# Rad Case

### Spikes on the top

#### Treat aff theory as lexically prior. Neg has time to beat back my shell and win its own in the long 2N, but I have to be able to collapse to 1 in the 2AR. This also justifies RVIs on neg theory. Additionally, reciprocity also justifies an RVI: only neg can read topicality so I need reciprocal layers, rather than adding more unreciprocal layers

#### Fairness Before K. A) Theory indicts the legitimacy of the K, so it comes at a higher layer. B) Fairness is inescapable, they’ve already conceded it by following speech times. C) All arguments concede the validity of fairness because they assume the judge will evaluate it fairly instead of just evaluating it off of personal belief.

#### No Links of Omission. A) Infinite regress, it will be impossible for aff to meet since there will always be things that the aff doesn’t do. B) Time skew, bidirectional theory and Ks forces a 1AR restart which means the aff lost all of the 1AC time. C) Substantive education, this would allow reading generic Ks that prevent substantive education. D) Prep skew, neg can focus on exclusively on one type of literature, while aff has to spread itself across all topics

#### Method Ks Bad. A) Clash, they reduce discussion about the contention level of the aff. Clash is key for education because it promotes critical thinking. B) Substantive education, method Ks force the debate onto the method rather than substance. Substantive education outweighs because we have limited time on each topic. C)Reciprocity, I can’t generate offense under your framework because it purely critiques my framework, but you can read turns under the aff framework.

#### 4] Permissibility and presumption substantively affirm:

#### [a] If I told you my name is Jacob; you would believe that absent evidence to believe otherwise which proves that statements are more likely to be true.

#### [b] Negating an obligation requires proving a prohibition – they prohibit the aff action.

#### [c] If agents had to reflect on every action they take and justify why it was a good one we would never be able to take an action because we would have to justify actions that are morally neutral i.e. drinking water is not morally right or wrong but if I had to justify my action every time I decided upon a course of action I would never be able to make decisions.

### Framing

#### [1] The meta ethic is solving skepticism. Skep is bad and solving it outweighs any other argument. A) Skep would say that anything is morally permissible. That would mean things like the holocaust, rape, murder, and racism are permissible. This is obviously wrong and repugnant. B) Skep takes out theoretical arguments because they assume that it is possible to generate better norms or solve abuse

#### [2] Philosophy is good. A) It justifies every step in why oppression or death is bad. Avoiding assumptions even when they seem obvious is good because there was a time when people assumed that things like slavery are good. B) The only way to persuade people to be better is full inescapable justifications, otherwise they could escape it. C) Ideal theory is inevitable, this non-uniques disads against it. Arvan 14:

**Posted by Marcus Arvan on 05/03/2014 at 11:05 AM What's not wrong with ideal theory http://philosopherscocoon.typepad.com/blog/2014/05/whats-not-wrong-with-ideal-theory.html**

This is fallacious. I entirely agree that it is important not to confuse the things that Wedgwood mentions, and that philosophers who work in ideal theory often do confuse those things -- but none of this shows that ideal theory is methodologically flawed. It shows, at most, that many people have done it badly! Wedgwood then writes of certain "theoretical mistakes" he sees in ideal theory: For evaluative and normative theorizing, what is most important is to articulate a plausible conception of what it is for one item in the relevant category to be better than another. I think this is just wrong. I don't think "the most important thing" in normative theorizing is to know "what is better than what." That is an important thing to know, but to say it is the most important thing -- without argument -- is simply an assertion. Here, instead, is what I want to say: There are many important things in normative theorizing. We should want to know what is better than what. But that is not all. We have every reason to want to know what would be best. To ignore ideal theory -- without argument for why "what is best" is not something worth knowing -- is to arbitrarily set aside an important question as irrelevant. Second, I do not think that we can specify what is better than what without at least some ideal in the background. To say that it would be better for people of different races to have equal rights than for one race to have more than others is to say that it is more ideal. But, what is it to say that something is more ideal? It is to say that it is closer to some ideal. Thus, I say (along with Rawls), the idea what we can do "nonideal theory" without ideal theory is nonsense. Any attempt to do nonideal theory inevitably -- if only tacitly -- appeals to ideals.

