# Kant AC

## Framing

#### The existence of extrinsic goodness requires unconditional human worth—that means we must treat others as ends in themselves.

#### Christine Korsgaard writes in 1983 that

[Christine Korsgaard American Philosopher and Arthur Kingsley Porter Professor of Philosophy at Harvard University, April 1983, “Two Distinctions in Goodness”, The Philosophical Review, Vol. 92, No. 2, <https://www.jstor.org/stable/2184924> ] //MS & ZG

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action, he or she supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). **In order for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a sufficient condition of their goodness.** Kant considers what this might be: **it cannot be an object of inclination, for those have only a conditional worth**, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). **It cannot be the inclinations themselves because a rational being would rather be free from them.** **Nor can it be external things, which serve only as means.** **So**, Kant asserts, **the unconditionally valuable thing must be "humanity"** or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happiness of others-the ends that they choose-and, in general, to make the highest good our end.

#### Thus because Humanity is the only unconditionally valuable thing the value for today’s round is Humanity.

#### Freedom is the only innate right and is key to respecting humanity, this means that freedom must be the basis of government Rauscher 2016

[Frederick Rauscher, Philosophy Professor at Michigan State University, 2016, “Kant’s Social and Political Philosophy”, The Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/kant-social-political/> ] //MS & ZG

“**There is only one innate right**,” says Kant, “**Freedom** (**independence from being constrained by another’s choice**), **insofar as it can coexist with the freedom of every other in accordance with** a **universal law**” (6:237). **Kant** **reject**s **any other basis for the state**, **in particular** arguing that **the welfare of citizens cannot be the basis of state power.** He argues that **a state cannot legitimately impose any particular conception of happiness upon its citizens** (8:290–91). **To do so would be for the ruler to treat citizens as children,** assuming that they are unable to understand what is truly useful or harmful to themselves. This claim must be understood in light of Kant’s more general claim that moral law cannot be based upon happiness or any other given empirical good. In the Groundwork Kant contrasts an ethics of autonomy, in which the will (Wille, or practical reason itself) is the basis of its own law, from the ethics of heteronomy, in which something independent of the will, such as happiness, is the basis of moral law (4:440–41). In the Critique of Practical Reason he argues that **happiness** (the agreeableness of life when things go in accordance with one’s wishes and desires), **although universally sought by human beings,** **is not specific enough to entail any particular universal desires in human beings.** Further, **even were there any universal desires among human beings, those desires would**, as empirical, **be** merely **contingent and thus unworthy of being the basis of any** pure moral **law** (5:25–26). **No particular conception of happiness can be the basis of the pure principle of the state**, and the general conception of happiness is too vague to serve as the basis of a law. Hence, **a “universal principle of right” cannot be based upon happiness but only on something truly universal, such as freedom.** The “universal principle of right” Kant offers is **thus “Any action is right if it can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law”** (6:230). This explains why happiness is not universal, but not why freedom is universal. By “freedom” in political philosophy, Kant is not referring to the transcendental conception of freedom usually associated with the problem of the freedom of the will amid determinism in accordance with laws of nature, a solution to which is provided in the Third Antinomy of the Critique of Pure Reason. Rather, freedom in political philosophy is defined, as in the claim above about the only innate right, as “independence from being constrained by another’s choice”. His concern in political philosophy is not with laws of nature determining a human being’s choice but by other human beings determining a human being’s choice, hence the kind of freedom Kant is concerned with in political philosophy is individual freedom of action. Still, the universality of political freedom is linked to transcendental freedom. Kant assumes that a human being’s use of choice (at least when it is properly guided by reason) is free in the transcendental sense. **Since every human being does enjoy transcendental freedom by virtue of being rational, freedom of choice is a universal human attribute. And this freedom of choice is to be respected and promoted, even when this choice is not exercised in rational or virtuous activity.** Presumably respecting freedom of choice involves allowing it to be effective in determining actions; this is why Kant calls political freedom, or “independence from being constrained by another’s choice”, the only innate right. One might still object that this freedom of choice is incapable of being the basis of a pure principle of right for the same reason that happiness was incapable of being its basis, namely, that it is too vague in itself and that when specified by the particular decisions individuals make with their free choice, it loses its universality. Kant holds that this problem does not arise for freedom, since freedom of choice can be understood both in terms of its content (the particular decisions individuals make) and its form (the free, unconstrained nature of choice of any possible particular end) (6:230). **Freedom is universal in the proper sense because**, unlike happiness**, it can be understood in such a way that it is susceptible to specification without losing its universality. Right will be based on the form of free choice.**

#### Thus the value criterion for today’s round is respecting freedom, prefer this because respecting freedom is the only way to respect ones humanity.

