# NR

## NR – Top Level

### NR – Top Level Overview

#### COVID ensured that innovation and the pharma industry are strong now – the costs and time required in drug development make it high-risk with literally less than a 0.1% chance of gain - only IP protections ensure that there is enough monetary reward for continued R&D – \_\_\_\_\_ impacts:

#### Bioterrorism – genetic engineering makes the spread of deadly pathogens easier, cheaper, and inevitable – the only way to solve an unavoidable outbreak is through quick pharmaceutical innovation – that was Marjanovic and Fejiao and Farmer

#### Trade secrets uniquely key to innovation – their own author

Junge 16 — (Fabian Junge, Law @ Maastricht University, “THE NECESSITY OF EUROPEAN HARMONIZATION IN THE AREA OF TRADE SECRETS”, MAASTRICHT EUROPEAN PRIVATE LAW INSTITUTE WORKING PAPER No. 2016/04, Available Online at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2839693>, accessed 9-15-21, Marlborough-WR)

Advantages compared to other intellectual property rights Generally speaking, companies tend to rely on a combination of various intellectual property rights to protect their intangible assets and know-how. In that regard, trade secrets have a somewhat unique role, because they are often used as complementary measure to safeguard competitive advantages. For example, a company can seek a patent for its basic technology, but cover supplementary or superior features as a trade secret.15 Moreover, all patentable inventions and intertwined R&D begin as a trade secret.16 Reasons for this complementary approach are the unique features trade secret protection embodies compared to traditional intellectual property rights. First of all, there is no requirement for a costly, lengthy and cumbersome registration process to protect valuable information. Hence, there is no need for a company to disclose anything related to the trade secret which in return could be used by competitors. Moreover, to be eligible for protection the valuable information must not be officially acknowledged as a trade secret. Rather, as long as the respective requirements are fulfilled protection arises automatically. Such requirements include, inter alia, taking reasonable steps to ensure the information’s confidentiality and have, generallyspeaking, a lower burden of proof in contrast to the specific requirements of traditional intellectual property rights, e.g. originality, innovativeness or creative efforts.

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## T

#### Interp – topical affs must fiat an action through the World Trade Organization.

#### Member nations of the WTO make policies as a whole –

WTO ND [(World Trade Organization) “What is the WTO?” https://www.wto.org/english/thewto\_e/whatis\_e/whatis\_e.htm] BC

The WTO is run by its member governments. All major decisions are made by the membership as a whole, either by ministers (who usually meet at least once every two years) or by their ambassadors or delegates (who meet regularly in Geneva).

#### Violation – they don’t – EU member states are distinct from WTO member nations

#### Prefer

#### Ground – justifies affs about any country reducing any IP protection on medicine – only our interp ensures link magnitude by ensuring it is an international reduction for IPP for medicine which is key to generics like the innovation DA, WTO bad, consult the WHO, and the IP NC -- privileges the aff by stretching pre-tournament neg prep too thin and precluding nuanced rigorous testing of aff.

#### Topic ed – WTO IP wavers are the core topic controversy – their aff is just domestic policy passed in European Union Member states. Outweighs aff flex -- prep is determined by what is popular in the lit and we only have 2 months to debate the topic. ALSO provides better link magnitude to all your generics because this is the statis point the topic is centered around.

#### Paradigm issues:

#### Drop the debater – their abusive advocacy skewed the debate from the start

#### Competing interps – reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation

#### Fairness is a voter ­– necessary to determine the better debater

#### Education is a voter – why schools fund debate

## Neolib K

#### The Aff’s portrayal of a world with reduced IP protections as an “information commons” where disease and economic collapse is solved by deregulation perpetuates the neoliberal myth of increased competition ensuring a perfect market **Kapczynski 14** [(Amy, a Professor of Law at Yale Law School, Faculty Co-Director of the Global Health Justice Partnership, and Faculty Co-Director of the Collaboration for Research Integrity and Transparency. She is also Faculty Co-Director of the Law and Political Economy Project and cofounder of the Law and Political Economy blog. Her areas of research include information policy, intellectual property law, international law, and global health.) “INTELLECTUAL PROPERTY’S LEVIATHAN” Duke Law, Law & Contemporary problems, 2014. <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=4710&context=lcp>] BC

Over the last decade or so, a powerful set of critiques has emerged to contest the dominant account just sketched out as well as the contemporary state of IP law.12 These arguments have come from many directions, some even arising from scholars who previously were champions of the dominant account.13 The most prominent and potent line of theoretical critique in the legal literature has come in the guise of arguments for free culture and the “information commons” and has been most influentially articulated by Lawrence Lessig and Yochai Benkler.14 Both have stressed the problems with expansive exclusive rights regimes in information and have also sketched a set of actually existing alternatives to market-based exclusionary forms of information and cultural production. Lessig has written a series of influential books that have made him a “rock star of the information age,”15 particularly for young Internet and free-culture activists. He has argued powerfully, for example, that existing copyright law is in deep conflict with the radical new possibilities for creativity in the digital age. As he points out, when a mother posting a video of her toddler dancing to a Prince song on YouTube is threatened with a $150,000 fine for copyright infringement, something has gone seriously awry.16 Lessig also contends that copyright law today is too long, too expansive, and instantiates a “permission culture” that is antithetical to free expression in the age of the remix.17 As he puts it, “the Internet has unleashed an extraordinary possibility for many to participate in the process of building and cultivating a culture that reaches far beyond local boundaries,” creating the possibility of markets that “include a much wider and more diverse range of creators,” if not stifled by incumbents who use IP law to “protect themselves against this competition.”18 Benkler’s work has also been extraordinarily formative in the field, particularly for his insights into the multiplicity of modes of information production. As he has stressed, the conventional justification for IP does not account for the many successful and longstanding modes of market nonexclusionary information production.19 For example, attorneys write articles to attract clients, software developers sell services customizing free and opensource software for individual clients, and bands give music away for free to increase revenues from touring or merchandise.20 More pathbreaking still is Benkler’s account of the importance of “commons-based peer production,” a form of socially motivated and cooperative production exemplified by the volunteer network that maintains Wikipedia or the groups of coders who create open-source software products such as the Linux operating system.21 In the digital networked age, as Benkler describes, the tools of information production are very broadly distributed, “creating new opportunities for how we make and exchange information, knowledge, and culture.”22 These changes have increased the relative role in our information economy of nonproprietary production and facilitate “new forms of production [that] are based neither in the state nor in the market.”23 Because commons-based peer production is not hierarchically organized and is motivated by social dynamics and concerns, it also offers new possibilities for human development, human freedom, a more critical approach to culture, and more democratic forms of political participation.24 This line of critique has been profoundly generative and has helped launch an important new conceptualization of the commons as a paradigm. That paradigm, as a recent book puts it, “helps us ‘get outside’ of the dominant discourse of the market economy and helps us represent different, more wholesome ways of being.”25 Proponents of the commons concept draw upon contemporary articulations of successful commons-based resource management by Elinor Ostrom and her followers.26 They do mobilize retellings of the political and economic history of the commons in land in Europe before enclosure,27 and recent evidence from psychology and behavioral economics that suggests that humans have deep tendencies toward cooperation and reciprocation.28 They argue that A key revelation of the commons way of thinking is that we humans are not in fact isolated, atomistic individuals. We are not amoebas with no human agency except hedonistic “utility preferences” expressed in the marketplace. No: We are commoners—creative, distinctive individuals inscribed within larger wholes. We may have unattractive human traits fueled by individual fears and ego, but we are also creatures entirely capable of self-organization and cooperation; with a concern for fairness and social justice; and willing to make sacrifices for the larger good and future generations.29 This stands, of course, as a powerful rebuke to the neoliberal imaginary, which “constructs and interpellates individuals as . . . rational, calculating creatures whose moral autonomy is measured by their capacity for ‘self-care’— the ability to provide for their own needs and service their own ambitions.”30 III Given this radical—and, in my view, critically important—attempt to rethink the subject at the core of neoliberal accounts, it is all the more striking that proponents of the commons often appear to adopt a neoliberal image of the state. For example, the introduction to a recently edited volume that gathers writings on the commons from seventy-three authors in thirty countries (entitled, tellingly, The Wealth of the Commons: A World Beyond Market and State) has this to say: The presumption that the state can and will intervene to represent the interests of citizens is no longer credible. Unable to govern for the long term, captured by commercial interests and hobbled by stodgy bureaucratic structures in an age of nimble electronic networks, the state is arguably incapable of meeting the needs of citizens as a whole.31 The commons, they suggest, is a concept that seeks not only to liberate us from predatory and dysfunctional markets, but also from predatory and dysfunctional states. Something immediately seems incongruous here. If people are inherently cooperative reciprocators, why are states irredeemably corrupt? After all, as Harold Demsetz famously wrote in his 1967 attack on Arrow’s optimism about state production of information, “[g]overnment is a group of people.”32 Lessig, one of the progenitors of the language of the commons in the informational domain, often leads with a similar view of the state: [I]f the twentieth century taught us one lesson, it is the dominance of private over state ordering. Markets work better than Tammany Hall in deciding who should get what, when. Or as Nobel Prize-winning economist Ronald Coase put it, whatever problems there are with the market, the problems with government are more profound.33 Lessig reveals his own sense of the power of this conception of the state when he seeks to tar IP law with the same brush; we should rebel against current IP law, he suggests, because we should “limit the government’s role in choosing the future of creativity.”34 Benkler is more measured but admits as well to viewing the state as “a relatively suspect actor.”35 We should worry, he suggests, that direct governmental intervention “leads to centralization in the hands of government agencies and powerful political lobbies,”36 a view that echoes the neoliberal account described above. It should perhaps not surprise us that leading critics of neoliberal information policy embrace a neoliberal conception of the state. After all, neoliberalism is not merely an ideology, but also a set of policy prescriptions that may have helped to call forth the state that it has described. As David Harvey puts it, “[t]he neoliberal fear that special-interest groups would pervert and subvert the state is nowhere better realized than in Washington, where armies of corporate lobbyists . . . effectively dictate legislation to match their special interests.”37 There are, it must be said, few areas of law that better exemplify this problem than IP law. For example, Jessica Litman has documented the astonishing process through which the 1976 Copyright Act was drafted, in which Congress delegated most of the drafting to interest groups that were forced to negotiate with one another.38 Other scholars have offered similarly startling accounts of the genesis of the most important IP treaty today, the TradeRelated Aspects of Intellectual Property Rights (TRIPS) Agreement. TRIPS came into force in 1996, revolutionizing international IP law by both imposing new standards and by rendering them enforceable through the WTO’s disputeresolution system, which authorizes trade retaliation to enforce its judgments. Most countries in the world are members of TRIPS, and the Agreement introduced, for developing countries in particular, substantial new obligations, such as the obligation to grant patents on medicines and food-related inventions. Several excellent histories of the treaty have been written, documenting its beginnings as a brash idea proposed by “twelve chief executive officers (representing pharmaceutical, entertainment, and software industries).”39 As Susan Sell has described, the TRIPS Agreement was a triumph of industry organizing. Through TRIPS, Industry revealed its power to identify and define a trade problem, devise a solution, and reduce it to a concrete proposal that could be sold to governments. These private sector actors succeeded in getting most of what they wanted from a global IP agreement, which now has the status of public international law.