**D) Ideal theory is good because it provides a stable rule to measure progress, otherwise you can’t know if actions are right**

#### [3] Universality is necessary for morality. A) If it didn’t apply universally, it would be arbitrary when it does and doesn’t apply, which devolves to skep. B) It is only possible to agree on morality if there is a shared conception of good, universality ensures this. C) There is no morally relevant distinctions between people, to say otherwise would be oppressive. This means morality must apply equally

#### [4] Morality is based on reason. A) Only reason is self-motivating as even asking for reasons why reason matters concedes its validity. B) Reason is always universal as the laws of logic ban contradictions. It is also universal across subjects as 2+2=4 for me just as it does for everyone else. C) Reason is constitutive to humans. Cartesian skepticism says that it is impossible to verify that our sense of the external world is not being faked by an evil demon. However, reason solves as merely the act of thinking necessitates that we exist and are, at a minimum, capable of reasoning.

#### [5] Reason is freedom. Kant says that acting on desires is not free because it can be externally influenced. Only autonomy, which is acting out of reason, is true freedom as your decisions cannot be influenced. They are just what they are. Freedom is necessary for morality because we can’t be responsible for things we did not choose to do. Actions must be universalizable for all agents because otherwise it fails to universally respect autonomy.

#### Thus the standard is consistency with universalizable maxims. Prefer additionally:

#### [1] The law of noncontradiction. Answering my framework would prove that contradictions are not false. This leads to trivialism and an aff ballot because the resolution being false would not contradict the resolution being true and therefore the resolution has to be true

#### [2] Performativity. Debate concedes respect for everyone’s ability to set their own ends, Hoppe 89:

**Hans – Hermann Hoppe, “A theory of Socialism and Capitalism” 1989**

Clearly then, the universalization principle alone would not provide one with any positive set of norms that could be demonstrated to be justified. However, there are other positive norms implied in argumentation apart from the universalization principle. In order to recognize them, it is only necessary to call to attention three interrelated facts. First, that argumentation is not only a cognitive but also a practical affair. Second, that argumentation, as a form of action, implies the use of the scarce resource of one's body. And third, that argumentation is a conflict-free way of interacting. Not in the sense that there is always agreement on the things said, but rather in the sense that as long as argumentation is in progress it is always possible to agree at least on the fact that there is disagreement about the validity of what has been said. And this is to say nothing else than that a mutual recognition of each person's exclusive control over [their] own body must be assumed to exist as long as there is argumentation (note again, that it is impossible to deny this and claim this denial to be true without implicitly having to admit its truth). Hence, one would have to conclude that the norm implied in argumentation is that everybody has the right of exclusive control over his own body as his instrument of action and cognition. Only if there is at least an implicit recognition of each individual's property right in his own body can argumentation take place. Only as long as this right is recognized is it possible for someone to agree to what has been said in an argument and hence can what has been said be validated, or is it possible to say "no" and to agree only on the fact that there is disagreement. Indeed, anyone who would try to justify any norm would already have to presuppose the property right in his body as a valid norm, simply in order to say, "This is what I claim to be true and objective." Any person who would try to dispute the property right in his own body would become caught up in a contradiction, as arguing in this way and claiming his argument to be true, would already implicitly accept precisely this norm as being valid. Thus it can be stated that whenever a person claims that some statement can be justified, [they] at least implicitly assumes the following norm to be justified: [that] "Nobody has the right to uninvitedly aggress against the body of any other person and thus delimit or restrict anyone's control over his own body." This rule is implied in the concept of justification as argumentative justification. Justifying means justifying without having to rely on coercion. In fact, if one formulates the opposite of this rule, i.e., "everybody has the right to uninvitedly aggress against other people" (a rule, by the way, that would pass the formal test of the universalization principle!), then it is easy to see that this rule is not, and never could be, defended in argumentation. To do so would in fact have to presuppose the validity of precisely its opposite, i.e., the aforementioned principle of nonaggression.

