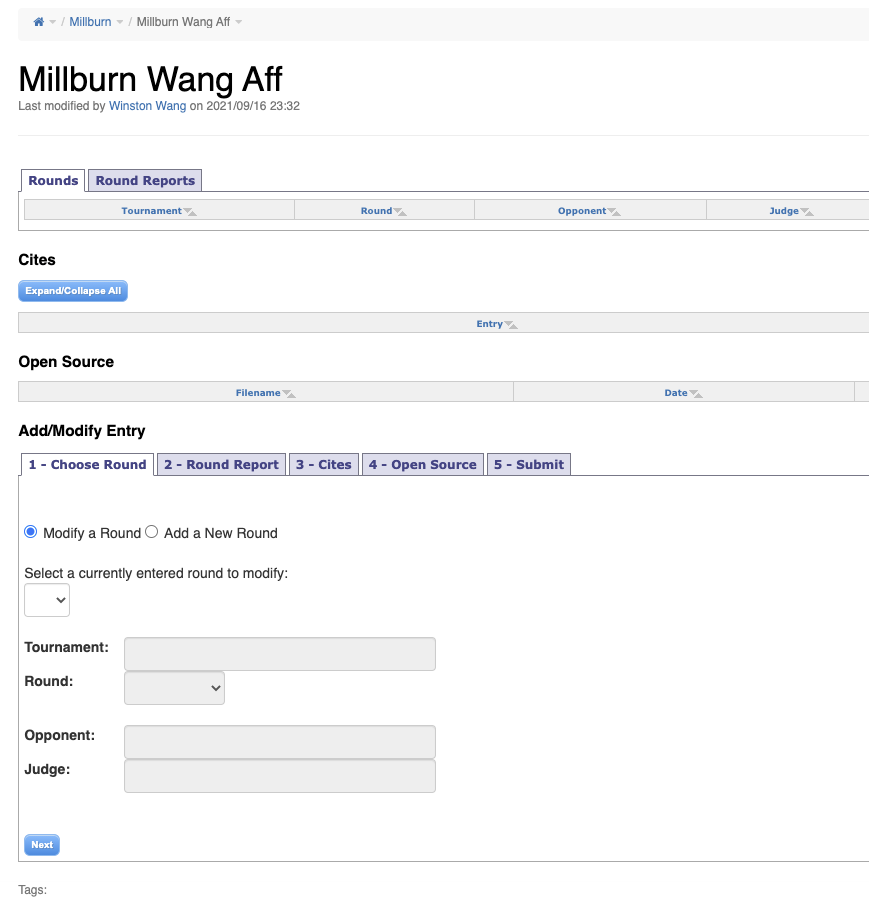
# 1NC Yale Round 1

## 1

**Interpretation: Debaters must disclose at least one (1) form of contact info on their page of the 2021-2022 NDCA LD Wiki. This can be any way I can reach them before the round (Facebook, Phone number, Email, Discord, etc).**

**Violation: They don’t, check this screenshot in the doc. Can’t say you didn’t know about the wiki - you literally made one**

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**Standards:**

**1] Pre round prep – Contact info is key to ask for the aff or clarify disclosure. I don’t know what the 1nc should be and can’t make one. Key to education because we won’t get clash. Key to fairness because you get an unfair prep advantage. It also means you cannot vote aff because the NC didn’t have enough to properly contest it.**

**2] Accessibility – If debaters require accommodations or need you to read trigger warnings there’s no way for them to request that until it’s too late. Kills accessibility because there’s no way to make the round accessible if they can’t ask you to.**

**Fairness and education are voters – debate’s a game that needs rules to evaluate it and it teaches portable skills that we use lifelong. Drop the debater - severance kills 1NC strat construction—1AR restart favors aff since it’s 7-6 time skew and they get 2 speeches to my one. No rvi - a) they’ll bait theory and prep it out with aff infinite prep—justifies infinite abuse and chilling us from checking abuse in fear of things like 2ar ethos which lets them recontextualize and always seem right on the issue b) forces the NC to go 7 minutes of theory because nothing else matters--outweighs because its the longest speech and the 2nr can never recover since the nc is our only route to generate offense. Competing interps - a) reasonability’s arbitrary & forces judge intervention especially with 2ar recontextualizations to always sound like the more reasonable debater b) norm setting - we find the best possible norms c) reasonability collapses - you use offense/defense paradigm to evaluate brightlines**

## 2

**CP: The member nations of the World Trade Organization ought to reduce intellectual property protections for all medicines except for medicines created by indigenous folks, for which all ownership ought to be transferred to the indigenous communities that originally developed the medicine.**

Ngoc **Tang**, 3-24-**2020**, *Finance Major, CSULB 2021,* "The Importance of Native American Intellectual Property," California State University, Long Beach, <https://www.csulb.edu/college-of-business/legal-resource-center/article/the-importance-of-native-american-intellectual> //SR \*brackets in text\*