## Contention 1 – Patent Trolls

#### Patent trolls haven’t started targeting the pharmaceutical industry, but will soon. Feldman & Price 2014

[Robin Feldman of UC Hastings College of Law, Nicholson W. Price II Assistant Professor at the University of Michigan School of Law, 2014, “Patent Trolling Why Bio & Pharmaceuticals Are at Risk”, Stanford Technology Law Review, <https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2048&context=faculty_scholarship> ] //MS & ZG

**In the ongoing policy** and scholarly **debates about patent trolls**, by far the most prominent focus has been on the software and high technology industries. **Conventional wisdom has assumed that the biotechnology and pharmaceutical industries have little to fear from trolls**, and at least partly because of that assumption, those industries have either opposed or skirted many reform efforts in both the past and present**. In this piece, we have argued that, on both theoretical and empirical levels, patent monetizers are able and likely to spread beyond their traditional targets and that the bio and pharmaceutical industries are vulnerable to monetization tactics.** **Theoretically, the newly diverse strategies of monetizers broaden potential targets, and in the drug industry, regulatory constraints may make patent holdups particularly costly. Empirically, our deliberately brief and cursory survey of university patent holdings reveals that many patents are potentially available for licensing to monetizers, and universities are becoming more amenable to such licensing.**132 More broadly, potentially assertable patents are likely to be found not only in the holdings of universities, but in the portfolios of biotech and pharmaceutical companies, large and small, which may well be willing to license patents to the detriment of their competitors as has happened in the high tech sector. **It is not inevitable that monetizers will descend on the bio and pharmaceutical industries, but in our opinion it is a serious threat. Potentially policy solutions to the problems raised by monetizers should take this possibility into account.**

#### AND

#### The technology industry proves, only policy implementation can stop patent trolls. Feldman & Price 2014

[Robin Feldman of UC Hastings College of Law, Nicholson W. Price II Assistant Professor at the University of Michigan School of Law, 2014, “Patent Trolling Why Bio & Pharmaceuticals Are at Risk”, Stanford Technology Law Review, <https://repository.uchastings.edu/cgi/viewcontent.cgi?article=2048&context=faculty_scholarship> ] //MS & ZG

**Our search confirmed our initial suspicions that university patent holdings are likely to provide fertile hunting grounds for monetizers.** **In a relatively short period of time, two researchers with only basic expertise were able to find dozens of potentially monetizable patents within the holdings of just five major universities. Undoubtedly the holdings of those universities include many more patents potentially assertable against players in the biopharmaceutical industry. And, of course, those are only five universities—there are many more schools with extensive holdings potentially available.** The ease with which we found potentially relevant patents inevitably raises the question: if these patents are around and threatening, why hasn‘t the biopharmaceutical industry found and dealt with them? One possibility, of course, is that the industry has found most or all commercially relevant patents, and that such patents have been evaluated by the relevant potential targets and either found unproblematic or licensed. Given the lack of discussion of ancillary patents or monetizers in the pharmaceutical industry generally, and the challenges of conducting a comprehensive search as opposed to our quick look, we think this outcome unlikely. It seems more likely that the conventional wisdom above—few relevant patents, a limited set of monetizer targets, and higher barriers to commercial entry—has helped to keep these potential patent threats off the radar of the industry. A second possibility is simply that up until now, the patent holdings of major universities has posed little threat, particularly those peripheral patents that could be used for the type of bargaining leverage popularized in modern patent trolling, and have thus been too remote to consider. Universities traditionally have not engaged in widespread patent litigation. For example, an extensive academic study of all 13,000 patent lawsuits filed in 4 recent years showed that universities have served as the first named plaintiff in less than one-half of one percent of the lawsuits filed.131 Given that universities have not engaged in extensive litigation themselves, and have had a stated policy of not transferring to patent assertion entities, the threat of university holdings may have been to low to justify the costs of searching out and licensing every patent that could potentially be launched against a product. This would be particularly true, given the trolling tactics of extracting settlements related to the economics of litigation, rather than the value of the patent itself. Without a clear threat of that kind, the costs of clearing the field of anything that could be waved at a biopharmaceutical company would be wasteful, if not prohibitive. In short, **modern patent trolling in the technology industry did not require the invention of new inputs. The basic raw materials existed, including broadly worded patents, a large inventory of unused patents and patent claims, and an imbalance of litigation costs. The catalyst for modern patent trolling in the technology industry was simply brilliant minds calculating how to take advantage of these elements on a large-scale and sophisticated manner, with many others following suit. Although early anecdotal evidence suggests that patent trolling is moving into biopharmaceuticals, conventional wisdom has always held that the raw materials do not exist in that space. This study, however, demonstrates that the conventional wisdom is wrong. Where behavior is structurally predictable, opportunities exist to allow planning for and protecting against abuses in that behavior.**

