# 1N

## Case

### Presumption

#### Presumption 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

### Framing

#### The state is obligated to prioritize freedom.

Otteson 09 [(James R., professor of philosophy and economics at Yeshiva University) “Kantian Individualism and Political Libertarianism,” The Independent Review, v. 13, n. 3, Winter, [2009](https://link.springer.com/article/10.1007/s10790-015-9506-9)] TDI

It is difficult to imagine a stronger defense of the “sacred” dignity of individual agency. Kantian individuality is premised on its rational nature and its entailed inherent dignity, and the rest of his moral philosophy arguably is built on this vision.1 Kant relies on a similarly robust conception of individuality in work other than his explicitly moral philosophy. The 1784 essay “An Answer to the Question: ‘What Is Enlightenment?’” (Kant 1991), for example, emphasizes in strong terms the threat that paternalism poses to one’s will. Kant argues that “enlightenment” (Aufklärung) involves a transition from moral and intellectual immaturity, wherein one depends on others to make one’s moral and intellectual decisions, to maturity, wherein one makes such decisions for oneself. One cannot effect this transition if one remains under another’s tutelage, and, as a corollary, one compromises another’s enlightenment if one undertakes to make such decisions for the other person—which, as Kant argues, is the case under a paternalistic government. Kant also writes in his 1786 essay “What Is Orientation in Thinking?” that “To think for oneself means to look within oneself (i.e. in one’s own reason) for the supreme touchstone of truth; and the maxim of thinking for oneself at all times is enlightenment” (1991, 249, italics and bold in the original). These passages are consistent with the position he takes in Grounding that a person who depends on others is acting heteronomously, not autonomously, and is to that extent not exercising a free moral will. These passages also help to clarify Kant’s notion of personhood and rational agency by indicating some of their practical implications. For example, on the basis of his argument, one would expect him to argue for setting severe limits on the authority that any group of people, including the state, may exercise over others: because individual freedom is necessary both to achieve enlightenment and to exercise one’s moral agency, Kant should argue that no group may impinge on that freedom without thereby acting immorally. Kant expressly draws this conclusion in his 1793 essay “On the Common Saying: ‘This May Be True in Theory, but It Does Not Apply in Practice’”: Right is the restriction of each individual’s freedom so that it harmonises with the freedom of everyone else (in so far as this is possible within the terms of a general law). And public right is the distinctive quality of the external laws which make this constant harmony possible. Since every restriction of freedom through the arbitrary will of another party is termed coercion, it follows that a civil constitution is a relationship among free men who are subject to coercive laws, while they retain their freedom within the general union with their fellows. (1991, 73, emphasis in original) Kant insists on the protection of a sphere of liberty for each individual to self-legislate under universalizable laws of rationality, consistent with the formulation of the categorical imperative requiring the treatment of others “always at the same time as an end and never simply as a means” (1981, 36). This formulation of the categorical imperative might even logically entail the position Kant articulates about “right,” “public right,” and “freedom.” Persons do not lose their personhood when they join a civil community, so they cannot rationally endorse a state that will be destructive of that personhood; on the contrary, according to Kant, a person enters civil society rationally willing that the society will protect both his own agency and that of others. Robert B. Pippen rightly says that for Kant “political duties are a subset of moral duties” (1985, 107–42), but the argument here puts it slightly differently: political rights, or “dignities,” derive from moral rights, which for Kant are determined by one’s moral agency. Thus, the only “coercive laws” to which individuals may rationally allow themselves to be subject in civil society are those that require respect for each others’ moral agency (and provide for the punishment of infractions thereof) (see Pippen 1985, 121). When Kant comes to state his own moral justification for the state in the 1797 Metaphysics of Morals, this claim is exactly the one he makes: the state is necessary for securing the conditions of “Right”—in other words, the conditions under which persons can exercise their autonomous agency (see 1991, 132–35). Consistent with this interpretation, Kant elsewhere endorses free trade and open markets on grounds that make his concern for “harmony” in the preceding passage reminiscent of Adam Smithian invisible-hand arguments. In his 1784 essay “Idea for a Universal History with a Cosmopolitan Purpose,” Kant writes: “Individual men and even entire nations little imagine that, while they are pursuing their own ends, each in his own way and often in opposition to others, they are unwittingly guided in their advance along a course intended by nature. They are unconsciously promoting an end which, even if they knew what it was, would scarcely arouse their interest” (1991, 41). This statement is similar to Smith’s statement of the invisible-hand argument.2 Kant proceeds to endorse some of the same laissez-faire economic policies that Smith advocated—for example, in his discussion in his 1786 work “Conjectures on the Beginning of Human History” of the benefits of “mutual exchange” and in his claim that “there can be no wealth-producing activity without freedom” (1991, 230–31, emphasis in original), as well as in his claim in the 1795 Perpetual Peace that “the spirit of commerce” is motivated by people’s “mutual self-interest” and thus “cannot exist side by side with war” (1991, 114, emphasis