### 1

### Framework

#### The meta-ethic is procedural moral realism - substantive realism holds that moral truths exist independently of that in the empirical world. Prefer procedural realism –

#### [1] Uncertainty – our experiences are inaccessible to others which allows people to say they don’t experience the same, however a priori principles are universally applied to all agents.

#### [2] Naturalistic fallacy – experience only tells us what is since we can only perceive what is, not what ought to be, this means experience may be generally useful but should not be the basis for ethical action.

#### Practical Reason is that procedure. To ask for why we should be reasoners concedes its authority since it uses reason – anything else is nonbinding.

#### Moral law must be universal—any non-universalizable norm justifies someone’s ability to impede on your ends.

#### Thus, the standard is consistency with liberty.

#### Freedom justifies property rights – which is conceptual and centered around the agent.

Merges 11 [Merges, Robert P. "Will and Object in the World of IP." Justifying Intellectual Property, Cambridge, Harvard UP, 2011, pp. 72-74. ISBN: 0674049489,9780674049482. Found on Libgen.] //Lex VM

Kant believed that any object onto which a person projects his or her will may come to be owned. Kant seemed to consider ownership as a primitive concept whose roots run very deep in human consciousness. This is evident from the language he uses. The origin of property, he says, is in a deep and abiding sense of “Mine and Yours.” “That is rightfully mine,” he writes, “if I am so bound to it that anyone who uses it without my consent would thereby injure me.”15 But what is the point of this? Why do people want to be bound to things? In essence, Kant says, to expand their range of freedom— their autonomy.16 People have a desire to carry out projects in the world. Sometimes, those projects require access to and control over external objects. The genesis of property is the desire of an individual to carry out personal projects in the world, for which various objects are necessary. For Kant, this desire must be given its broadest scope, to promote the widest range of human choice, and therefore human projects. Kant accordingly refuses to accept any binding legal rule that makes some objects strictly unownable, because the rationale for such a rule would conflict with the basic need for maximal freedom of action. Freedom to appropriate is so basic, so tied to matters of individual will and personal choice, that Kant finds it unthinkable to rule out large categories of things from the domain of the potentially ownable. As Kant scholar Paul Guyer says, for Kant, “The fundamental principle of morality dictates the protection of the external use of freedom or freedom of action, as a necessary expression of freedom of choice and thus as part of autonomy as a whole. . . .”17 This captures it in a nutshell: freedom of action, including the right to possess, as a necessary expression of freedom of choice, or autonomy. Autonomy and possession are big concepts. A simple example may help to clarify them. Consider Michelangelo, approaching a large block of marble. He may have a plan, a mental picture of what he wants to do, what design he wants to impose on that chunk of rock. It will take a long time to bring this to completion, to fully impress the idea he carries onto the actual rock he has to work with. To fully realize his vision, to work out his plan for the marble, he needs to know that he can count on two things: continued access to it, and noninterference by others. If he is to carry out his vision, free of unwanted interruptions in access or unauthorized contributions from others, he needs to be secure in his right to possess the marble. Possession, in the full Kantian sense, permits Michelangelo complete freedom over how to sculpt the marble. Secure possession also excludes interlopers from coming along and altering or adding to the sculpture. In short, ownership as Kant understands it means that Michelangelo, and only Michelangelo, has complete freedom over what to do with the block of marble. Thus does stable property contribute to individual autonomy. Kant’s Concept of Possession At the heart of Kant’s understanding of property is the notion that possession is an abstract concept, rather than an empirical fact or event. People need to control objects in the world to do the things they want to do. For control to be effective, it has to be robust, lasting beyond the time when a person has an object in his physical grasp. Michelangelo, in our example, should be able to eat, sleep, rest, take a walk, and so forth, secure in the knowledge that when he comes back to his block of marble it will be as he left it. This need for control to persist, to be effectively broadened beyond the circumstances of mere physical holding, supplies the force that drives us to think about possession conceptually, instead of as just a physical fact. All manner of important implications follow. To carry out this more conceptual type of possession, we require an enforcement mechanism— some sort of legal system. Since this is unthinkable without a government of some sort, we call into existence civil society. And to permit civil societies to flourish a nd coexist, we need an international legal order. As all this makes plain, it could be said that for Kant property— or, more accurately, an appropriately nuanced conception of property— lies at the heart of nothing less than civilization. Conceptual- legal possession, possession that is noumenal rather than phenomenal, cuts through the murk and fog that swirls around conventional theories of intellectual property. In the schematic account we find in Kant, people just naturally want to work their will on objects they find in the world. It is in their nature as beings steeped in freedom to do so. Kant lays out the basic building blocks of objects, will, and freedom in a clean, schematic way, uncluttered by numerous examples.19 As befits his emphasis on reason and thought, Kant goes long on conceptual description and categorization, and short on real- world application. We are therefore free to apply Kant’s idea to the building blocks of intellectual creations, just as we do for other assets such as blocks of marble or land. Many people in the modern world may choose to express themselves in intangible media. From Kant’s point of view, these choices are no different from those Michelangelo makes as he crafts his block of marble. Property status is not a matter of marble versus electrons, chisels versus keyboards, trombones versus synthesizers. The medium is not the message; the individual is. By omitting a clutter of detail, and supplying instead a rich conceptual tableau, Kant’s approach to property is marvelously relevant to the era of intellectual property.

