligation to protect property rights, and this must include intellectual property rights in medicines.

**Gewertz**, Nevin. "Intellectual Property And The Pharmaceutical Industry: A Moral Crossroads Between Health And Propert." Journal of Business Ethics 55:3. December, **2004**. Web. August 18, 2021. <https://www.jstor.org/stable/25123392?seq=1#metadata\_info\_tab\_contents>.

**According to Nozick, the primary purpose of the state is to protect basic rights.** **One of these explicit rights is the right to intellectual property.** **The concept of intellectual property is not practical unless it is upheld by the state. A simple patent by itself holds no value. The value and rights granted within a patent are meaningful to the extent they are enforced.** Simplistically, the state is formed through an "invisible hands" process by which all individuals agree to a "monopoly over all use of force" (Nozick, 1974, p. 26). Each individual, regardless of his or her position within society, has agreed to accept this "monopoly over force" in order to protect his or her basic rights, such as property. Nozick holds that any infringement upon the basic rights of the individual by the state, such as redistribution of wealth or excessive taxation, is unjust. Such redistribution fundamentally violates the basic right of the individual to the products of his or her own labor. Nozick asserts that: A minimal state, limited to the narrow functions of protection against force, theft, fraud, enforcement of contract ... is justified. The state may not use its coercive apparatus for the purpose of getting some citizens to aid others (Nozick, 1974, p. ix). The purpose of the state is to protect individuals' basic rights, of which property is considered one of several. **Because intellectual property is a basic right, it would be unjust for the state to redistribute the profits** GlaxoSmithKlein receives from AZT or AZT itself, even if to provide better medical treatment for more individuals. **Instead, the state must ensure that the patent rights of the pharmaceutical company are upheld and not infringed upon by any possible substitute products.** Current domestic and international policies demonstrate an increasing trend towards the strict protection of intellectual property. The ideas behind such policies parallel the theoretical work of Nozick. As discussed, according to Nozick, **an individual is entitled to the market value of his or her "intellectual objects" over a given, non-infinite, time period**. **This market value, no matter how potentially extraneous, is not only acquired through just means but also distributed through just transfer.** In turn, within the minimalist state of Nozick's theory, no justification exists for state intervention and re-distribution of those goods or profits received by virtue of patent licensing. The states' obligation is to protect the intellectual property interests of an individual, as well as to protect the individual himself. \*Ellipsis from source

## Contention 2: Innovation is increased by IP law.

## IP protects innovators by eliminating the risk of others duplicating their product and stealing the benefits while losing nothing. Without IP law, there is no logical incentive for innovation. Lewis 2008:

Lewis, J. A. (2008). *Intellectual property protection: Promoting innovation in a global information economy*. Center for Strategic & International Studies.

One of the most important sets of incentives for innovation comes from the protection of intellectual property (IP). Countries began to protect IP at the start of the industrial age, when innovation and technological change began to reshape economies that were largely agricultural. Early rules gave an innovator exclusive rights to make the new good he or she had created. This compensation increased innovation. Then, cognizant of the risks that those exclusive rights posed for further development, IP rules evolved to give the innovator exclusive rights in exchange for a degree of transparency. Finally, as trade among nations grew, governments realized that international IP protections would further reduce risk and expand opportunities. Through an evolutionary process over the course of the nineteenth century, the fastest-growing economies developed policies and processes to protect intellectual property and to incentivize innovation.

What we are seeing now in global economic integration goes far beyond the classic patterns of trade between nations, but trade increases both the value and the risk to inno- vation. The value increases because an innovator has access to a much larger market. The risk increased because trade brought wider access to the ideas behind innovation. Wider access without protection meant copying; copying meant greater risk for innovations; greater risk meant that potential innovators would choose to spend their time and money doing something else besides inventing.

**IP law increases innovation, which is the backbone of all jobs and the global economy. Without it, the economy will collapse and trade will significantly decrease.**

Ash, **Reggie**. "Protecting Intellectual Property And The Nation’s Economic Security." American Bar association. Web. August 21, 2021. <https://www.americanbar.org/groups/intellectual\_property\_law/publications/landslid e/20**13-14**/may-june/protecting-intellectual-property-nations-economic-security/>.