Native Americans are known for their distinctive cultures and special symbols. Protecting these cultures from being abused is difficult. In the article "Intellectual Property, Traditional Knowledge, and Traditional Cultural Expressions in Native American Tribal Codes,” author Dalindyebo Bafana Shabalala explains what is considered as Native American intellectual property and why it needs protection. According to Shabalala, Native American intellectual property includes traditional knowledge, traditional cultural expressions, and genetic resources (Shabalala par. 4). Traditional knowledge is skills, practices, and innovation concerning biodiversity, agriculture or health (par. 8). Various forms of art such as symbols, designs, painting, dance, music, literature, and performance are considered as cultural expressions (par. 10). Genetic resources include plants, seeds, and medicine formulas. There have been many cases where the Native American intellectual property has been used without first obtaining permission and authorization from the Native Americans. As mentioned in Shabalala’s article, Allergan, a pharmaceutical company, was using the Saint Regis Mohawk tribe’s formula to make their eye drop drug. However, that is not their original formula, so “on Friday, September 8, 2017, the pharmaceutical company” had to “[transfer] ownership of all federal U.S. patents for its Restasis drug to the Saint Regis Mohawk tribe; the tribe then licensed them back to the company” (par. 1). Another interesting case mentioned in the article is about the series Twilight ​​by author Stephanie Myers. The author of this book used the Quileute tribe’s origin story and incorporated it with the fictitious werewolf story without the permission of the tribe. Shabalala says that although the book or the movie “may have a valid copyright in the realm of federal property, the unauthorized use of the Quileute origin story may cause harm when outsiders begin viewing the unauthorized use of the cultural property as a true reflection of the source culture” (par. 11). These actions not only abuse the use of Native American intellectual property, but they also affect the images, the stories, and the cultures of the native people. With these cases of the property being misused, Shabalala raises a question of how the Native Americans protect their cultural properties and how the current federal law acts in protecting these properties. Each Native American tribe has its own laws and rules; these laws and rules are called tribal codes. In his study of a hundred tribal codes, Shabalala shows that there are only nine codes mentioned about intellectual property or something related to intellectual property. This study demonstrates that the native people are unaware in protecting their cultural property. The native people are unaware because they do not know or think that other people would use these properties for their own purposes. However, the current federal laws are not providing enough protection for Native American intellectual property. Shabalala mentions the Trademark Law Treaty Implementation Act (TLTIA) and the Indian Arts and Crafts Act (IACA). The purpose of the TLTIA is “to provide international uniformity of trademark registration’ (par. 77); however, “the Congressional Record regarding TLTIA is absent of any authority or mention of providing protection to Native American tribes” (par. 83). The purpose of the IACA is to prevent fraud in the Indian arts and crafts market. However, according to Shabalala’s research, “the IACA trademark system does not provide sufficiently, and arguably any, protection for Native American tribes' cultural property, nor was it ever intended to” (par. 46). Another act is the Native American Graves Protection and Repatriation Act (NAGPRA), an act with the purpose to provide “protection, return, and repatriation of Native American remains and artifacts found on federal or tribal lands” (par. 66). However, according to the article “An Analysis of the Lack of Protection for Intangible Tribal Cultural Property in the Digital Age,” author Chante Westmoreland states that the NAGPRA did “offer some protection for the tangible cultural property but omit protection for the sacred traditional knowledge the object conveys” (Westmoreland par. 10). There are many acts that try to provide protection concerning intellectual property, but they do not provide enough protection for the Native American intellectual property including traditional property, traditional cultural expressions, and genetic resources. According to the article called “Group Right to Cultural Survival: Intellectual Property Rights in Native American Cultural Symbols,” Terence Dougherty states that, “Intellectual property law in the context of cultural appropriation is particularly relevant to many Native Americans” (Dougherty par. 44). Dougherty also explains that with the significant misuse of the native symbols, cultural appropriation can greatly affect the cultural survival of the native people. Furthermore, in Westmoreland’s article, he states that “sacred traditional knowledge is not merely information, it is essential to the tribal way of life” (par. 9). This demonstrates that the intellectual property of the Native Americans is extremely important to them in their living and their culture. Therefore, to avoid the misuse that can cause a negative impact on the native people, anyone who wants to use the property must have authorization from the native people. Moreover, the federal government needs to provide a law that specifically protects Native American traditional knowledge, traditional cultural expressions, and genetic resources.