#### Prefer –

#### 1] freedom is the key to the process of justification of arguments. Willing that we should abide by their ethical theory presupposes that we own ourselves in the first place.

#### I contend that reducing IP protections for medicines impedes on manufacturers’ abilities to set and pursue ends –

#### 1] Patents protect private companies.

Na 19 [Blake Na, "Protecting Intellectual Property Rights in the Pharmaceutical Industry", Chicago-Kent | Journal of Intellectual Property, 4-19-2019, https://studentorgs.kentlaw.iit.edu/ckjip/protecting-intellectual-property-rights-in-the-pharmaceutical-industry/, accessed: 8-24-2021.] //Lex VM

Patent Rights A pharmaceutical company may apply for a patent from the PTO at any time in the development lifetime of a drug.[12] A drug is patentable if it is non-obvious, new, and useful.[13] The drug must be non-obvious when comparing the drug with another previously invented drug, i.e., it does not bring the same type of information as the other drugs. The drug must also not exist, and it must have a purpose. Intellectual property rights, especially patent rights, are the foundation of the pharmaceutical industry. The industry heavily depends on the future profits which innovation (and as a result, exclusivity) enable. Drug patents grant the originator company to market exclusivity for a fixed term of 20 years from the patent’s original filing date. By giving this 20-year patent term in which the government cannot regulate the price, market exclusivity allows pharmaceutical companies to have a monopoly over the market. To maximize their profit, pharmaceutical companies work on extending the exclusivity of a drug. For example, AbbVie extended the manufacturing exclusivity of Humira by delaying generic companies from manufacturing generic entrants until 2023. The market exclusivity can be lengthened anywhere between 180 days to 7 years. Thus, due to efforts to derive profits from patents, pharmaceutical companies’ patents contribute to roughly 70-80 percent of their overall revenues. Patents in the pharmaceutical industry are normally referred to as their product portfolio and are the most effective method for protecting innovation and creating significant returns on investments. Accordingly, as mentioned above, patents help in recouping costs related to research, development, and marketing of a drug. Patents not only help pharmaceutical companies recoup investments, they can also act as a shield against infringement claims. Strong patent protection can safeguard drugs from potential infringers. Without consent from the patentee, other competing companies cannot use, make, or distribute the invention. However, because a drug can be easily imitated by competitors, bringing an infringement suit can also protect a patentee’s rights. Recently, DUSA Pharmaceuticals, Inc.—an arm of the Indian pharmaceutical company Su Pharma and ranked among the top 50 global Pharma Companies—was recently granted injunctive relief from a U.S. court against Biofrontera Inc. in a patent infringement case[14]. The court’s order prohibited Biofrontera from making use of information, including sales data, marketing data, technical information, and unpublished clinical data, of DUSA Pharmaceuticals[15]. Although bringing an infringement suit is a valuable remedial measure for patentees, pharmaceutical companies often face difficulty with the high costs and uncertainty of litigation

#### That negates – A] Promise breaking – states promised legally binding IP protections to companies who might not have otherwise developed medicines – the aff is a unilateral violation of that contract. B] That’s a form of restricting the free economic choices of individuals.