in original).3 Finally, although Kant argues that we cannot know exactly what direction human progress will take, he believes we can nevertheless be confident that mankind is progressing.4 Thus, in “Universal History” he writes: The highest purpose of nature—i.e. the development of all natural capacities—can be fulfilled for mankind only in society, and nature intends that man should accomplish this, and indeed all his appointed ends, by his own efforts. This purpose can be fulfilled only in a society which has not only the greatest freedom, and therefore a continual antagonism among its members, but also the most precise specification and preservation of the limits of this freedom in order that it can co-exist with the freedom of others. The highest task which nature has set for mankind must therefore be that of establishing a society in which freedom under external laws would be combined to the greatest possible extent with irresistible force, in other words of establishing a perfectly just civil constitution. (1991, 45–46, emphasis in original) Kant’s argument in this essay runs as follows: human progress is possible, but only in conditions of a civil society whose design allows this progress; because the progress is possible only as individuals become enlightened, and individual enlightenment is in turn possible only when individuals are free from improper coercion and paternalism, human progress is therefore possible only under a state that defends individual freedom. Kant believes that individuals have the best chance to be happy under a limited civil government, and he therefore argues that even such a laudable goal as increasing human happiness is not a justifiable role of the state: “But the whole concept of an external right is derived entirely from the concept of freedom in the mutual external relationships of human beings, and has nothing to do with the end which all men have by nature (i.e. the aim of achieving happiness) or with the recognized means of attaining this end. And thus the latter end must on no account interfere as a determinant with the laws governing external right” (“Theory and Practice,” 1991, 73, emphasis in original). The Kantian state is hence limited on the principled grounds of respecting agency; the fact that this limitation in his view provides the conditions enabling enlightenment, progress, and ultimately happiness is a great but ancillary benefit. Thus, the positions Kant takes on nonpolitical issues would seem to suggest a libertarian political position. And Kant explicitly avows such a state. In “Universal History,” he writes: Furthermore, civil freedom can no longer be so easily infringed without disadvantage to all trades and industries, and especially to commerce, in the event of which the state’s power in its external relations will also decline. . . . If the citizen is deterred from seeking his personal welfare in any way he chooses which is consistent with the freedom of others, the vitality of business in general and hence also the strength of the whole are held in check. For this reason, restrictions placed upon personal activities are increasingly relaxed, and general freedom of religion is granted. And thus, although folly and caprice creep in at times, enlightenment gradually arises. (1991, 50–51, emphasis in original) In “Theory and Practice,” Kant writes that “the public welfare which demands first consideration lies precisely in that legal constitution which guarantees everyone his freedom within the law, so that each remains free to seek his happiness in whatever way he thinks best, so long as he does not violate the lawful freedom and rights of his fellow subjects at large” and that “[n]o-one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not infringe upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else within a workable general law” (1991, 80, emphasis in original, and 74). In a crucial passage in Metaphysics of Morals, Kant writes that the “Universal Principle of Right” is “‘[e]very action which by itself or by its maxim enables the freedom of each individual’s will to co-exist with the freedom of everyone else in accordance with a universal law is right.’” He concludes, “Thus the universal law of right is as follows: let your external actions be such that the free application of your will can co-exist with the freedom of everyone in accordance with a universal law” (1991, 133, emphasis in original).5 This stipulation becomes for Kant the grounding justification for the existence of a state, its raison d’être, and the reason we leave the state of nature is to secure this sphere of maximum freedom compatible with the same freedom of all others. Because this freedom must be complete, in the sense of being as full as possible given the existence of other persons who demand similar freedom, it entails that the state may—indeed, must—secure this condition of freedom, but undertake to do nothing else because any other state activities would compromise the very autonomy the state seeks to defend. Kant’s position thus outlines and implies a political philosophy that is broadly libertarian; that is, it endorses a state constructed with the sole aim of protecting its citizens against invasions of their liberty. For Kant, individuals create a state to protect their moral agency, and in doing so they consent to coercion only insofar as it is required to prevent themselves or others from impinging on their own or others’ agency. In his argument, individuals cannot rationally consent to a state that instructs them in morals, coerces virtuous behavior, commands them to trade or not, directs their pursuit of happiness, or forcibly requires them to provide for their own or others’ pursuits of happiness. And except in cases of punishment for wrongdoing,6 this severe limitation on the scope of the state’s authority must always be respected: “The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance” (Perpetual Peace, 1991, 125). The implication is that a Kantian state protects against invasions of freedom and does nothing else; in the absence of invasions or threats of invasions, it is inactive.