#### [3] Universalizability is the best way to solve oppression, Farr 02:

**Arnold Farr (phil prof @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.**

Whereas most criticisms are aimed at the formulation of universal law and the formula of autonomy, our analysis here will focus on the formula of an end in itself and the formula of the kingdom of ends, since we have already addressed the problem of universality. The latter will be discussed ﬁrst. At issue here is what Kant means by “kingdom of ends.” Kant writes: “By ‘kingdom’ I understand a systematic union of different rational beings through common laws.”32 The above passage indicates that Kant recognizes different, perhaps different kinds, of rational beings; however, the problem for most critics of Kant lies in the assumption that Kant suggests that the “kingdom of ends” requires that we abstract from personal differences and content of private ends. The Kantian conception of rational beings requires such an abstraction. Some feminists and philosophers of race have found this abstract notion of rational beings problematic because they take it to mean that rationality is necessarily white, male, and European.33 Hence, the systematic union of rational beings can mean only the systematic union of white, European males. I ﬁnd this interpretation of Kant’s moral theory quite puzzling. Surely another interpretation is available. That is, the implication that in Kant’s philosophy, rationality can only apply to white, European males does not seem to be the only alternative. The problem seems to lie in the requirement of abstraction. There are two ways of looking at the abstraction requirement that I think are faithful to Kant’s text and that overcome the criticisms of this requirement. First, the abstraction requirement may be best understood as a demand for intersubjectivity or recognition. Second, it may be understood as an attempt to avoid ethical egoism in determining maxims for our actions. It is unfortunate that Kant never worked out a theory of intersubjectivity, as did his successors Fichte and Hegel. However, this is not to say that there is not in Kant’s philosophy a tacit theory of intersubjectivity or recognition. The abstraction requirement simply demands that in the midst of our concrete differences we recognize ourselves in the other and the other in ourselves. That is, we recognize in others the humanity that we have in common. Recognition of our common humanity is at the same time recognition of rationality in the other. We recognize in the other the capacity for selfdetermination and the capacity to legislate for a kingdom of ends. This brings us to the second interpretation of the abstraction requirement. To avoid ethical egoism one must abstract from (think beyond) one’s own personal interest and subjective maxims. That is, the categorical imperative requires that I recognize that I am a member of the realm of rational beings. Hence, I organize my maxims in consideration of other rational beings. Under such a principle other people cannot be treated merely as a means for my end but must be treated as ends in themselves. The merit of the categorical imperative for a philosophy of race is that it contravenes racist ideology to the extent that racist ideology is based on the use of persons of a different race as a means to an end rather than as ends in themselves. Embedded in the formulation of an end in itself and the formula of the kingdom of ends is the recognition of the common hope for humanity. That is, maxims ought to be chosen on the basis of an ideal, a hope for the amelioration of humanity. This ideal or ethical commonwealth (as Kant calls it in the Religion) is the kingdom of ends.34 Although the merits of Kant’s moral theory may be recognizable at this point, we are still in a bit of a bind. It still seems problematic that the moral theory of a racist is essentially an antiracist theory. Further, what shall we do with Henry Louis Gates’s suggestion that we use the Observations on the Feeling of the Beautiful and Sublime to deconstruct the Grounding? What I have tried to suggest is that instead of abandoning the categorical imperative we should attempt to deepen our understanding of it and its place in Kant’s critical philosophy.

#### Consequentialism Fails

#### A] Induction fails. Past events do not guarantee future events and any attempts to prove induction relies on induction and is therefore circular logic

#### B] There are infinite possible futures which necessitates infinite calculation

#### C] The future is infinitely long, so all actions have infinite consequences. Because they’re all infinite, they’re equal so you can’t weigh between them

#### D] Intentions necessary for moral accountability. If you had a medical condition that makes you sleepwalk and rob a bank, then you aren’t morally accountable because you didn’t intend it

#### E] You can break down any action into infinitely many small substeps. You can’t evaluate infinities so you must evaluate what unifies them, the intention

### Advocacy

#### Plan text: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines. CPs, Ks, and PICs affirm because they do not disprove my general thesis.