#### 2] IP is a reflection of our will and a form of property.

Merges 11 [Merges, Robert P. "Will and Object in the World of IP." Justifying Intellectual Property, Cambridge, Harvard UP, 2011, pp. 76-78. ISBN: 0674049489,9780674049482. Found on Libgen.] //Lex VM

It is clear enough at this point that Kant thought reliable expectations about ongoing possession of objects enables something positive to take place. Stable possession permits the imprinting of some aspect of a person, what Kant called his will, onto objects so as to enable the person to more fully flourish. Though nuances abound, Kant’s basic idea regarding the will24 is simple enough: Will is that aspect of a person which decides to, and wants to, act on the world.25 It has three distinctive qualities: it is personal, autonomous, and active. It is highly individual, a function of each person’s preferences and desires; Lewis White Beck says that will is “bent upon the satisfaction of some arbitrary purpose.” It is this aspect or feature of ourselves that we imprint or stamp on the world through our choices and the resulting actions that carry out or manifest these choices. Right here, in this foundational element, we see a radically individualistic and autonomous view of humans. Although this is balanced by a universalizing, transpersonal sense of reason in other parts of his philosophy,26 a highly individual will is nonetheless central to Kant’s view of human thought and action, and thus an essential aspect of what he thought it means to be human.27 will and object in the world of ip. It is tempting to get caught up in the terminology and conceptual complexity of Kant’s ideas of persons, will, and objects. To prevent that happening, it seems wise at this point to talk about some specific examples. How exactly does Kantian autonomy work? What does it look like in the context of IP rights? After we have a better grasp of these ideas, and of how they relate to Kant’s rationale for property, we can turn to an equally important topic: the limits on individual autonomy that Kant built into his theory. Our earlier example of Michelangelo showed how stable possession is required for a creator to fully work his will on a found object— in that case, a block of marble. The same basic logic applies in all sorts of cases. Individual farmers and landowners generate and then bring to life a vision for the lands they work on;28 inventors transform off- the- shelf materials into prototypes, rough designs, and finished products; and artists work in media such as paint and canvas, paper and pen, textiles and wood, keyboard and iPad, and so on, to give life to a concept or mental image. Wherever personal skill and judgment are brought to bear on things that people inherit or find, we see evidence of the Kantian process of will imprinting itself on objects. It even happens when the objects at hand are themselves intangible. A composer working out a new instance of a traditional form— a fugue or symphony, blues song or tone poem— is working on found objects just as surely as the farmer or inventor. Even in our earlier example, some of the objects that Michelangelo works on in the course of carving his sculpture are intangible: received conventions about how to depict an emotion; traditional groupings of figures in a religious set piece, such as the Pieta; or accepted norms about how to depict athletic grace or youthful energy. He may take these pieces of the cultural tableau and refine them, or he may subtly resist or transform them. However he handles them, these conventions are just as much objects in his hands as the marble itself.29 As with found physical objects, extended possession of these objects- intransformation is required to fully apply the creator’s skill and judgment. And because of this, Kantian property rights come into play with intangible objects as well. Let me say a word about this complex, and perhaps controversial, possession of intangible objects. It has often been argued that this feature of IP, the control of copies of an intangible work, constitutes a form of “artificial scarcity,”30 that it runs counter to an ethically superior regime where information is shared freely— and is maybe even counter to the nature of information, which, some say, “wants to be free.”31 According to Kant, all property rights have this element of artifice, because they define a conceptual type of possession. Property is not just a matter of physical contact between person and object; it describes a relationship that is deeper and goes well beyond the basic acts of grasping and holding. I can hear one objection to this right away. Yes, Kant speaks of legal ownership as a special relation between a person and an object. But, the objection might run, in his writings he refers only to physical objects, for example, an apple (à la Locke). So maybe the ownership relation is limited to that sort of thing? No. I give no weight to the fact that Kant uses only examples of tangible, physical property in most of the sections of the Doctrine of Right (DOR).32 Kant describes an additional type of possession that makes it crystal clear that the idea is not in any way limited to physical things—the expectation of future performance under a contract. He posits that one could not properly be said to “possess” a right to performance under an executory contract (one that has been signed or agreed to, but not yet performed) unless “I can maintain that I would have possession . . . even if the time of the performance is yet to come.”33 With that legal relation established, however, “[t]he promise of the [promisor] accordingly belongs among my worldly goods . . . , and I can include it under what is mine.”34 The synonymous use of “possession,” “object,” “belonging,” and “mine” in the case of a tangible, physical thing such as an apple and an intangible thing such as a promise of future contractual performance is too clear to require much comment. “Object” is very abstract for Kant, and can of course therefore include IPRs.35