### Contention

#### 1] Copyright protection key for free market—turns case. Reducing protection harms agents’ ability to set and pursue ends of access and use of works.

**Hartline 13** (Devlin Hartline, 11-14-2013, "Copyright is Still Essential to a Free Market in Creative Works," Center for Intellectual Property x Innovation Policy, <https://cip2.gmu.edu/2013/11/14/copyright-is-still-essential-to-a-free-market-in-creative-works/>) // CH

In the modern digital era, **strong copyright protection is still an essential component of a flourishing free market in creative works**. Viewed properly as a property right in creative works, **copyright is fundamental to economic freedom** in our creative economy. Criticisms of copyright have flooded the public policy debate in recent years. Proponents of weakening or eliminating copyright protection argue that copyright is outdated in the digital age, and that given the ease with which creative works can be distributed and shared online, creators today no longer need robust copyright protection to incentivize the development of creative works. **Arguments against strong copyright protection hinge on the belief that copyright should be treated differently from other property rights, eschewing the traditional “right to exclude” in favor of the public’s right to access or use the creative works of others**. But the arguments for weakening copyright overlook copyright’s fundamental role in fostering a vibrant creative economy – a role that is every bit as important today as it was before the digital revolution.

Proponents of **scaling back** copyright **protection claim** that a robust, property-based copyright system **is undesirable because** (1) **it is not needed to incentivize** the **production** of creative works, and (2) it harms the public by unduly restricting people’s right to access and use creative works. Putting aside several inherent flaws in this reasoning (including the implicit assumption that having to pay for creative works will unduly restrict access, as well as the general disregard of individuals’ property interest in the fruit of their labor), this argument fails from an economic standpoint because it **ignores the** fundamental **function of copyright in developing and maintaining the market mechanisms** that facilitate not just the creation, but also the commercialization and distribution of creative works. The approach also fails because it assumes the continued production of valuable creative works at economically optimal levels without a basis for such an assumption. Furthermore, focusing primarily on the incentive to create, while ignoring copyright’s larger economic role in supporting a free market economy for creative works, overlooks a critical function of copyright protection.

#### 2] Only way a monopoly could happen is if there is no substitutes or competition in the market – Me Too Drugs prove that’s not the case.

**Schultz 14** (Mark Schultz, 2-24-2014, "A free market perspective on intellectual property rights," American Enterprise Institute - AEI, <https://www.aei.org/technology-and-innovation/intellectual-property/free-market-perspective-intellectual-property-rights/>) // CH

**Myth 1: Intellectual property is a monopoly**

One complaint is that intellectual property grants its owners a “monopoly.”**Prof.** Ed **Kitch called this** assertion one of the “**Elementary** and Persistent **Errors in the Economic Analysis** of Intellectual Property,”and he’s right. Intellectual property does not create an economic monopoly, because **a monopoly exists only where there are no close substitutes and thus no competition.**

**Most markets covered** by intellectual property **are intensely competitive**, and the providers of products have little market power. If you go to the multiplex this weekend and find that a ticket for the movie you want to see is triple the price of other tickets, would you lack choices? Of course not! You could see another movie, or you could choose other entertainment.

The same is true of markets covered by patents, **in part because of** what critics often deride as patents on “mere”incremental innovations or **“me too”products** (which is ironic, given the concurrent monopoly critique). Need a cholesterol drug? **You have a host of statins from which to choose**. Osteoporosis? Choose from Fosomax, Actonel, or Boniva. **Each of the owners of patents in these products has exclusive rights**; none of them has a monopoly.

And in the rare cases when intellectual property does result in the creation of monopoly power, **holders of intellectual property rights are constrained by the antitrust laws** in how those rights are exercised.

#### 3] Reducing protections of IP leads to theft and the free riding of ideas.

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!

#### 4] there is a distinction between action and omission –No act/omission distinction is infinitely regressive because it means that you are culpable for everything since you are technically aware of anything. That negates – omitting is a morally permissible action to avoid culpability, you can choose to omit from any ethical action which means the squo is ok and theres no moral obligation to do the aff. And, No aff solvency for turns – the aff reduces protections rather than eliminating them which still allows for freedom violations – Presume neg.