Without protected IP rights, artists and authorsfear their work can be easily copied and are less likely to createworks of art that make life more beautiful and interesting. In the business world, protected IP rights spawn innovation—ideas and devices to improve our lives. Without IP rights protection, others can profit from the sunk costs of others, putting the innovator at a disadvantage.

Innovation generates jobs and revenue, which drive many industries and provide a source of strength to the U.S. economy. According to the U.S. Department of Commerce (DOC), the country’s most IP-intensive industries provide 40 million, or 27.7 percent, of all U.S. jobs.[11](https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2013-14/may-june/protecting-intellectual-property-nations-economic-security/?scrlybrkr=d6789ab1" \l "11) In the words of U.S. Intellectual Property Enforcement Coordinator Victoria Espinel, “Infringement of intellectual property can hurt our economy and can undermine U.S. jobs. Infringement also reduces our markets overseas and hurts our ability to export our products. Counterfeit products can pose a significant threat to the health and safety of us all.”12

Intellectual property is especially valuable within the information and communications technology (ICT) industry. Nationwide, the four industries with the highest level of patent intensity are submarkets of the ICT industry (e.g., computer and peripheral equipment; communications equipment; semiconductor and other electronic components; and other computer and electronic products). These four submarkets accounted for 851,400 jobs in fiscal year 2008.13

**As a result of the lack of profits, companies producing life-saving medicines would stop producing drugs, fully cutting off access for both developed and developing countries. WHO 2017:**

WHO. (2017). *Access to medicines: Making market forces serve the poor*. who.int. https://www.who.int/publications/10-year-review/chapter-medicines.pdf.

. At the same time**,** thepharmaceuticalindustryisa business, not a charity. When prices are so low they preclude profits, companies leave the market –andleaveaholein the availability of quality products, **as happened with anti-snakebite venom.** Economic factors shape another pressing public health concern. Many diseases mainly prevalent in poor populations have no medical countermeasures whatsoever, or only old and ineffective ones. In other cases, access suffers from the lack of products adapted to perform well in resource-constrained settings with a tropical climate.

**Without IP law, there is no freedom + innovation turns the aff. Vote neg.**

On AFF:

EVERGREENING TURNS:

#### 1] With weaker IP protections, pharmaceutical companies will resort to trade secrets over patents---that undermines the public scientific collaboration that informs global public health response.

Gewertz, Nevin. "Intellectual Property And The Pharmaceutical Industry: A Moral Crossroads Between Health And Propert." Journal of Business Ethics 55:3. December, 2004. Web. August 18, 2021. <https://www.jstor.org/stable/25123392?seq=1#metadata\_info\_tab\_contents>.

The granting of a United States patent establishes a form of monopoly rights to specific creative works. The granting of exclusive monopoly rights prevents others from enjoying any positive externalities de rived from the idea itself. Yet, does the right to intellectual property include the right to exclude and limit the actions of others? A simple utilitarian analysis of the potential consequences of non exclusive intellectual property elucidates the need for patent rights to incorporate exclusive monopoly rights. **Without exclusive monopoly rights granted to their products, pharma**ceutical **companies would be forced to keep product information a secret**. **The usage of public forums for intellectual dialogue such as academic journals and conferences would give way to trade secrets** (Mansfield, 1993). **This type of secretive behavior would have nefarious effects both the scientific community and the collaborative principles upon which it thrives**. The exclusive monopoly rights rewarded by the state in the form of a patent are necessary to promote intellectual dialogue and to avoid the usage of trade secrets.

#### 2] Unpatented medicine cause counterfeits—

Lynbecker 16 [(Kristina M. L. Acri née, an Associate Professor of Economics at Colorado College in Colorado Springs, where she is also the Associate Chair of the Department of Economics and Business and the Gerald L. Schlessman Professor of Economics. Dr. Lybecker’s research analyzes the difficulties of strengthening intellectual property rights protection in developing countries, specifically special problems facing the pharmaceutical industry.) “Counterfeit Medicines and the Role of IP in Patient Safety,” IPWatchDog, 7/27/16. <https://www.ipwatchdog.com/2016/06/27/counterfeit-medicines-ip-patient-safety/id=70397/>] RR