#### Neoliberalism rips apart communal bonds to maintain the illusion that structural inequalities are individual problems – the impact is systemic victim-blaming, poverty, and violence.

Smith 12 [(Candace, author for Societpages, cites Bruno Amable, Associate Professor of Economics at Paris School of Economics) “Neoliberalism and Individualism: Ego Leads to Interpersonal Violence?” Sociology Lens is the associated site for Sociology Compass, Wiley-Blackwell’s review journal on all fields sociological] AT

There appears to be a link between neoliberalism, individualism, and violence. In reference to the association between neoliberalism and individualism, consider neoliberalism’s insistence that we do not need society since we are all solely responsible for our personal well-being (Peters 2001; Brown 2003). From a criminological standpoint, it is not hard to understand how this focus on the individual can lead to violence. According to Hirschi’s (1969) social control theory, for instance, broken or weak social bonds free a person to engage in deviancy. Since, according to this theory, individuals are naturally self-interested, they can use the opportunity of individualization to overcome the restraining powers of society. Bearing in mind neoliberalism’s tendency to value the individual over society, it could be argued that this ideology is hazardous as it acts to tear apart important social bonds and to thereby contribute to the occurrence of ego-driven crimes, including violent interpersonal crimes. Such a thought suggests that as neoliberalism becomes more prominent in a country, it can be expected that individualism and, as a result, interpersonal violence within that country will increase. When it comes to individualization, this idea is one of the fundamental aspects of neoliberalism. In fact, Bauman (2000:34) argues that in neoliberal states “individualization is a fate, not a choice.” As Amable (2011) explains, neoliberals have realized that in order for their ideology to be successful, a state’s populace must internalize the belief that individuals are only to be rewarded based on their personal effort. With such an ego-driven focus, Scharff (2011) explains that the process of individualization engenders a climate where structural inequalities are converted into individual problems.

#### The alt is to reject the aff in favor of a critique that cultivates educated hope - evaluate the aff and alt on the level of ideological commitments – these policies won’t happen which takes out consequentialism good offense – BUT until we unlearn the assumption that getting government out of the way will let markets flourish and solve all our problems, we'll never be able to engage in robust, communitarian policymaking that truly centers human need and our obligations to others. Wilson 17:

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New Stories for New Worlds As we will see in our mapping of the neoliberal conjuncture, competition's totalizing yet tenuous power over our everyday lives is rooted in what Keating calls “status quo stories”—those stories that get told in popular culture, and that we often tell ourselves, which cement our relationship to our present conjuncture and our investment in the world as we currently know it. She explains: Generally spoken with great certainty, these and similar comments (commands, really) reflect unthinking affirmation of the existing reality and a stubborn, equally unthinking resistance to change. Because we believe that our status-quo stories represent accurate factual statements about ourselves, other people, and the world, we view them as permanent, unchanging facts. This belief in the status-quo's permanence becomes self-fulfilling: We do not try to make change because change is impossible to make. “It's always been that way,” we tell ourselves, “so why waste our energy trying to change things?” “People are just like that-it's human nature, so plan accordingly and alter your expectations! There's no point in trying to change human nature!" Status-quo stories trap us in our current circumstances and conditions; they limit our imaginations because they prevent us from envisioning alternate possibilities.10 Status-quo stories double down on reality, making it seem like those socially constructed forces impinging on us are natural rather than historical, political, and subject to change. “Status-quo stories have a numbing effect,” Keating writes. “When we organize our lives around such stories or in other ways use them as ethical roadmaps or guides, they prevent us from extending our imaginations and exploring additional possibilities."11 One of my students aptly described neoliberal culture as a “status-quo storytelling machine.” To keep us living in competition, neoliberalism generates a host of status-quo stories about the naturalness and inevitability of self-enclosed individualism. Indeed, we might say that self-enclosed individualism operates as the foundational status quo story of neoliberal culture, where competition has become synonymous with all of life. Self-enclosed individualism keeps us not only divided from one another, but also actively pitted against each other. We are stuck in an oppositional consciousness that refuses to acknowledge our social interconnections, even though, as our shared anxieties suggest, we've never had more in common than right now! No matter where we are or what we're doing, neoliberal culture encourages us to see each other through a competitive lens that makes the transformation of our social world, and ourselves, impossible. We become incapable of acknowledging how our fortunes and fates are entwined with those of others who are living very different realities. We become callous and hardened to the suffering of others. We see suffering and death everywhere, and while this might register as bad or wrong or upsetting, we nonetheless stay stuck within the horizons of our own self-enclosed bubbles. The devastating powers of status-quo stories are clear in so many of the conversations we have on college campuses about power, privilege, and difference. In fact, I started teaching courses on neoliberal culture to help my students understand the broader histories and contexts that were impinging on these conversations and making them so fraught, and ultimately so unproductive. Time and time again, in open community forums and classroom discussions of systemic inequalities, I watched students voice painful personal experiences only to get nowhere. Indeed, when asked to consider various forms of privilege, many of my white, male students get defensive. The idea that they haven't earned their place through their own decisions and hard work, but rather benefited from inherited wealth and opportunity, means that they are not good people from the perspective of neoliberalism. Talking about issues of privilege threatens to diminish their sense of self and individual value, so they recoil from conversations that ask them to see their place within broader legacies of settler colonialism, patriarchy, and capitalism. Accordingly, they hold on tight to status-quo stories of self-enclosed individualism to protect themselves, doubling down on their privilege to secure their status in a competitive world. However, it is important to see that status-quo stories of self- enclosed individualism also inform my students from historically oppressed and marginalized groups. These students suffer daily: they live in an environment that professes to celebrate “diversity,” while, in the context of their own lives, they are reminded again and again just how much they don't belong or matter. Not surprisingly, they demand “safe spaces” and protection for themselves and their peers, and they often draw hard lines between allies and enemies. Here too though, we see neoliberal stories at work. What matters for my students, and rightly so, is the way that “microaggressions”—those daily, mundane experiences of discrimination that accumulate over time-diminish their own capacities for flourishing as self-enclosed individuals. My point here is not to suggest that privileged students and marginalized students are the same because they are both invested in a version of self-enclosed individualism. Rather, my point is they share a situation; despite their different and unequal social positions, they have similar feelings-of defensiveness and a fear of failure—and status-quo stories in common. These commonalities do not imply evenness or equality, but rather interconnection, that is, a shared conjuncture. It is the recognition of this conjunctural interconnection that can thread our lives together and open up possibilities for more egalitarian futures. However, living in competition and the oppositional consciousness it demands obscure these commonalities and the interconnections that could bring students into new relations with one another. As a result, we stay caught up in the world as we know it. We stay stuck in competition, even though we all are yearning for different worlds. We desperately need new stories, stories that offer us different pathways to each other. As Keating puts it, we need stories that help us move from “me” to “we” consciousness.12 However, this book is not going to write these new stories for you. Rather, the goal of this book is to provide you with the resources for writing these new stories in and through your own lives. The Work of Critique Ultimately, writing new stories will require a new sense of yourself and your world, as well as what is possible, and realizing this new sense will require, first and foremost, cultivating a deeply critical orientation toward the world as we currently know and experience it. This critical orientation dislodges the sense of inevitability of neoliberalism, self-enclosed individualism, and living in competition; it knows that things don't have to be this way and, thus, senses the possibilities for resistance and transformation that are everywhere. It is so crucial to understand that this critical orientation is not simply about saying that aspects of neoliberal culture are “bad” or "wrong.” Rather, the work of critique is about seeing the flows of power and ways of thinking that make the neoliberal conjuncture possible and hold it together. Critique is therefore a mode of knowing—a form of everyday intellectual work—that is aimed at exposing the myriad workings of power and its status-quo stories. As Michel Foucault explains, “A critique is not a matter of saying that things are not right as they are. It is a matter of pointing out on what kinds of assumptions, what kinds of familiar, unchallenged, unconsidered modes of thought the practices that we accept rest.”13 To clarify Foucault's idea, let's think back to the student discussions of power and privilege discussed above. The work of critique is not simply about pointing out privilege, although this is, of course, vital work. The work of critique goes beyond pointing out what's wrong and seeks to unravel the socially constructed conjuncture in which these problems emerge and get negotiated. For only then can we step outside of the competitive, oppositional consciousness of neoliberal culture and begin to imagine a radically different future built on equality and shared security. This work of dislodging the inevitability of our conjuncture and its status-quo stories is hard but vital intellectual work that requires not only critique of our social world, but also transformation of ourselves. Indeed, truly critical work is always profoundly disruptive of our own identities and knowledges. This work can be immensely painful, as it strips away the certainty and comfort provided by status-quo stories. This work can also be, and should be, immensely joyful and life-giving, as it enables us to free ourselves from the status-quo stories and devastating limitations they put on our lives, imaginations, and social relationships. This mix of pain and joy at the heart of critical work comes from the way that critique asks us to “lose confidence” in our world. As feminist theorist Sara Ahmed writes, Losing confidence: it can be a feeling of something gradually going away from you, being eroded. You sense the erosion. You might stumble, hesitate, falter; things might gradually unravel so you end up holding onto the barest of threads. It might be an experience in the present that throws things up, throws you off balance.... When you lose confidence it can feel like you are losing yourself: like you have gone into hiding from yourself.4 Losing confidence in your world is thus a form of existential crisis —you are disoriented; your world is shattered. At the same time, losing confidence in status-quo stories means gaining confidence for resistance and transformation. We become bolder, less anxious, more optimistic, capable of social interconnection, political intervention, and acting on and from a place of commonality. This is real freedom. Critique is ultimately about unlearning our world so that we might reconstruct it anew. Losing confidence in neoliberal culture means being able to say no to it in the conduct of our daily lives. In these capacities for resistance, we gain confidence that another world might actually be better, worth opening ourselves up to, worth fighting for. We begin to cultivate what Henry Giroux calls educated hope. Educated hope is not “a romanticized and empty” version of hope; rather, it is a form of hope enabled by critique that “taps into our deepest experiences and longing for a life of dignity with others, a life in which it becomes possible to imagine a future that does not mimic the present.” With educated hope, our sense of who we are and of what might be possible shifts in profound ways. This is when those new worlds we are longing for open up. What’s to Come Each of the chapters that follow offer a variety of intellectual tools for mapping the neoliberal conjuncture. Taken together, they are designed to produce a holistic and thick understanding of neoliberalism and its myriad powers to shape our identities, sensibilities, social worlds, and political horizons. Having a thick understanding of neoliberalism means that you feel in your bones that there is nothing natural or inevitable about neoliberalism and its status-quo stories. It means that you understand that neoliberalism is the outcome of a range of contingent historical processes that have consequences across social, political, economic, and cultural fields. In other words, by the end of our journey, you'll know how our neoliberal conjuncture has been, and continues to be, constructed. You'll also, therefore, be able to sense the other worlds on the horizon that are just waiting to be constructed, so long as, together, we can develop the resources, capacities, and stories of interconnection for bringing them into being. More specifically, the book is divided into two sections. The first section, titled “Critical Foundations,” focuses on cultivating a broad, critical orientation toward neoliberal culture. The first chapter charts the rise of neoliberal hegemony through four historical phases. The goal is to illustrate exactly how competition came to be the driving cultural force in our everyday lives. As we will see, there is nothing natural or inevitable about neoliberalism. It was a political and class-based project to remake capitalism and liberal democracy that was conceived, organized for, and eventually won. In the second chapter, we delve into the world of neoliberal theory and its critical consequences. Here we'll explore exactly what neoliberal thinkers believe about the state, markets, and human actors, and what distinguishes neoliberalism from earlier schools of liberal thought. We'll also interrogate what I call the four Ds—disposability, dispossession, disimagination, and de- democratization—which, taken together, enable us to clearly see and articulate what is so devastating about the rise of neoliberalism. The third chapter examines the cultural powers specific to neoliberalism. Neoliberalism advances through culture, specifically through the promotion of an enterprise culture that works to impose competition as a norm across all arenas of social life. In order to see and specify how neoliberalism works through culture, we take contemporary education as a case study and unpack the entangled cultural powers of neoliberal governmentality, affect, and ideology. The second section is titled “Neoliberal Culture.” In these chapters, we explore the worlds of neoliberal labor, affect, and politics respectively, tracing what happens when our everyday lives as workers, individuals, and citizens become organized around living in competition. The fourth chapter examines how neoliberalism turns everyday life into a “hustle,” where all the contexts of daily life become animated by the demands of neoliberal labor. At stake here are the ways in which we are all hustling to get by, yet we stay radically divided from one another along lines of gender, race, and class thanks to the norm of self- enterprise. The next chapter hones in on what it feels like to inhabit enterprise culture by exploring neoliberal affect and the care of the self. As we already know, living in competition breeds widespread anxiety, not to mention depression and illness, making self-care an ongoing, pressing problem of everyday life. While neoliberal culture offers us plenty of tools for self-care that ultimately keep us stuck in our self-enclosed individualism, this chapter also considers how self-care might be a site for resistance and political intervention. The final chapter focuses on neoliberal politics, tracing what happens to citizenship and social action in our contemporary conjuncture. As we'll see, neoliberalism privatizes our political horizons by remaking democracy into a market competition for visibility and equality. Throughout this mapping of the neoliberal conjuncture, we will engage in a mode of critical work that will, hopefully, enable you to unlearn neoliberalism and thus begin to write new stories about our conjuncture—including both our commonalities and differences—and the alternative worlds we are yearning for. Indeed, our critical work will only matter to the extent that it opens up our individual and collective horizons to a future beyond living in competition.