### Offense

#### [1] The categorical imperative rejects the idea of intellectual property as it suppresses freedom by preventing others from innovating and suppressing speech in the name of a copyright.

Pievatolo 10 Pievatolo, Maria. “Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?” *Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?*, 7 Feb. 2010, bfp.sp.unipi.it/chiara/lm/kantpisa1.html. SJEP

In the Metaphysics of Morals, Kant seems to take for granted that the objects of real rights are only corporeal entities or res corporales: «Sache ist ein Ding, was keiner Zurechnung fähig ist. Ein jedes Object der freien Willkür, welches selbst der Freiheit ermangelt, heiß daher Sache (res corporalis)». [32](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2478823) Theoretically, however, such a negative definition could have been appropriate to incorporeal things as well. According to Kant, the rightful possession of a thing should be distinguished from its sensible possession. Something external would be rightfully mine «only if I may assume that i could be wronged by another's use of a thing even though I am not in possession of it» (AA.06 [245:13-16](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/245.html)). The rightful possession is an intelligible, not sensible, relation. I can claim that my bicycle is mine only if I am entitled to require that nobody takes it even when I leave it alone in the backyard. Kant's theory of property is very different from Fichte's principle of property as explained in his 1793 essay, according to which we are the rightful owners of a thing, the appropriation of which by another is physically impossible. For this reason, according to Fichte, the originality of the exposition entitles an author to claim a rightful property on his work. Is it really so obvious that originality implies property? Property is a comfortable social convention that allows us to avoid to quarrel all the time over the use of material objects. It is so comfortable just because it is physically possible to appropriate things; we do not need to invoke property when something cannot be separated from someone. I say both that my fingerprints or my writing style are "mine" and that my bicycle is "mine". But these two "mine" have a different meaning: the former is the "mine" of attribution; the latter is the "mine" of property. The former can be used to identify someone, and conveys the historical circumstance that something is related exclusively to someone; the latter points only to an accidental relation with an external thing, if we consider it from a physical point of view. It is possible to lie on a historical circumstance, by plagiarizing a text, i.e. by attributing it to a person who did not wrote it. However, properly speaking, no one can "steal" the historical connection between "my" writing style and me: the convention of property is useless, in this case. Besides, if Fichte's principle were the only justification of property right, it would undermine the very concept of it: as it is physically possible to "attribute" my bicycle to another, when I leave it alone in the backyard, everyone would be entitled to take it for himself. As Kant would have said, a legal property right cannot be founded on sensible situations, but only on intelligible relations. Although he defines things as res corporales, Kant determines the rightful possession of a thing as a possession without detentio, by ignoring all its sensible facets. Such a possession - a possession of a thing without holding it - is exerted on an object that is "merely distinct from me", regardless of its position in space and time. Space and time, indeed, are sensible determinations and should be left out of consideration. According to the postulate of practical reason with regard to rights, property is justified by a permissive law of reason: [33](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533469) if a rightful possession were not possible, every object would be a res nullius and nobody would be entitled to use it. Kant implicitly denies that a res nullius can be used by everyone at the same time. His tacit assumption suggests that the objects of property, besides being distinct from the subjects, are excludable and rivalrous as well, just like the res corporales. 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](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/249.html)). 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](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/237.html)). 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](http://virt052.zim.uni-duisburg-essen.de/Kant/aa06/237.html)) [34](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533617) In spite of his intellectual theory of property, [35](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533628) 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](http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html#ftn.id2533656) 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.

#### [2] Property rights can’t be universalizable when they forgo the opportunity for an individual to access their own freedom. Medical patents restrict an individual to pursue freedom from death by foreclosing treatment.