#### 5] IP is a form of property

Zeidman et al. 16 [Bob Zeidman &amp; Eashan Gupta, "Why Libertarians Should Support a Strong Patent System", IPWatchdog, 1-5-2016, https://www.ipwatchdog.com/2016/01/05/why-libertarians-should-support-a-strong-patent-system/id=64438/, accessed: 8-9-2021.] //Lex VM

Many libertarians believe that intellectual property, being intangible, is not real property. A formal libertarian definition of property is difficult to formulate, but we would say that property is that which can be produced or contribute to production. Intellectual property falls clearly within these constraints. Yet some libertarians complain that intellectual is not tangible and is defined by government regulation—the patent laws—such that it would not exist without government definition. Let us look at this argument closer. Land is unquestionably property in the minds of libertarians. Yet the land upon which a house is built was not created by the property owner. It was created by nature or God, depending on your inclination, but no one would claim it to be created by the owner, whereas intellectual property is unquestionably created by the inventor. And how far do property lines extend? Property lines are determined by local governments. One can argue that property lines are negotiated by owners and enforced by governments, but when we moved into our homes, there were no negotiations with surrounding property owners. And how far above ground and below ground do property rights extend? These limitations are definitely not negotiated with other property owners but are determined by laws enforced by governments. Patents also have limitations in terms of scope and time that are determined by government laws. One can see that limitations on patents are similar to those on physical property and in some respects are more closely connected to production. For these reasons, libertarians should recognize patents as they do other forms of property. As a secondary but important example, libertarians are generally concerned about government spying on private conversations. When the government captures a phone conversation, it is not physically taking property. It is simply copying intangible data that exists as a form of transient electrical signals. Copying does not involve removing the original—the phone conversation is not destroyed when it is copied. Yet libertarians recognize that this copying of intangible data is a kind of theft of property. Libertarians should thus be wary of making the argument that intangible patents cannot be property or they may lose their contrary argument that private conversations are personal property to be protected.

#### Means the state can’t remove protections.

Zeidman et al. 2 [Bob Zeidman &amp; Eashan Gupta, "Why Libertarians Should Support a Strong Patent System", IPWatchdog, 1-5-2016, https://www.ipwatchdog.com/2016/01/05/why-libertarians-should-support-a-strong-patent-system/id=64438/, accessed: 8-9-2021.] //Lex VM

Libertarians believe in property rights and government protection of those rights as one of the few necessary requirements of government. Ownership of property and free markets leads to competitive production and trade of goods, which in turn leads to prosperity for all of society. Intellectual property is property like other forms of property, and so government must protect IP as it protects other forms of property because it too leads to competition and trade and prosperity. Libertarians should encourage a strong patent system and object to any “reforms” that limit intellectual property ownership or introduce more government regulation than is required.

#### 6] 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

#### 7] IP is property in the same way our health and labor are too.

D’Amato 14 [David S. D’Amato, David S. D’Amato is an attorney, a regular opinion contributor at The Hill, and an expert policy advisor to the Future of Freedom Foundation and the Heartland Institute. His writing has appeared in Forbes, Newsweek, The American Spectator, the Washington Examiner, Investor’s Business Daily, The Daily Caller, RealClearPolicy, Townhall, CounterPunch, and many others, as well as at nonpartisan, nonpartisan policy organizations such as the American Institute for Economic Research, the Centre for Policy Studies, the Institute for Economic Affairs, the Foundation for Economic Education, and the Institute for Ethics and Emerging Technologies, among others. He earned a JD from New England School of Law and an LLM in Global Law and Technology from Suffolk University Law School. He lives and writes in Chicago. "Libertarian Views of Intellectual Property: Rothbard, Tucker, Spooner, and Rand", Libertarianism.org, 5-28-2014, https://www.libertarianism.org/columns/libertarian-views-intellectual-property-rothbard-tucker-spooner-rand, accessed: 8-25-2021.] //Lex VM

Since Spooner finds the foundation of property in each individual’s natural right to provide for her own subsistence and happiness, it is perhaps unsurprising that he regards “the right of property in intellectual wealth” as necessary and legitimate. After all, ideas are no less important to the ends served by property than are labor and natural resources, which would remain idle and useless without the application of intellect and ingenuity. Confronting the argument that a thing must have “corporeal substance” to be the subject of a property right, Spooner protests that tangible, physical substances “are not the only things that have value”—that denying a property right in ideas is akin to arguing that an individual does not own her labor, also intangible. If labor is properly the subject of property, belonging to the individual and deserving of payment, then so too are ideas, which he compares to the “new forms and new beauties” that human labor gives to physical objects. Engaging ideas from tort law, Spooner goes on to observe that health, strength, and the physical senses too are incorporeal, susceptible to loss “without the loss of any corporeal substance,” but are nevertheless “valuable possessions, and subjects of property.” A tortfeasor who impairs or harms these non‐​physical qualities must make his victim whole, paying damages as compensation. For Spooner, then, it is clear that property rights can (indeed, must) extend their reach beyond physical objects, that the acquisition of property itself depends fundamentally upon something that cannot be seen or touched, human effort.