#### Patent Trolls violate freedom, and can’t be universalized. Pievaltolo 2010

[Maria Chiara Pievatolo, University of Pisa, Department of Political Sciences, “Freedom, ownership, and copyright: why does Kant reject the concept of intellectual property?”, July 2nd 2010, <http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#athing> ] [//MS](file:///\\MS) & ZG

**Kant asserts that something external is mine if I would be wronged by being disturbed in my use of it even though I am not in possession of it** (AA.6, 249:5-7). If property is a merely intelligible relation with an object that is simply distinct from the subject, **we have no reason to deny that such an object might be immaterial as well, just like the objects of intellectual property**. **Why,** then, **does Kant refrain from using the** very **concept of it**? According to him, a **speech is an action of a person: it belongs to the realm of personal rights.** A person who is speaking to the people is engaging a relationship with them; if someone else engages such a relationship in his name, he needs his authorization. The reprinter, as it were, does not play with property: he is only an agent without authority. Speeches, by Kant, cannot be separated from persons: he has seen the unholy promised land of intellectual property without entering it. According to Kant, **before the acquired rights**, **everyone has a moral capacity for putting others under obligation** that he calls **innate right** or internal meum vel tuum (AA.06, 237:24-25). The innate right is only one: **freedom as independence from being constrained by another's choice, insofar it can coexist with the freedom of every other in accordance with a universal law. Freedom belongs to every human being by virtue of his humanity**: in other words**, it has to be assumed before every civil constitution**, because it is the very possibility condition of law. Freedom implies innate equality, «that is, independence from being bound by others to more than one can in turn bind them; hence a human being's quality of being his own master (sui iuris), as well as being a human being beyond reproach (iusti) since before he performs any act affecting rights he has done no wrong to anyone, and finally his being authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it - such things as merely communicating his thoughts to them.» (AA.06, 237-238) 34 In spite of his intellectual theory of property, 35 **Kant does not enter in the realm of intellectual property for a strong systematic reason. Liberty of speech is an important part of the innate right of freedom. It cannot be suppressed without suppressing freedom itself.** If the ius reale were applied to speeches, a basic element of freedom would be reduced to an alienable thing, making it easy to mix copyright protection and censorship. 36 Property rights are based on the assumption that its objects are excludable and rivalrous and need to be appropriated by someone to be used. We cannot, however, deal with speeches as they were excludable and rivalrous things that need to be appropriated to be of some use, because excluding people from speeches would be like excluding them from freedom. **Therefore, Kant** binds speeches to the persons and their actions, and **limits the scope of copyright to** publishing, or, better, **to the publishing of the age of print**: the Nachdruck is unjust only when someone reproduces a text without the author's permission and distributes its copies to the public. **If someone copies a book for his personal use, or lets others do it, or translates and elaborates a text, there is no copyright violation**, just because it is not involved any intrinsic property right, but **only the exercise of the innate right of freedom. The boundary of Kant's copyright is the public use of reason**, as a key element of a basic right that should be recognized to everyone. Kant does not stick to the Roman Law tradition because of conservatism, but because of Enlightenment.

#### Thus, because Patents pose a threat to freedom by preventing innovation through the ownership of Ideas, vote Aff and reduce IP Protections to stop patent trolls.