Merges 11 Merges, Robert P. *Justifying Intellectual Property*. Harvard University Press, 2011. SJEP

Under Kant’s Universal Principle of Right (UPR), “laws secure our right to external freedom of choice to the extent that this freedom is compatible with everyone else’s freedom of choice under a universal law.”8 As I ex- plained in Chapter 3, Kant’s theory of property rights expresses a special instance of this general principle: property is widely available, yet denied when individual appropriation interferes with the freedom of others. Kant says that although the need for robust property drives the formation of civil society, property rights are nonetheless subject to this “universalizing” principle. Under the operation of the UPR, property rights are constrained: they must not be so broad that they interfere with the freedom of fellow citizens. In a Kantian state, individual property is both necessary—to pro- mote autonomy and self-development; see Chapter 3—and necessarily re- stricted under the UPR.9 Death is the ultimate restraint on autonomy; there is no more “self” to guide after a person dies. So when a claim to property by person A leads to the death of [a]person B, Kant’s Universal Principle would seem to rebut that claim. As with other issues, however, Kant’s views in this regard are not so simple. In particular, he expressed complex views on the legal defense of “necessity,” which bears a close resemblance to the property-limiting prin- ciple I am attributing to him here.10 Kant says, in effect, that in at least one important example of necessity—where A kills B, or at least puts B in im- mediate grave danger, to save A’s own life—one who commits a necessary act is *culpable* but not *punishable.*11 As with so much in the Kantian canon, there is a great deal of debate over just what Kant was trying to say about necessity. One view—at least as plausible as most others, and more plausible than some—holds that Kant thought of necessity as something like an excuse or defense: a wrong act is not made right by necessity, but it is insulated from formal legal liability.12 This view, well described by among others the Kant scholar Arthur Ripstein, depends on the distinction between formal, positive law (“external,” in Kant’s terminology; see Chap- ter 3) and “internal” morality. Property for Kant is an absolute right, and taking it without permission is always objectively wrong. But at the same time, some takings are not punishable by the state because they fall outside the proper bounds of legitimate lawmaking. Because Kant did not explicitly discuss the necessity defense as it per- tains to property rights, any application of his thinking to the case of phar- maceutical patents can only be speculation. Even so, there is one point to make. As I explained in some detail in Chapter 3, there is generally a high degree of symmetry between Kant’s thinking on law and his theory of property. The UPR is a good example; as I explained in Chapter 3, the idea that property can extend only up to the point that it interferes with the freedom of others is simply one specific application of the general Kantian take on law and freedom. Thus, the analysis of the pharmaceutical patents problem would turn on the issue of property’s effect on the freedom of those suffering from treatable diseases. To put it simply, it is difficult to be sure of the exact conclusion Kant would reach with regard to the issue, but I am sure that the analysis would turn on the freedom-restricting qualities of pharmaceutical patents. It is hard to know the right answer, but not hard to pose the right question: should property extend so far as to cut off or restrain the freedom of those who might be treated? In my view, the freedom of disease sufferers is so constrained that the property rights in pharmaceutical patents must give way. As I said, this is not the only plausible reading of Kant’s Universal Principle with respect to the problem at hand. But I think it is the best reading, and it is certainly the best I can do, given Kant’s text and the problem of pharmaceutical patents as I understand it.

#### [3] Justifying ownership based on creation is unjust.

Kinsella 13 [Kinsella S. (2013) The Case Against Intellectual Property. In: Luetge C. (eds) Handbook of the Philosophical Foundations of Business Ethics. Springer, Dordrecht. https://doi.org/10.1007/978-94-007-1494-6\_99]//Lex AKu recut Lex VM