#### 8] The goal of IP and physical property are the same. Arguing a distinction is misguided.

Schultz 14 [Mark Schultz, "A free market perspective on intellectual property rights", American Enterprise Institute - AEI, 2-24-2014, https://www.aei.org/technology-and-innovation/intellectual-property/free-market-perspective-intellectual-property-rights/, accessed: 8-25-2021.] //Lex VM

Point 1. Intellectual property secures the same values as physical property As an institution, property secures rights in what we create through our work. In this regard, there’s no cause or need to distinguish intellectual property from any other forms of property. In all cases, a person employs his intellect and talents to impose his plan and will on his environment to bring something new into the world. This is the essence of productive labor, the fruits of which property protects. Distinguishing between physical and intellectual labor, as some would, is misguided, because both are, at heart, the same activity. Whether it is a carpenter building a house, a farmer planting a field, an author writing a book, a director filming a movie, or an inventor developing a new drug, the activity is, ultimately, productive labor. Moreover, both have the same moral status. The songwriter and the craftsman each deserves and needs to own the fruits of his labor to secure his life and liberty.

#### 9] 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

#### 10] Reducing IP allows the government to produce drugs and take more taxes for public company’s drug R&D.

Calsyn et al. 20 [Maura Calsyn and Thomas Waldrop, "How the Next Administration Can Lower Drug Prices", Center for American Progress, 9-17-2020, https://www.americanprogress.org/issues/healthcare/reports/2020/09/17/490140/next-administration-can-lower-drug-prices/, accessed: 8-27-2021.] //Lex VM

Taxpayers support drug corporations in a number of ways. First, taxpayers fund the basic research that underpins many drugs.25 In fact, a 2017 study found that every drug approved by the Food and Drug Administration (FDA) between 2010 and 2016 was built on research funded by the National Institutes of Health (NIH), which is a government agency supported by taxpayer funds.26 A notable example of this is Sovaldi, a drug that cures Hepatitis C. When the drug was first introduced, Gilead Sciences charged a list price of $84,000 for a course of treatment.27 The NIH grants played a key role in the initial development of the drug by Pharmasset,28 the drug company that developed the drug before selling it to Gilead. In addition to the NIH, the Biomedical Advanced Research and Development Authority (BARDA) works to “transition … medical countermeasures such as vaccines, drugs, and diagnostics from research through advanced development.”29 The agency was established by the federal government in 2006 in response to the 2001 anthrax attacks and has awarded billions of dollars in funds to drug companies and public universities for research.30 More recently, BARDA has awarded billions of dollars to drug companies to develop COVID-19 vaccines and treatments.31 Other federal departments fund prescription drug research as well. The U.S. Department of Defense has awarded around $16 billion in grants through the Congressionally Directed Medical Research Programs since the latter’s inception in 1992—many of which have gone to prescription drug companies—as well as through the U.S. Army Medical Research Institute of Infectious Diseases.32 The U.S. Department of Energy also provides support, using its facilities to process information such as protein structures that help lead to drug discoveries; for example, these facilities have led to the discovery of new drugs to treat melanoma.33 Second, the costs of a drug company’s additional research are offset in part by tax credits. Manufacturers can seek a tax credit for up to 20 percent of manufacturing companies’ “qualified research expenses” above a base amount.34 Pharmaceutical companies receive further tax credits for research and development on drugs for rare diseases; in 2016, this resulted in $1.76 billion in tax incentives to drug companies.35 The credit was reduced in 2016 but remains at a hearty 25 percent of qualified research expenses.36 Third, drug companies can deduct the cost of advertising and marketing from their federal taxes.37 This provision of law allowed U.S. prescription drug manufacturers to spend $6 billion on advertisements for drugs in 2016 and then deduct those expenses from their taxes.38 Fourth, taxpayers support drug companies again not only when they pay the excessive prices for drugs they need, but also each time Medicare or other government health care programs pay for a prescription drug.

#### 11] 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.

### Underview

#### No 1ar theory – a)7-6, 2-1 skew proves its always skewed to the aff, b) resolvability double bind – either the judge has to intervene to decide whether the 2ar’s answers to the 2nr’s Counter interp are sufficient or they auto accept every answer and you auto win.