## Innovation

#### The pharma industry is strong now but patents are key for continued economic growth. Batell and PhRMA 14:

Batell and PhRMA {Battelle is the world’s largest nonprofit independent research and development organization, providing innovative solutions to the world’s most pressing needs through its four global businesses: Laboratory Management, National Security, Energy, Environment and Material Sciences, and Health and Life Sciences. The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country’s leading pharmaceutical research and biotechnology companies, which are devoted to inventing medicines that allow patients to live longer, healthier, and more productive lives.}, 14 – “The U.S. Biopharmaceutical Industry: Perspectives on Future Growth and The Factors That Will Drive It,” http://phrma-docs.phrma.org/sites/default/files/pdf/2014-economic-futures-report.pdf//marlborough-wr//

Compared to other capital-intensive, advanced manufacturing industries in the U.S., the biopharmaceutical industry is a leader in R&D investment, IP generation, venture capital investment, and R&D employment. Policies and infrastructure that helped foster these innovative activities have allowed the U.S. to seize global leadership in biopharmaceutical R&D over the past 30 years. However, as this report details, other countries are seeking to compete with the U.S. by borrowing and building upon some of these pro-innovation policies to improve their own operating environment and become more favorable to biopharmaceutical companies making decisions about where to locate their R&D and manufacturing activities. A unique contribution of this report was the inclusion of the perspective of senior-level strategic planning executives of biopharmaceutical companies regarding what policy areas they see as most likely to impact the favorability of the U.S. business operating environment. The executives cited the following factors as having the most impact on the favorability of the operating environment and hence, potential growth of the innovative biopharmaceutical industry in the U.S.: • Coverage and payment policies that support and encourage medical innovation • A well-functioning, science-based regulatory system • Strong IP protection and enforcement in the U.S. and abroad The top sub-attribute identified as driving future biopharmaceutical industry growth in the U.S. cited by executives was a domestic IP system that provides adequate patent rights and data protection. Collectively, these factors underscore the need to reduce uncertainties and ensure adequate incentives for the lengthy, costly, and risky R&D investments necessary to develop new treatments needed by patients and society to address our most costly and challenging diseases. With more than 300,000 jobs at stake between the two scenarios, the continued growth and leadership of the U.S. innovative biopharmaceutical industry cannot be taken for granted. Continued innovation is fundamental to U.S. economic well-being and the nation’s ability to compete effectively in a globalized economy and to take advantage of the expected growth in demand for new medicines around the world. Just as other countries have drawn lessons from the growth of the U.S. biopharmaceutical sector, the U.S. needs to assess how it can improve the environment for innovation and continue to boost job creation by increasing R&D investment, fostering a robust talent pool, enhancing economic growth and sustainability, and continuing to bring new medicines to patients.

#### COVID has kept patents and innovation strong, but continued protection is key to innovation by incentivizing biomedical research – it’s also crucial to preventing counterfeit medicines, economic collapse, and fatal diseases, which independently turns case. Macdole and Ezell 4-29:

Jaci Mcdole and Stephen Ezell {Jaci McDole is a senior policy analyst covering intellectual property (IP) and innovation policy at the Information Technology and Innovation Foundation (ITIF). She focuses on IP and its correlations to global innovation and trade. McDole holds a double BA in Music Business and Radio-Television with a minor in Marketing, an MS in Education, and a JD with a specialization in intellectual property (Southern Illinois University Carbondale). McDole comes to ITIF from the Institute for Intellectual Property Research, an organization she co-founded to study and further robust global IP policies. Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF). He comes to ITIF from Peer Insight, an innovation research and consulting firm he cofounded in 2003 to study the practice of innovation in service industries. At Peer Insight, Ezell led the Global Service Innovation Consortium, published multiple research papers on service innovation, and researched national service innovation policies being implemented by governments worldwide. Prior to forming Peer Insight, Ezell worked in the New Service Development group at the NASDAQ Stock Market, where he spearheaded the creation of the NASDAQ Market Intelligence Desk and the NASDAQ Corporate Services Network, services for NASDAQ-listed corporations. Previously, Ezell cofounded two successful innovation ventures, the high-tech services firm Brivo Systems and Lynx Capital, a boutique investment bank. Ezell holds a B.S. from the School of Foreign Service at Georgetown University, with an honors certificate from Georgetown’s Landegger International Business Diplomacy program.}, 21 - ("Ten Ways Ip Has Enabled Innovations That Have Helped Sustain The World Through The Pandemic," Information Technology & Innovation Foundation, 4-29-2021, https://itif.org/publications/2021/04/29/ten-ways-ip-has-enabled-innovations-have-helped-sustain-world-through)//marlborough-wr/