#### 3] Neg contention choice – otherwise they can concede all of our work on framework and just read 4 minutes of turns which moots the four minutes of framework debate that the 1NC did giving them a massive advantage and limits phil debate.

### 2

#### Negate –

#### 1] member[[1]](#footnote-1) is “a part or organ of the body, especially a limb” but an organ can’t have obligations

#### 2] of[[2]](#footnote-2) is to “expressing an age” but the rez doesn’t delineate a length of time

#### 3] the[[3]](#footnote-3) is “denoting a disease or affliction” but the WTO isn’t a disease

#### 4] to[[4]](#footnote-4) is to “expressing motion in the direction of (a particular location)” but the rez doesn’t have a location

#### 5] reduce[[5]](#footnote-5) is to “(of a person) lose weight, typically by dieting” but IP doesn’t have a body to lose weight.

#### 6] for[[6]](#footnote-6) is “in place of” but medicines aren’t replacing IP.

#### 7] medicine[[7]](#footnote-7) is “(especially among some North American Indian peoples) a spell, charm, or fetish believed to have healing, protective, or other power” but you can’t have IP for a spell.

### 3

#### Presumption and permissibility negates – a) statements are more often false than true since I can prove something false in infinite ways b) real world policies require positive justification before being adopted c) the aff has to prove an obligation which means lack of that obligation negates d) resolved in the resolution indicates they proactively did something, to negate that means that they aren’t resolved.

#### Skep is true and negates –

#### Every reason is equally as violent in its creation.

**Derrida,** Jacques Derrida, “Force of Law: The Mystical Foundation of Authority” //Massa But **justice,** however unpresentable it may be, doesn't wait.· It **is that which must not wait.** To be direct, simple and brief, let us say this: **a just decision is always required immediately, "right away." It cannot furnish itself with** infinite information and the **unlimited knowledge of conditions,** rules or hypothetical imperatives **that could justify it.** And **even if it did** have all that at its disposal, even if it did give itself the time, all the time and all the necessary facts about the matter, **the moment of decision,** as such, **always remains a finite moment of urgency** and precipitation, since it must not be the consequence or the effectof this theoretical or historical knowledge, of this reflection or this deliberation, **since it always marks the interruption of the** juridico- or ethico- or politico-**cognitive deliberation that precedes it,** that must precede it. The instant of decision is a madness, says Kierkegaard. This is particularly true of the instant of the just decision that must rend time and defy dialectics. It is a madness. **Even if time** and prudence,the patience of knowledge and the mastery of conditions **were** hypothetically **unlimited, the decision would be structurally finite,** however late it came, decision of urgency and precipitation, **acting in** the night of **non-knowledge and non-rule**

#### Affirming negates.

**Paraphrasing Mcnamara ‘06**, Paul, 2-7-2006, "Deontic Logic (Stanford Encyclopedia of Philosophy)," No Publication, <https://plato.stanford.edu/entries/logic-deontic/index.html#4.3> //Massa

#### Premise 1—If the aff is true, it ought to be the case that members of the WTO should reduce IP protections.

#### Premise 2—It ought to be the case that the WTO reduce IP protections if and only if the members have IP protections. This is because standard logic would necessitate transferring the obligation predicate onto its necessary condition.

#### Thus, premise 3—if the aff is true, it ought to be the case that the members of the WTO has IP protections. This logically follows from “if P is Q and P is Q only if N, then N.”