The threat of counterfeit goods took center stage on June 15th in a hearing convened by Senate Finance Committee Chairman Orrin Hatch (R-Utah). Focusing on trade opportunities and challenges for American businesses in the digital age, Senator Hatch stated: “The Organization for Economic Co-Operation and Development (OECD) recently released a study that shows that counterfeit products accounted for up to 2.5 percent of world trade, or $461 billion, in 2013. This is a dramatic increase from a 2008 estimate that showed that fake products accounted for less than half that amount. Counterfeits are a worldwide problem, but the OECD estimates that the United States is the hardest hit, followed by Italy and France. Of the estimated $461 billion in counterfeit trade in 2013, goods with registered intellectual property rights in the U.S. represented 20 percent, or $92 billion, of the OECD estimate.”[1] As the author of the chapter on illicit trade in counterfeit medicines within the OECD report, I worry that global policymakers may be working against each other when it comes to battling counterfeit drugs, especially in the context of intellectual property rights. While the Senate Hearing and the OECD report highlight the importance of strong IP protection in combating the growing threat of counterfeit goods, their efforts coincide with an initiative by the UN Secretary-General that has the potential to greatly worsen the problems of counterfeit pharmaceuticals. UN Secretary General Ban Ki Moon’s High Level Panel on Access to Medicines proposes “to review and assess proposals and recommend solutions for remedying the policy incoherence between the justifiable rights of inventors, international human rights law, trade rules and public health in the context of health technologies.”[2] The High Level Panel is a thinly veiled attempt to undermine the intellectual property rights architecture that incentivizes pharmaceutical innovation and protects patients from counterfeit medicines. While patents and other forms of intellectual property rights are widely recognized as fostering pharmaceutical innovation, they also serve to inhibit counterfeiting. The World Health Organization has determined that counterfeiting is facilitated where “there is weak drug regulatory control and enforcement; there is a scarcity and/or erratic supply of basic medicines; there are extended, relatively unregulated markets and distribution chains, both in developing and developed country systems; price differentials create an incentive for drug diversion within and between established channels; there is lack of effective intellectual property protection; due regard is not paid to quality assurance”.[3] [Kristina] According to INTERPOL estimates, approximately 30 percent of drugs sold worldwide are counterfeit.[4] However, as is the case with many other counterfeit trade statistics, the origins of this figure are somewhat uncertain, as is the methodology used to make the calculation. Perhaps the most widely-cited statistic originates from the World Health Organization, which estimates that 10 percent of the global market for pharmaceuticals is comprised of counterfeits and reports place the share in some developing countries as high as 50-70%.[5] While difficult to measure, estimates do exist on the extent of the market for counterfeit drugs and the harm done to human health. As noted in my chapter in the OECD report, “INTERPOL estimates that more than one million people die each year from counterfeit drugs.[6] While counterfeit drugs seem to primarily originate in Asia, Asian patients are also significantly victimized by the problem. A 2005 study published in PLoS Medicine estimate that 192,000 people are killed in China each year by counterfeit medicines.[7] According to work done by the International Policy Network, an estimated 700,000 deaths from malaria and tuberculosis are attributable to fake drugs. [8] The World Health Organization presents a much more modest number noting that malaria claims one million lives annually and as many as 200,000 may be attributed to counterfeit medicines which would be avoidable if the medicines available were effective, of good quality and used correctly.[9] Even this number is double that presented by academic researchers Amir Attaran and Roger Bate who claim that each year more than of 100,000 people around the world may die from substandard and counterfeit medications.[10]” [11] Given the devastating impact of counterfeit medicines on patients and the importance of intellectual property protection in combating pharmaceutical counterfeiting, it is troubling that the UN High Level Panel seems poised to prevent a series of recommendations that will undermine public health under the guise of enhancing access. Without the assurance of quality medicines, access is meaningless. Moreover, while falsely presenting intellectual property rights as the primary obstacle to global health care, the High Level Panel downplays a host of other factors that prevent developing country patients from getting the drugs they need: inadequate medical infrastructure, insufficient political will, a shortage of clinical trials in nations where neglected diseases are endemic, poverty, and insufficient market incentives.