To better understand the role of IP in enabling solutions related to COVID-19 challenges, this report relies on 10 case studies drawn from a variety of nations, technical fields, and firm sizes. This is but a handful of the thousands of IP-enabled innovations that have sprung forth over the past year in an effort to meet the tremendous challenges brought on by COVID-19 globally. From a paramedic in Mexico to a veteran vaccine manufacturing company in India and a tech start-up in Estonia to a U.S.-based company offering workplace Internet of Things (IoT) services, small and large organizations alike are working to combat the pandemic. Some have adapted existing innovations, while others have developed novel solutions. All are working to take the world out of the pandemic and into the future. The case studies are: Bharat Biotech: Covaxin Gilead: Remdesivir LumiraDX: SARS-COV-2 Antigen POC Test Teal Bio: Teal Bio Respirator XE Ingeniería Médica: CápsulaXE Surgical Theater: Precision VR Tombot: Jennie Starship Technologies: Autonomous Delivery Robots Triax Technologies: Proximity Trace Zoom: Video Conferencing As the case studies show, IP is critical to enabling innovation. Policymakers around the world need to ensure robust IP protections are—and remain—in place if they wish their citizens to have safe and innovative solutions to health care, workplace, and societal challenges in the future. THE ROLE OF INTELLECTUAL PROPERTY IN R&D-INTENSIVE INDUSTRIES Intangible assets, such as IP rights, comprised approximately 84 percent of the corporate value of S&P 500 companies in 2018.4 For start-ups, this means much of the capital needed to operate is directly related to IP (see Teal Bio case study for more on this). IP also plays an especially important role for R&D-intensive industries.5 To take the example of the biopharmaceutical industry, it is characterized by high-risk, time-consuming, and expensive processes including basic research, drug discovery, pre-clinical trials, three stages of human clinical trials, regulatory review, and post-approval research and safety monitoring. The drug development process spans an average of 11.5 to 15 years.6 For every 5,000 to 10,000 compounds screened on average during the basic research and drug discovery phases, approximately 250 molecular compounds, or 2.5 to 5 percent, make it to preclinical testing. Out of those 250 molecular compounds, approximately 5 make it to clinical testing. That is, 0.05 to 0.1 percent of drugs make it from basic research into clinical trials. Of those rare few which make it to clinical testing, less than 12 percent are ultimately approved for use by the U.S. Food and Drug Administration (FDA).7 In addition to high risks, drug development is costly, and the expenses associated with it are increasing. A 2019 report by the Deloitte Center for Health Solutions concluded that since 2010 the average cost of bringing a new drug to market increased by 67 percent.8 Numerous studies have examined the substantial cost of biopharmaceutical R&D, and most confirm investing in new drug development requires $1.7 billion to $3.2 billion up front on average.9 A 2018 study by the Coalition for Epidemic Preparedness found similar risks and figures for vaccines, stating, “In general, vaccine development from discovery to licensure can cost billions of dollars, can take over 10 years to complete, and has an average 94 percent chance of failure.”10 Yet, a 2010 study found that 80 percent of new drugs—that is, the less than 12 percent ultimately approved by the FDA—made less than their capitalized R&D costs.11 Another study found that only 1 percent (maybe three new drugs each year) of the most successful 10 percent of FDA approved drugs generate half of the profits of the entire drug industry.12 To say the least, biopharmaceutical R&D represents a high-stakes, long-term endeavor with precarious returns. Without IP protection, biopharmaceutical manufacturers have little incentive to take the risks necessary to engage in the R&D process because they would be unable to recoup even a fraction of the costs incurred. Diminished revenues also result in reduced investments in R&D which means less research into cancer drugs, Alzheimer cures, vaccines, and more. IP rights give life-sciences enterprises the confidence needed to undertake the difficult, risky, and expensive process of life-sciences innovation secure in the knowledge they can capture a share of the gains from their innovations, which is indispensable not only to recouping the up-front R&D costs of a given drug, but which can generate sufficient profits to enable investment in future generations of biomedical innovation and thus perpetuate the enterprises into the future.13 THE IMPORTANCE OF INTELLECTUAL PROPERTY TO INNOVATION Although anti-IP proponents have attacked biopharmaceutical manufacturers particularly hard, the reality is all IP-protected innovations are at risk if these rights are ignored, or vitiated. Certain arguments have shown a desire for the term “COVID-19 innovations” to include everything from vaccines, therapeutics, diagnostics, and PPE to biotechnology, AI-related data, and educational materials.14 This could potentially open the floodgates to invalidate IP protection on many of the innovations highlighted in this report. However, much of the current discussion concerning IP focuses almost entirely on litigation fears or R&D incentives. Although R&D is an important aspect of IP, as previously mentioned, these discussions ignore the fact that IP protection can be—and often is—used for other purposes, including generating initial capital to create a company and begin manufacturing and, more importantly, using licensing agreements and IP to track the supply chain and ensure quality control of products. This report highlights but a handful of the thousands of IP-enabled innovations that have sprung forth over the past year in an effort to meet the tremendous challenges brought on by COVID-19 globally. In 2018, Forbes identified counterfeiting as the largest criminal enterprise in the world.15 The global struggle against counterfeit and non-regulated products, which has hit Latin America particularly hard during the pandemic, proves the need for safety and quality assurance in supply chains.16 Some communities already ravaged by COVID-19 are seeing higher mortality rates related to counterfeit vaccines, therapeutics, PPE, and cleaning and sanitizing products.17 Polish authorities discovered vials of antiwrinkle treatment labeled as COVID-19 vaccines. 18 In Mexico, fake vaccines sold for approximately $1,000 per dose.19 Chinese and South African police seized thousands of counterfeit vaccine doses from warehouses and manufacturing plants.20 Meanwhile, dozens of websites worldwide claiming to sell vaccines or be affiliated with vaccine manufacturers have been taken down.21 But the problem is not limited to biopharmaceuticals. The National Intellectual Property Rights Coordination Center has recovered $48 million worth of counterfeit PPE and other products.22 Collaborative efforts between law enforcement and manufacturers have kept numerous counterfeits from reaching the population. In countries with strong IP protection, the chances of counterfeit products reaching the market are significantly lower. This is largely because counterfeiting tends to be an IP-related issue, and these countries generally provide superior means of tracking the supply chain through trademarks, trade secrets, and licensing agreements. This enables greater quality control and helps manufacturers maintain a level of public confidence in their products. By controlling the flow of knowledge associated with IP, voluntary licensing agreements provide innovators with opportunities to collaborate, while ensuring their partners are properly equipped and capable of producing quality products. Throughout this difficult time, the world has seen unexpected collaborations, especially between biopharmaceutical companies worldwide such as Gilead and Eva Pharma or Bharat Biotech and Ocugen, Inc. Throughout history, and most significantly in the nineteenth century through the widespread development of patent systems and the ensuing Industrial Revolution, IP has contributed toward greater economic growth.23 This is promising news as the world struggles for economic recovery. A 2021 joint study by the EU Intellectual Property Office (EUIPO) and European Patent Office (EPO) shows a strong, positive correlation between IP rights and economic performance.24 It states that “IP-owning firms represent a significantly larger proportion of economic activity and employment across Europe,” with IP-intensive industries contributing to 45 percent of gross domestic product (GDP) (€6.6 trillion; US$7.9 trillion).25 The study also shows 38.9 percent of employment is directly or indirectly attributed to IP-intensive industries, and IP generates higher wages and greater revenue per employee, especially for small-to-medium-sized enterprises.26 That concords with the United States, where the Department of Commerce estimated that IP-intensive industries support at least 45 million jobs and contribute more than $6 trillion dollars to, or 38.2 percent of, GDP.27 In 2020, global patent filings through the World Intellectual Property Organization’s (WIPO) Patent Cooperation Treaty (PCT) system reached a record 275,900 filings amidst the pandemic, growing 4 percent

from 2019.28 The top-four nations, which accounted for 180,530 of the patent applications, were China, the United States, Japan, and Korea, respectively.29 While several countries saw an increase in patent filings, Saudi Arabia and Malaysia both saw significant increases in the number of annual applications, with the top two filing growths of 73 percent and 26 percent, respectively.30 The COVID-19 pandemic slowed a lot of things, but it certainly couldn’t stop innovation. There are at least five principal benefits strong IP rights can generate, for both developing and developed countries alike.31 First, stronger IP protection spurs the virtuous cycle of innovation by increasing the appropriability of returns, enabling economic gain and catalyzing economic growth. Second, through patents—which require innovators to disclose certain knowledge as a condition of protection—knowledge spillovers build a platform of knowledge that enables other innovators. For instance, studies have found that the rate of return to society from corporate R&D and innovation activities is at least twice the estimated returns that each company itself receives.32 Third, countries with robust IP can operate more efficiently and productively by using IP to determine product quality and reduce transaction costs. Fourth, trade and foreign direct investment enabled and encouraged by strong IP protection offered to enterprises from foreign countries facilitates an accumulation of knowledge capital within the destination economy. That matters when foreign sources of technology account for over 90 percent of productivity growth in most countries.33 There’s also evidence suggesting that developing nations with stronger IP protections enjoy the earlier introduction of innovative new medicines.34 And fifth, strong IP boosts exports, including in developing countries.35 Research shows a positive correlation between stronger IP protection and exports from developing countries as well as faster growth rates of certain industries.36 The following case studies illustrate these benefits of IP and how they’ve enabled innovative solutions to help global society navigate the COVID-19 pandemic.