## Contention 2 – Derivative Works and Variations

#### Derivative works are key to getting low priced generics to market, but AI threatens to change that. Maloney 2019

[Dan Maloney, Staff Writer & Community Engineer at Hackaday, MS in Biology from University of Rochester, January 30th 2019, “AI Patent Trolls Now on the Job for Drug Companies”, Hackaday, <https://hackaday.com/2019/01/30/ai-patent-trolls-now-on-the-job-for-drug-companies>] //MS & ZG

Love it or loathe it, **the pharmaceutical industry is really good at protecting its intellectual property.** Drug companies pour billions into discovering new drugs and bringing them to market, and **they do whatever it takes to make sure they have exclusive positions to profit** from their innovations **for as long a possible. Patent applications are** meticulously **crafted to keep the competition at bay for as long as possible,** which is why it often takes ages for cheaper generic versions of blockbuster medications to hit the market, to the chagrin of patients, insurers, and policymakers alike. **Drug companies now appear poised to benefit from the artificial intelligence revolution to solidify their patent positions even further. New computational methods are being employed to not only plan the synthesis of new drugs, but to also find alternative pathways to the same end product that might present a patent loophole. AI just might change the face of drug development in the near future, and not necessarily for the better.** MANY PATHS TO PROGRESS In most industries, **a patent is a simple concept**: come up with a new idea, and if it proves to be novel, non-obvious, and useful, chances are good that a patent will be granted that prevents anyone but the owner from making, using, selling, or importing the covered invention for a certain period of time. The rub to the patent process is that the application must reveal everything about the invention publicly, which means that after the exclusivity period has expired, anyone can profit from the original inventor’s work. **Pharmaceuticals,** though, **are treated differently.** Since it’s relatively easy to reverse engineer a chemical compound using analytical chemistry tools and methods, **patents for drugs concentrate on the process used to arrive at the desired endpoint.** Most drugs are relatively simple organic compounds whose creation is a long, complicated series of reactions. They’ll often start with a couple of simple compounds, reacted together under just the right conditions to yield an intermediate compound. That product is then perhaps purified before being mixed with a fourth compound, and the process continues. Functional groups are added or subtracted at each step until the final compound is created in sufficient quantity and quality. **Every step in the process is claimed in the process patent application so that the resulting patent is as broad as possible.** But it doesn’t stop there. There may be more than one way to skin the synthetic cat, and every single feasible alternative synthesis needs to be covered by the application too. Chemists at pharmaceutical companies spend a lot of effort looking for and plugging these potential patent loopholes. AI TO THE RESCUE Both the design of the best, most commercially viable synthesis and the search for loopholes are perfect applications for AI. Syntheses can be broken down into well-defined steps governed by rules that an expert system can rapidly churn through, searching for a path from a known starting point to the desired product. Researchers at the Polish Academy of Sciences and the Ulsan National Institute of Science and Technology in South Korea had previously shown that an application called Chematica can autonomously generate a synthetic plan for a group of seven well-known drugs from simple starting materials. (Chematica was recently purchased by Merck and seems to have been rebranded as Synthia.) Each plan was generated in about 20 minutes and verified by chemists, who followed the synthetic instructions in the lab and came up with the right endpoints. As a follow-up**, the same team turned that process around,** **using Chematica to search for “retrosynthetic” paths to three new endpoints.** This time, the products were blockbuster drugs with billions in sales and presumably air-tight patent positions. The researchers gave Chematica some rules, making certain key synthetic steps off-limits to the algorithm and forcing it to find alternate ways to the same product. **To their surprise, paths to each of endpoints were discovered that successfully evaded the patent-infringing steps.** The implications of this development are potentially far-reaching. In the first instance, it seems like Chematica and similar tools will quickly become an aid to the intuitive, creative process of designing an organic synthesis. Such applications could also put a fair number of chemists out of a job, when it can do in 20 minutes what a chemist might take weeks or months to accomplish. On the other hand, **AI applications like these stand to stifle competition. The more airtight the patent position for a drug, the longer the patent owner can maintain a monopoly on that drug. Using AI to test for loopholes around the synthetic process only solidifies the claims, making it less likely that generic versions of a drug will reach the market in a timely fashion.** Taken at face value, the use of AI to both explore new routes to drug synthesis and find potential patent loopholes is a fascinating use of technology. But like anything else, the devil is in the details, and when such systems are inevitably put into widespread use, it’s likely that the ones that end up paying the price of progress will be the consumers.