#### External world skep is true.

**Neta**, Ram. “External World Skepticism.” The Problem of The External World, **2014**, philosophy.unc.edu/files/2014/06/The-Problem-of-the-External-World.pdf. //Massa

You take yourself to know that you have hands. But notice that, **if you do have hands, then you are not merely a brain floating in a vat of nutrient fluid and being electrochemically stimulated to have the sensory experiences** that you have now: such a brain does not have hands, but you do. So if you know that you do have hands, then you must also be in a position to know that you are not such a brain. **But how could you know that you are not such a brain? If you were such a brain, everything would seem exactly as it does now**; **you would** (by hypothesis) **have all the same sensory experiences that you’re having right now.** Since your **empirical knowledge of the world** around you **must somehow be based upon your sensory experiences, how could these experiences**—the very same experiences that you would have if you were a brain in a vat—**furnish you with knowledge that you’re not such a brain? And if you don’t know that you’re not such a brain, then you cannot know that you have hands.**

#### And, any account of morality is regressive since it predicates one universal rule on the existence of another moral rule. Since every human chain of reasoning must be finite according to our finite nature, such a reasoning process must terminate in a rule for which no reason can be given.

### Underview

#### Reject 1AR theory – 2-1 speech skew favors 2ar persuasion and new weighing/answers to standards – necessitates judge intervention b/c debates become irresolvable – o/w on fairness bc the round devolves to judge preferences If they do get it – Reasonability on 1AR shells – 1AR theory is very aff-biased because the 2AR gets to line-by-line every 2NR standard with new answers that never get responded to, reasonability compensates. No new 1ar paradigm issues – 2-1 skew DTA on 1AR shells - They can blow up blippy 20 second shells in the 2AR while I have to split my time and can’t preempt 2AR spin which necessitates judge intervention making it irresolvable

### Framework

#### Top Level:

#### [1] Is-Ought Fallacy- Just because individuals presuppose certain virtues, doesn’t mean they ought to act upon them

#### [2] NC Hijacks – Constitutive features of action frame what virtues we hold to ourselves.

#### [3] We hijack – we don’t determine these virtues from communal norms but from apriori principle e.g. we know that kindness is good because we shouldn’t violate ppl as ends in themselves.

#### [4] Hijack – the categorical imperative frames what virtues to value and what virtues are good.

LBL

Form fails

1] if genocide happened we would have to be consistent with the form of killing people

2] Begs the question of the form

3] The form of an agent is to be free proves we hijack

4] Is/ought just bc a form exists doesn’t mean we ought to be consistent with it

AT Motivation

1] no impact – ideal theory means everyone follows

2] people like being free which maintains motivation

AT performativity

1] we hijack – freedom is k2 debate that was done above

2] to follow your framework we have to be free

At constitutivism

1] Reason is constitutive since opting out of agency presumes we have agency to do that

AT Actor spec

1] is/ought fallacy – just bc govnt use it now doesn’t mean they ought to use it

2] rights to freedom are part of law which states are bound too

### Case

#### Reducing protections of IP leads to theft and the free riding of ideas which is not virtuous because its stealing

Van Dyke 18 [Raymond Van Dyke, Technology and Intellectual Property Attorney and Patent Practitioner, 7-17-2018, accessed on 8-8-2021, IPWatchdog, "The Categorical Imperative for Innovation and Patenting", https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/] //D.Ying recut Lex VM