#### Trade secrets key to innovation – their own author (Harker)

Junge 16 — (Fabian Junge, Law @ Maastricht University, “THE NECESSITY OF EUROPEAN HARMONIZATION IN THE AREA OF TRADE SECRETS”, MAASTRICHT EUROPEAN PRIVATE LAW INSTITUTE WORKING PAPER No. 2016/04, Available Online at <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2839693>, accessed 9-15-21, Marlborough-WR)

Trade secrets embody the same economic rationale as other intellectual property righty, namely providing an incentive for private investment in innovation and knowledge creation by excluding others from acquiring or using trade secrets ensuring the possibility of a return on investment and information commercialization for the original producer. By restricting the use of said information to certain lawful means policy-makers can prevent the “tragedy of the commons” which would otherwise destroy investment and innovation incentives benefitting the public in the long term. 24 Therefore, striking a fair balance between fostering innovation and facilitating competition is essential for adequate trade secret rules, e.g. by obliging the trade secret holder to prove that the respective defendant can be held accountable for the alleged misappropriation.25 Trade secret laws should not prohibit honest commercial practices like reverse engineering or independent R&D activities. Particularly the former activity is elementary to trade secret protection not conferring an exclusive right on the information protected. Hence, competitors should be allowed and encouraged to discover the same, similar or alternative information or know-how independently to create competition in innovation - as long as they do not unlawfully interfere with the trade secrets of others.26 Besides providing incentives to innovate, trade secret protection also facilitates the exchange of information and increases collaborations. Companies are more willing to collaborate with third parties, e.g. via outsourcing, licensing out or a joint venture, if they can rely on legal remedies

in case of trade secret misappropriation. Furthermore, companies need a setting in which they do not presume that their competitive advantages might be endangered when sharing certain information or know-how.27 Having the possibility to base new research on existing information and shared knowledge enhances the opportunities for new innovations by allowing an exchange of ideas and expertise in a secure environment between cooperating external players without the fear of being exploited.28 Hence, both the sharing of information and collaborations with new partners are encouraged eventually increasing not only innovation but also the optimization and efficient organization of work flows as well as supply and manufacture processes.

#### This sets a precedent that spills over to all future diseases – Hopkins 21:

Jared S. Hopkins {Jared S. Hopkins is a New York-based reporter for The Wall Street Journal covering the pharmaceutical industry, including companies such as Pfizer Inc. and Merck & Co. He previously was a health-care reporter at Bloomberg News and an investigative reporter at the Chicago Tribune. Jared started his career at The Times-News in Twin Falls, Idaho covering politics. In 2014, he was a finalist for the Livingston Award For Young Journalists for an investigation into charities founded by professional athletes. In 2011, he was a finalist for the Pulitzer Prize in Investigative Reporting for a series about neglect at a residential facility for disabled kids. Jared graduated from the Merrill College of Journalism at the University of Maryland-College Park with a bachelor's degree in journalism}, 21 - ("U.S. Support for Patent Waiver Unlikely to Cost Covid-19 Vaccine Makers in Short Term ," WSJ, 5-7-2021, https://www.wsj.com/articles/u-s-support-for-patent-waiver-unlikely-to-cost-covid-19-vaccine-makers-in-short-term-11620414260)//marlborough-wr/

The Biden administration’s unexpected support for [temporarily waiving Covid-19 vaccine patents](https://www.wsj.com/articles/u-s-backs-waiver-of-intellectual-property-protection-for-covid-19-vaccines-11620243518?mod=article_inline) won’t have an immediate financial impact on the companies making the shots, industry officials and analysts said. Yet the decision could mark a shift in Washington’s longstanding support of the industry’s valuable intellectual property, patent-law experts said. A waiver, if it does go into effect, may pose long-term risks to the vaccine makers, analysts said. [Moderna](https://www.wsj.com/market-data/quotes/MRNA) Inc., [MRNA -4.12%](https://www.wsj.com/market-data/quotes/MRNA?mod=chiclets) [Pfizer](https://www.wsj.com/market-data/quotes/PFE) Inc. [PFE -3.10%](https://www.wsj.com/market-data/quotes/PFE?mod=chiclets) and other vaccine makers weren’t counting on sales from the developing countries that would gain access to the vaccine technology, analysts said. If patents and other crucial product information behind the technology is made available, it would take at least several months before shots were produced, industry officials said. Yet long-term Covid-19 sales could take a hit if other companies and countries gained access to the technologies and figured out how to use it. Western drugmakers could also confront competition sooner for other medicines they are hoping to make using the technologies. A World Trade Organization waiver could also set a precedent for waiving patents for other medicines, a long-sought goal of some developing countries, patient groups and others to try to reduce the costs of prescription drugs. “It sets a tremendous precedent of waiving IP rights that’s likely going to come up in future pandemics or in other serious diseases,” said David Silverstein, a patent lawyer at Axinn, Veltrop & Harkrider LLP who advises drugmakers. “Other than that, this is largely symbolic.”

#### Pharmaceutical innovation is key to protecting against future pandemics, bioterrorism, and antibiotic resistance.

Marjanovic and Fejiao ‘20 Marjanovic, Sonja, and Carolina Feijao. Sonja Marjanovic, Ph.D., Judge Business School, University of Cambridge. Carolina Feijao, Ph.D. in biochemistry, University of Cambridge; M.Sc. in quantitive biology, Imperial College London; B.Sc. in biology, University of Lisbon. "Pharmaceutical Innovation for Infectious Disease Management: From Troubleshooting to Sustainable Models of Engagement." (2020). [Quality Control]

As key actors in the healthcare innovation landscape, pharmaceutical and life sci-ences companies have been called on to develop medicines, vaccines and diagnostics for pressing public health challenges. The COVID-19 crisis is one such challenge, but there are many others. For example, MERS, SARS, Ebola, Zika and avian and swine flu are also infectious diseases that represent public health threats. Infectious agents such as anthrax, smallpox and tularemia could present threats in a **bioterrorism con-text**.1 The general threat to public health that is posed by **antimicrobial resistance** is also **well-recognised** as an area **in need of pharmaceutical innovation**. Innovating in response to these challenges does not always align well with pharmaceutical industry commercial models, shareholder expectations and compe-tition within the industry. However, the expertise, networks and infrastructure that industry has within its reach, as well as public expectations and the moral imperative, make pharmaceutical companies and the wider life sciences sector an **indispensable** partner in the search for solutions that save lives. This perspective argues for the need to establish more sustainable and scalable ways of incentivising pharmaceu-tical innovation in response to infectious disease threats to public health. It considers both past and current examples of efforts to mobilise pharmaceutical innovation in high commercial risk areas, including in the context of current efforts to respond to the COVID-19 pandemic. In global pandemic crises like COVID-19, the urgency and scale of the crisis – as well as the spotlight placed on pharmaceutical companies – mean that contributing to the search for effective medicines, vaccines or diagnostics is **essential** for socially responsible companies in the sec-tor.2 It is therefore unsurprising that we are seeing indus-try-wide efforts unfold at unprecedented scale and pace. Whereas there is always scope for more activity, industry is currently contributing in a variety of ways. Examples include pharmaceutical companies donating existing com-pounds to assess their utility in the fight against COVID-19; screening existing compound libraries in-house or with partners to see if they can be repurposed; accelerating tri-als for potentially effective medicine or vaccine candidates; and in some cases rapidly accelerating in-house research and development to discover new treatments or vaccine agents and develop diagnostics tests.3,4 Pharmaceutical companies are collaborating with each other in some of these efforts and participating in global R&D partnerships (such as the Innovative Medicines Initiative effort to accel-erate the development of potential therapies for COVID-19) and supporting national efforts to expand diagnosis and testing capacity and ensure affordable and ready access to potential solutions.3,5,6 The primary purpose of such innovation is to **benefit patients** and wider **population health**. Although there are also reputational benefits from involvement that can be realised across the industry, there are likely to be rela-tively few companies that are ‘commercial’ winners. Those who might gain substantial revenues will be under pres-sure not to be seen as profiting from the pandemic. In the United Kingdom for example, GSK has stated that it does not expect to profit from its COVID-19 related activities and that any gains will be invested in supporting research and long-term pandemic preparedness, as well as in developing products that would be affordable in the world’s poorest countries.7 Similarly, in the United States AbbVie has waived intellectual property rights for an existing com-bination product that is being tested for therapeutic poten-tial against COVID-19, which would support affordability and allow for a supply of generics.8,9 Johnson & Johnson has stated that its potential vaccine – which is expected to begin trials – will be available on a not-for-profit basis during the pandemic.10 Pharma is mobilising substantial efforts to rise to the COVID-19 challenge at hand. However, we need to consider how pharmaceutical innovation for responding to emerging infectious diseases can best be enabled beyond the current crisis. Many public health threats (including those associated with other **infectious diseases**, **bioterror-ism** agents **and antimicrobial resistance**) are **urgently in need of pharmaceutical innovation**, **even if their impacts are not as visible** to society **as COVID**-19 is in the imme-diate term. The pharmaceutical industry has responded to previous public health emergencies associated with infec-tious disease in recent times – for example those associated with Ebola and Zika outbreaks.11 However, it has done so to a lesser scale than for COVID-19 and with contribu-tions from fewer companies. Similarly, levels of activity in response to the threat of antimicrobial resistance are still **low**.12 There are important policy questions as to whether – and how – industry could engage with such public health threats to an even greater extent under improved innova-tion conditions.