#### Creating derivative works is protected under freedom. Pievatolo 2010

[Maria Chiara Pievatolo, University of Pisa, Department of Political Sciences, “Freedom, ownership, and copyright: why does Kant reject the concept of intellectual property?”, July 2nd 2010, <http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#athing> ] [//MS](file:///\\MS) & ZG

According to Kant, the ius reale cannot be applied to ideas, or, better, to **thoughts**, because they **can be conceived by everyone at the same time, without depriving their authors.** Surprising as it may seem, the ius reale protects the freedom to copy, if it is taken seriously. **If a thing has been purchased in a legal transaction and the purchasers copy it by their own means, they are simply working on their legitimate private property.** **For the very principle of private property, it is not fair to restrain the ways in which its legitimate purchaser may use it.** For this reason, no ius reale can be opposed to the reprinter. If we see the book as a material thing, whoever buys it has the right to reproduce it: after all, it is his book. Furthermore, in Kant's opinion, we cannot derive any affirmative personal obligation from a ius reale:15 a ius personale on someone cannot be claimed by simply purchasing some related things without obtaining his or her expressed consent. Kant, by conceiving the book as an action, adopts a strategy based on the ius personale only. By using such a strategy, he concludes that the unauthorized printer has to be compared to an unauthorized spokesperson rather than to a thief. Therefore, it is not necessary to go beyond the Roman law tradition, by inventing a new ius reale on immaterial things. Kant's argument goes as follows: when I speak to a public, I engage a relationship with them. The book may be viewed as a medium through which authors can transmit their speeches to a wider public. In the age of printing, such a medium used to be provided by publishers. Thus publishers can be considered as spokespersons who speak in the name of the authors. But, as such, they need the authors' authorization.16 Why? Because to speak in the name of another without his authorization is like engaging him in a relationship without his consent. As personal rights, according to Kant, concern relations among free beings, they can arise only from expressed agreements. Hence, the unauthorized printer is like an unauthorized spokesperson, who produces a relation of the author with the public without being entitled to do it. However, the scope of Kant's justification of copyright is very narrow: it applies only to the publishing of texts, it does not touch th so-called derivative works, and it is justified only as far as it helps the public to get the texts. Kant does not recognize works of art as speeches. He calls works of art Werke or opera, i.e. things that are produced, while indicating books as Handlungen or operae, i.e. actions. As the works of art are simply physical objects, we can derive from Kant's assumption that every legitimate purchaser may reproduce them and may donate or sell the copies to others.17 Every time an object can be treated only as a product, its legitimate owner may do what he wants with it, because of his ius reale, which has to be taken seriously on both sides. Moreover, as the injustice of reprinting books depends on their communication to the public, we can deduce that their reproduction for personal use is not to be forbidden. As regards as the derivative works, Kant states that**, if one shortens, augments, retouches or translates the book of another, he produces a new speech, although the thoughts can be the same Therefore, such works cannot be seen as [Piracy]** Nachdruck **and are perfectly lawful.**18 In other words,**in a Kantian environment, everyone may become** a “wreader” - **a reader and writer at the same time - without being hindered by copyright restrictions** The goal of the transaction between the author and the publisher is conveying his text to the public. The public has a right to interact with the author, if the latter has chosen to do it. According to Kant, the publisher may neither refuse to publish – or to hand over to another publisher, if he does not want to do it himself – a text of a dead author, nor release mutilated or spurious works, nor print only a limited impression that does not meet the demand. If the publisher does not comply, the public has the right to force him to publish.19 In a Kantian environment the publisher's rights are justified only when they help authors to reach the public. **Copyright should be neither censorship nor monopoly.** In the 1785 essay Kant stated that the mandate of an author to a publisher should be exclusive20 because the publisher becomes willing to publish a book only if he is certain to earn something from it; therefore, he is interested in avoiding competition. But later, in the Metaphysik der Sitten, Kant does not mention the exclusivity requirement at all, perhaps because he has realized that it was based on an empirical contamination, depending on the current state of technology.

#### Therefore, because current IP law restricts freedom by preventing the free use of ideas, affirm to respect freedom.