One problem with the creation-based approach is that it almost invariably protects only certain types of creations – unless, i.e., every single useful idea one comes up with is subject to ownership (more on this below). But the distinction between the protectable and the unprotectable is necessarily arbitrary. For example, philosophical or mathematical or scientific truths cannot be protected under current law on the grounds that commerce and social intercourse would grind to a halt were every new phrase, philosophical truth, and the like considered the exclusive property of its creator. For this reason, patents can be obtained only for so-called practical applications of ideas, but not for more abstract or theoretical ideas. Rand agrees with this disparate treatment, in attempting to distinguish between an unpatentable discovery and a patentable invention. She argues that a “scientific or philosophical discovery, which identifies a law of nature, a principle, or a fact of reality not previously known” is not created by the discoverer. But the distinction between creation and discovery is not clear-cut or rigorous.31 Nor is it clear why such a distinction, even if clear, is ethically relevant in defining property rights. No one creates matter; they just manipulate and grapple with it according to physical laws. In this sense, no one really creates anything. They merely rearrange matter into new arrangements and patterns. An engineer who invents a new mousetrap has rearranged existing parts to provide a function not previously performed [90]. Others who learn of this new arrangement can now also make an improved mousetrap. Yet the mousetrap merely follows laws of nature. The inventor did not invent the matter out of which the mousetrap is made, nor the facts and laws exploited to make it work. Similarly, Einstein’s “discovery” of the relation E = mc2 , once known by others, allows them to manipulate matter in a more efficient way. Without Einstein’s, or the inventor’s, efforts, others would have been ignorant of certain causal laws, of ways matter can be manipulated and utilized. Both the inventor and the theoretical scientist engage in creative mental effort to produce useful, new ideas. Yet one is rewarded, and the other is not. In one recent case, the inventor of a new way to calculate a number representing the shortest path between two points – an extremely useful technique – was not given patent protection because this was “merely” a mathematical algorithm.32 But it is arbitrary and unfair to reward more practical inventors and entertainment providers, such as the engineer and songwriter, and to leave more theoretical science and math researchers and philosophers unrewarded. The distinction is inherently vague, arbitrary, and unjust.

#### [4] IPP is nonuniversalizable – universalizing the act of restricting the production of a certain medicine terminates in a contradiction because it entails that you restrict your own ability to produce the medicine

#### [5] Property rights minimize the opportunity of innovation which limits individual freedom through creating monopolies. They also limit the use of tangible objects such as medicines for good purposes.

Cernea and Uszkai 12 Cernea, Mihail-Valentin, and Radu Uszkai. *The Clash between Global Justice and Pharmaceutical Patents: A Critical Analysis*. 2012, the-clash-between-global-justice-and-drug-patents-a-critical-analysis.pdf. SJEP

To make this point clearer, we regard property as an ethical institution which emerged in the context of reiterated conflict between agents for tangible goods. A useful analogy would be, for example, the particular way in which David Hume discusses the emergence of justice in the context of scarcity in which agents pursue their own interests4 . As a result, the purpose of property rights would be that of avoiding or minimizing the possibility of conflict and that of increasing the costs of free-riding or trespassing. Let’s take the following example which will illustrate better our point. Assume that X is a philosophy student and has a copy of Immanuel Kant’s Groundwork of the Metaphysics of Morals. Y is a college of him but he does not have the book. They both have to write an essay on Kant’s categorical imperative. Because Y does not have the book, let’s assume that he decides, whether by the use of coercion or fraud to take his book. As a result, the theft leaves X without his property because tangible goods are rivalrous in consumption. Both student can’t, at the same time but in a different place read about Kant’s categorical imperative from the same copy. Now a different example: suppose X invents a new way of harvesting corn and Y harvests his corn accordingly. This situation is quite different in comparison to the case we presented earlier, because Y does not leaves X without either his new harvesting mechanisms which he created but neither without the idea behind the mechanism. It would be hard to say that Y stole something from X because the consumption of intangible goods such as ideas does not have the same rivalrous property as a copy of a book written by Kant. Actually, the existence of the patent system fosters the scarcity of ideas. In this context patents represent unjustified state-granted monopolies. Moreover, intellectual property rights have another profound immoral consequence: it limits the use of tangible objects which we acquired fully in line with market rules.

### Underview

#### [1] Knowledge exists independent of humans. A) 2 sides of a triangle could not be longer than the third side even before humans discovered it. B) Water at sea level freezes at 0 degrees Celsius even if no humans existed, and other animals would be able to observe it. C) Morality exists independently of the experiences of humans, just because something actually happens doesn’t mean it is good, therefore morality must be determined a priori