#### Bioterror causes extinction---early response key

Farmer 17 (“Bioterrorism could kill more people than nuclear war, Bill Gates to warn world leaders” http://www.telegraph.co.uk/news/2017/02/17/biological-terrorism-could-kill-people-nuclear-attacks-bill/)

Bioterrorists could one day kill hundreds of millions of people in an attack more deadly than nuclear war, Bill Gates will warn world leaders. Rapid advances in genetic engineering have opened the door for small terrorism groups to tailor and easily turn biological viruses into weapons. A resulting disease pandemic is currently one of the most deadly threats faced by the world, he believes, yet governments are complacent about the scale of the risk. Speaking ahead of an address to the Munich Security Conference, the richest man in the world said that while governments are concerned with the proliferation of nuclear and chemical weapons, they are overlooking the threat of biological warfare. Mr Gates, whose charitable foundationis funding research into quickly spotting outbreaks and speeding up vaccine production, said the defence and security establishment “have not been following biology and I’m here to bring them a little bit of bad news”. Mr Gates will today (Saturday) tell an audience of international leaders and senior officers that the world’s next deadly pandemic “could originate on the computer screen of a terrorist”. He told the Telegraph: “Natural epidemics can be extremely large. Intentionally caused epidemics, bioterrorism, would be the largest of all. “With nuclear weapons, you’d think you would probably stop after killing 100million. Smallpox won’t stop. Because the population is naïve, and there are no real preparations. That, if it got out and spread, would be a larger number.” He said developments in genetic engineering were proceeding at a “mind-blowing rate”. Biological warfare ambitions once limited to a handful of nation states are now open to small groups with limited resources and skills. He said: “They make it much easier for a non-state person. It doesn’t take much biology expertise nowadays to assemble a smallpox virus. Biology is making it way easier to create these things.” The increasingly common use of gene editing technology would make it difficult to spot any potential terrorist conspiracy. Technologies which have made it easy to read DNA sequences and tinker with them to rewrite or tweak genes have many legitimate uses. He said: “It’s not like when someone says, ‘Hey I’d like some Plutonium’ and you start saying ‘Hmmm.. I wonder why he wants Plutonium?’” Mr Gates said the potential death toll from a disease outbreak could be higher than other threats such as climate change or nuclear war. He said: “This is like earthquakes, you should think in order of magnitudes. If you can kill 10 people that’s a one, 100 people that’s a two... Bioterrorism is the thing that can give you not just sixes, but sevens, eights and nines. “With nuclear war, once you have got a six, or a seven, or eight, you’d think it would probably stop. [With bioterrorism] it’s just unbounded if you are not there to stop the spread of it.” By tailoring the genes of a virus, it would be possible to manipulate its ability to spread and its ability to harm people. Mr Gates said one of the most potentially deadly outbreaks could involve the humble flu virus. It would be relatively easy to engineer a new flu strain combining qualities from varieties that spread like wildfire with varieties that were deadly. The last time that happened naturally was the 1918 Spanish Influenza pandemic, which went on to kill more than 50 million people – or nearly three times the death toll from the First World War. By comparison, the recent Ebola outbreak in West Africa which killed just over 11,000 was “a Richter Scale three, it’s a nothing,” he said. But despite the potential, the founder of Microsoft said that world leaders and their militaries could not see beyond the more recognised risks. He said: “Should the world be serious about this? It is somewhat serious about normal classic warfare and nuclear warfare, but today it is not very serious about bio-defence or natural epidemics.” He went on: “They do tend to say ‘How easy is it to get fissile material and how accurate are the plans out on the internet for dirty bombs, plutonium bombs and hydrogen bombs?’ “They have some people that do that. What I am suggesting is that the number of people that look at bio-defence is worth increasing.” Whether naturally occurring, or deliberately started, it is almost certain that a highly lethal global pandemic will occur within our lifetimes, he believes. But the good news for those contemplating the potential damage is that the same biotechnology can prevent epidemics spreading out of control. Mr Gates will say in his speech that most of the things needed to protect against a naturally occurring pandemic are the same things needed to prepare for an intentional biological attack. Nations must amass an arsenal of new weapons to fight such a disease outbreak, including vaccines, drugs and diagnostic techniques. Being able to develop a vaccine as soon as possible against a new outbreak is particularly important and could save huge numbers of lives, scientists working at his foundation believe.

## Case

#### Their impacts are non unique:

#### their Wright card is from 2012. Recent developments prove that European econ decline won’t cause nuclear war – Brexit and Covid thump.

#### Status quo solves the aff – an EU law that protects whistleblowers goes into effect this year, shielding them from retaliation and creating unified protections. This solves for the aff’s internal links in both advantages. Council of the EU ‘19

Council of the EU 10-7-2019, "Better protection of whistle-blowers: new EU-wide rules to kick in in 2021," No Publication, <https://www.consilium.europa.eu/en/press/press-releases/2019/10/07/better-protection-of-whistle-blowers-new-eu-wide-rules-to-kick-in-in-2021/> //Accessed 9/15/2021 //JH