As we shall see, applying Kantian logic entails first acknowledging some basic principles; that the people have a right to express themselves, that that expression (the fruits of their labor) has value and is theirs (unless consent is given otherwise), and that government is obligated to protect people and their property. Thus, an inventor or creator has a right in their own creation, which cannot be taken from them without their consent. So, employing this canon, a proposed Categorical Imperative (CI) is the following Statement: creators should be protected against the unlawful taking of their creation by others. Applying this Statement to everyone, i.e., does the Statement hold water if everyone does this, leads to a yes determination. Whether a child, a book or a prototype, creations of all sorts should be protected, and this CI stands. This result also dovetails with the purpose of government: to protect the people and their possessions by providing laws to that effect, whether for the protection of tangible or intangible things. However, a contrary proposal can be postulated: everyone should be able to use the creations of another without charge. Can this Statement rise to the level of a CI? This proposal, upon analysis would also lead to chaos. Hollywood, for example, unable to protect their films, television shows or any content, would either be out of business or have robust encryption and other trade secret protections, which would seriously undermine content distribution and consumer enjoyment. Likewise, inventors, unable to license or sell their innovations or make any money to cover R&D, would not bother to invent or also resort to strong trade secret. Why even create? This approach thus undermines and greatly hinders the distribution of ideas in a free society, which is contrary to the paradigm of the U.S. patent and copyright systems, which promotes dissemination. By allowing freeriding, innovation and creativity would be thwarted (or at least not encouraged) and trade secret protection would become the mainstay for society with the heightened distrust. Also, allowing the free taking of ideas, content and valuable data, i.e., the fruits of individual intellectual endeavor, would disrupt capitalism in a radical way. The resulting more secretive approach in support of the above free-riding Statement would be akin to a Communist environment where the State owned everything and the citizen owned nothing, i.e., the people “consented” to this. It is, accordingly, manifestly clear that no reasonable and supportable Categorical Imperative can be made for the unwarranted theft of property, whether tangible or intangible, apart from legitimate exigencies. On the positive front, there is a Categorical Imperative that creators should be encouraged to create, which is imminently reasonable and supportable. Likewise, the statement set forth in the Constitution that Congress should pass laws “To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries” is supportive, as a Categorical Imperative, for the many reasons elucidated two centuries ago by Madison and others, and endorsed by George Washington, Thomas Jefferson, and later by Abraham Lincoln. A Categorical Imperative, universality, however, may be a stretch outside of the United States since other cultures may not treasure the progress of science and the useful arts and freedoms that we Americans do. Nonetheless, it is certainly a supportable proposition in the United States, and even a Categorical Imperative that we must do it!

1. https://www.google.com/search?q=member+definition&rlz=1C1CHBF\_enUS877US877&oq=member+definition&aqs=chrome.0.69i59j69i60l3.1863j0j7&sourceid=chrome&ie=UTF-8 [↑](#footnote-ref-1)
2. https://www.google.com/search?q=of+definition&rlz=1C1CHBF\_enUS877US877&oq=of+definition&aqs=chrome.0.69i59j69i61l3.1473j0j7&sourceid=chrome&ie=UTF-8 [↑](#footnote-ref-2)
3. https://www.google.com/search?q=the+definition&rlz=1C1CHBF\_enUS877US877&oq=the+definition&aqs=chrome..69i57j69i64j69i61j69i60l2.1976j0j7&sourceid=chrome&ie=UTF-8 [↑](#footnote-ref-3)
4. https://www.google.com/search?q=to+definition&rlz=1C1CHBF\_enUS877US877&oq=to+definition&aqs=chrome..69i57j69i60l3.1415j0j7&sourceid=chrome&ie=UTF-8 [↑](#footnote-ref-4)
5. https://www.google.com/search?q=reduce+definition&rlz=1C1CHBF\_enUS877US877&sxsrf=AOaemvI3lZsbmnXg5WHeL4m6rYGn8Vf6Aw%3A1630610232638&ei=OCMxYbCaJpO0tQb6wpGoCA&oq=reduce+definition&gs\_lcp=Cgdnd3Mtd2l6EAMyCQgjECcQRhD5ATIECAAQQzIECAAQQzIFCAAQgAQyBQgAEIAEMgUIABCABDIFCAAQgAQyBQgAEIAEMgUIABCABDIFCAAQgAQ6BwgAEEcQsAM6BwgAELADEEM6BwgjEOoCECc6BAgjECc6BQgAEJECOhEILhCABBCxAxCDARDHARDRAzoKCAAQsQMQgwEQQzoHCAAQsQMQQzoICAAQgAQQsQM6CAgAELEDEIMBOgoIABCABBCHAhAUSgQIQRgAUMLMBFjS3QRgnt8EaAJwAngDgAG2A4gB-heSAQozLjExLjEuMi4xmAEAoAEBsAEKyAEKwAEB&sclient=gws-wiz&ved=0ahUKEwiwlru9gOHyAhUTWs0KHXphBIUQ4dUDCA8&uact=5 [↑](#footnote-ref-5)
6. https://www.merriam-webster.com/dictionary/for#:~:text=English%20Language%20Learners%20Definition%20of,meant%20to%20be%20used%20with [↑](#footnote-ref-6)
7. https://www.google.com/search?q=medicine+definition&rlz=1C1CHBF\_enUS877US877&oq=medicine+definition&aqs=chrome.0.69i59.2986j0j7&sourceid=chrome&ie=UTF-8 [↑](#footnote-ref-7)