The EU is to guarantee a high level protection to whistle-blowers across a wide range of sectors including public procurement, financial services, money laundering, product and transport safety, nuclear safety, public health, consumer and data protection. ¶Today the Council formally adopted new rules on whistle-blowers protection. The new rules will require the creation of safe channels for reporting both within an organisation - private or public - and to public authorities. It will also provide a high level of protection to whistle-blowers against retaliation, and require national authorities to adequately inform citizens and train public officials on how to deal with whistle-blowing. ¶The legislation will now be formally signed and published in the Official journal. Member states will have two years to transpose the new rules into their national law. ¶The EU is committed to having a well functioning democratic system based on the rule of law. That includes providing a high level of protection across the Union to those whistle-blowers who have the courage to speak up. No one should risk their reputation or job for exposing illegal behaviours. ¶Anna-Maja Henriksson, Finland's Minister of Justice ¶The main elements of the compromise include: ¶Creation of channels of reporting within companies/administrations: there is an obligation to create effective and efficient reporting channels in companies of over 50 employees or municipalities of more than 10 000 inhabitants. This will contribute to the development of a healthy corporate culture; ¶Hierarchy of reporting channels: whistle-blowers are encouraged to use internal channels within their organisation first, before turning to external channels which public authorities are obliged to set up. In any event, whistle-blowers will not lose their protection if they decide to use external channels

n the first place; ¶A large number of profiles protected by the new rules: Persons protected include those with a range of profiles who could acquire information on breaches in a work-related context. e.g. employees, including civil servants at national/local level, volunteers and trainees, non executive members, shareholders, etc. ¶A wide scope of application: the new rules will cover areas such as public procurement, financial services, prevention of money laundering, public health, etc. For legal certainty, a list of all EU legislative instruments covered is included in an annex to the directive. Member states may go beyond this list when implementing the new rules. ¶Support and protection measures for whistleblowers: the rules introduces safeguards to protect whistle-blowers from retaliation, such as being suspended, demoted and intimidated. Those assisting whistle-blowers, such as colleagues and relatives are also protected. The directive also includes a list of support measures which will be put in place for whistleblowers. ¶Feedback obligations for authorities and companies: the rules create an obligation to respond and follow-up to the whistleblowers' reports within 3 months (with the possibility of extending this to 6 months for external channels in duly justified cases); ¶Background ¶Whistle-blowers are people speaking up when they encounter, in the context of their work, wrongdoing that can harm the public interest, for instance by damaging the environment, public health and consumer safety and public finances. ¶Whistle-blower protection is currently covered in a fragmented manner. At the moment, only 10 EU countries have a comprehensive law protecting whistleblowers. At EU level, there is legislation in only a limited number of sectors (mostly in the areas of financial services) which include measures to protect whistleblowers. ¶A 2017 study carried out for the Commission estimated the loss of potential benefits due to a lack of whistle-blower protection, in public procurement alone, to be in the range of €5.8 to €9.6 billion each year for the EU as a whole.

#### Vote neg on presumption – the links to the aff are not inherent, so there’s not reason to implement the aff plan.

#### Double bind: either the squo solves and you vote neg on presumption, or the aff can’t solve either – the aff is miniscule in comparison to a comprehensive reform of whistleblower protections, so clearly it will have a smaller impact.

#### Whistleblowing feeds into the trust in the market that feeds neoliberal ideologies we critique.

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2. The EU Trade Secrets Directive 2016/943, adopted in April 2016 by the European Parliament and Council, aims to harmonize trade secret protection within the EU, in order to enhance innovation, research and development, and business competitiveness. A trade secret is defined as valuable know-how and business information, that is undisclosed and intended to remain confidential, and which derives its commercial value precisely from being a secret.201 In the initial proposed directive little regard was paid to the balancing between whistleblowing in the public interest and the need to protect trade secrets, which led to criticism202 and eventually to a new draft that incorporated an exception and a general protection for whistleblowers.203 This exception is less narrow than its US counterpart, although not free from ambiguities and sources for concern regarding its implementation. According to the Directive, “the measures, procedures and remedies provided for in this Directive should not restrict whistleblowing activity”.204 Therefore, the acquisition, use or disclosure of the trade secret should not be restricted when carried out “for revealing misconduct, wrongdoing or illegal activity, provided that the respondent acted for the purpose of protecting the general public interest”.205 The terms misconduct and wrongdoing, seeing as they are not defined, leave room for interpretation. Despite the semantic flexibility of these terms, the uncertainty is not as disarming as suggested by Tanya Aplin.206 For instance, answering to the example she evokes of Tillery Valley Foods v. Channel Four Television, 207 consisting of practices inconsistent with proper food hygiene in a factory producing and distributing frozen meals to the healthcare and public sector, one must answer positively that this must be included under the label of “misconduct, wrongdoing, or illegal activity”. Even if one assumes, despite the different ruling of the Court, that the information in this specific case was indeed confidential, it is difficult to argue that the confidentiality could not be overridden as a result of the mentioned exceptions without rendering the exceptions devoid of content and meaning. To the extent that the production of meals did not adhere to the regulatory standards of food hygiene of the UK Food Standards Agency, it falls under the rubric of illegal activity, which would then permit the disclosure of the trade secret. As illegal activity should be understood any activity, commercial or organizational, that is unlawful with respect to national, European, or international legal statutes. ‘Misconduct’ and ‘wrongdoing’ allow interpretative space for activities that may not be strictly speaking illegal and yet constitute cases where the rule of non-disclosure of the trade secret cannot be upheld for reasons of public interest, such as the Panama Papers example of off-shore companies. The interpretation is undertaken in the first place by the whistleblower himself or herself, who has to decide whether the witnessed action or omission falls under the respective categories. The Directive clarifies that the good faith of the whistleblower in this interpretation should be taken into consideration by the judicial authorities.208 In this case, good faith means the reasonable belief of the whistleblower that the revelations refer to misconduct, wrongdoing, or illegal activity. The Directive, however, proceeds one step further and adds a further requirement that does not appear in the market abuse Directive: That is the purpose of protecting the general public interest. This is meant to rule out cases of industrial espionage but may make protection harder to attain, especially seen as the burden of proof is on the side of the whistleblower, who has to prove that the disclosure was made in the public interest. The introduction of whistleblowing protection within the directive for trade secret protection is not as contradictory as it might initially appear. In fact, similarly with the provisions of the Directive on market abuse, whistleblowing protection is meant to enhance trust in the market. According to the Commission, whistleblowing protection will “help disciplining companies and protect societal interests, which have the potential to enhance trust in the market and therefore attract potential investors and business partners”. 209 Even if in this case the benefit from whistleblowing lies in the protection of social interests, this is seen through the lenses of efficiency, market integrity, and competitiveness. As Vigjilenca Abazi highlights regarding the prima facie controversy between trade secret protection and whistleblowing protection, it must be examined not only how these protections function, but also how they are utilized.210 From this perspective they do not have necessarily conflicting rationales, as they both share at least an aspect of market-related objectives. Trade secret protection aims to encourage innovation, growth, and competitiveness, and whistleblowing, by establishing a mechanism of accountability, aims to enhance trust and encourage investing. In summary, the introduction of whistleblowing protection within the Trade Secret Directive was a step forward compared to the first draft of the Directive. The vagueness and lack of definition for the terms misconduct, wrongdoing and illegal activity has provoked some critique, which may not be unjustified, but it is excessive to the degree that it magnifies the degree of uncertainty. It is eventually up to the Member States and even more up to the judiciary to interpret these provisions in the light of maximizing the protection for the employees and the public interest. This remains to be seen. What can nevertheless be inferred from the provisions is that they share the instrumental substratum of the Directive on market abuse: They share it because the purpose is once more not to create a rights-based mechanism for employee protection, but instead to create an accountability mechanism that in its turn legitimizes and supports the trust in the internal market, while at the same time the addition of the subjective requirement of the purpose to protect the public interest is in fact meant to also support the major objective of protecting market. This requirement means that this time the disclosure, even it refers to misconduct, wrongdoing, or illegal activity, is not automatically valued more than the trade secret, but it must be motivated by the purpose to protect the public interest. The creation of an accountability mechanism is premised on a balance that is more delicate than the simple reinforcement of law enforcement in the case of market abuse. This time, there are two goods on the scale –the integrity of business in the form of the trade secret and the restoration of legality– and in order for the latter to outweigh the former and thus grant immunity to the whistleblower, his or her motivation must be the public interest. Otherwise, the provision could prove to be a lever for espionage and unethical practices that would only harm the trust and the integrity of the market, defeating the original purpose of the protection; the restoration of legality is not the supreme value and apparently it cannot come at any cost.