**The CP gives indigenous nations resources for self sovereignty and centers discussions around native demands, which better allows for the accessibility of those medicines**

Simon **Brascoupé and** Karin **Endemann**, Fall **1999**, INTELLECTUAL PROPERTY AND ABORIGINAL PEOPLE: A WORKING PAPER <https://www.wipo.int/export/sites/www/tk/en/databases/creative_heritage/docs/ip_aboriginal_people.pdf> //SR

Traditional Knowledge and Intellectual Property The Aboriginal legacy of traditional knowledge comes in two distinct forms. On one hand, an Aboriginal community is the custodian of a store of sacred knowledge, including ceremonies, symbols, and masks that is increasingly open to unauthorized commercial exploitation by individuals, companies or institutions. Some Aboriginal people contend it is not appropriate to use IP law to protect sacred traditional knowledge. On the other hand, many products and services associated with traditional lifestyles of Aboriginal people may have commercial value that could help to support the continuation of these lifestyles and the Aboriginal goal of self-sufficiency. The limited Aboriginal use of Canada’s current IP laws suggests that these laws may not be particularly well suited to protecting either of these forms of traditional knowledge. A distinction must be made between traditional knowledge held by an Aboriginal community and the innovations or new creations of an individual or an Aboriginal company. New products and works of art by Aboriginal inventors and artists qualify for protection under existing IP laws. Music, songs, dance, stories, designs and symbols are passed on in many Aboriginal communities from memory and by word of mouth. Each community is both a conveyer and a user of traditional knowledge. This knowledge is dynamic and evolves with the culture, so it is the product of a continuing creative process. Many Aboriginal artists and artisans create works inspired by the traditional knowledge of their community, and use copyright law extensively. Issues that are not addressed widely are: how Aboriginal people relate to their community in the context of the traditional and dynamic aspects of traditional knowledge; and how traditional knowledge itself can be effectively protected. Protecting Traditional Knowledge Within an Aboriginal Community Few legal mechanisms exist to help indigenous communities protect and preserve traditional knowledge. It is urgent that such mechanisms be developed, because of the increasing pace at which control of traditional knowledge is being lost due to misappropriation and pressures from the non-indigenous world. In the meantime, the use of existing legal tools can be part of a “web” of strategies to help Aboriginal communities better protect and control their traditional knowledge, and ensure benefits are shared in a way that meets community needs. These strategies could include: ! developing local mechanisms within communities to control and protect traditional knowledge; ! more effective use of contractual arrangements to recognize traditional customs and knowledge; ! developing guidelines to ensure that third parties secure proper and informed consent before an Aboriginal community shares traditional knowledge; and ! using existing IP laws. Many Aboriginal people have said that they need to consider how they share and protect traditional knowledge within their communities before deciding whether and how they will share this knowledge with others. Once a community identifies its traditional knowledge and adopts community-based measures governing the use of this knowledge, then the community will be more secure in its ownership and more effective in any negotiations to share its knowledge. It is important that Aboriginal communities develop a strategy to protect traditional knowledge. This will help them avoid losing control over this knowledge to third parties seeking academic advancement or commercial gain. Public disclosure of traditional knowledge has the potential to jeopardize an Aboriginal community’s ability to obtain protection under Canada’s IP laws. This is because knowledge that is disclosed may no longer qualify for IP protection because it is in the public domain. Aboriginal communities considering these issues should identify the scope and nature of traditional knowledge in their community. Part of this process is to identify what knowledge is most important to the community, and how the preservation of traditional knowledge and practices is at risk. Is traditional knowledge being lost because elders have been unable to pass their wisdom to the next generation? Is knowledge being lost because Aboriginal people are being displaced from their traditional environment or because they are influenced by outside media and culture? Has traditional knowledge been allowed into the public domain or been misappropriated by commercial or scientific interests from outside the Aboriginal community? Some Aboriginal people have identified a need for dialogue about traditional ways of sharing and preserving traditional knowledge. What are the obligations of individuals to their community when they use or share traditional knowledge? These issues are just beginning to be discussed within Aboriginal communities and First Nations, at the federal level in Canada, and internationally among indigenous peoples and within international organizations. It is also important for Aboriginal communities to consider what traditional knowledge is sacred and what knowledge may be shared with others or used commercially. Only after a full dialogue will these communities be in a position to determine the best mechanisms to control access to their traditional knowledge, and what knowledge they want to share with others. A number of approaches will be needed to reflect the varied nature and use of the community’s traditional knowledge. One option may be for Aboriginal communities to develop guidelines to prevent unwanted disclosure, and to ensure that traditional knowledge remains within the community. The process of developing guidelines will help ensure that the entire community is consulted in decisions concerning the protection of traditional knowledge and control over its commercialization. These guidelines would need to be enforced by the community, since an Aboriginal community may not have any recourse to the courts if one of its members violates the guidelines. Community guidelines might include policies on the publication of traditional knowledge, its use by others or the use of the community’s symbols. Aboriginal communities may also want to ensure that sharing traditional knowledge within the community continues, and is not restricted more than it was traditionally.

## 3

**Communities collapses to contractarianism, the idea that ethics are based on mutual agreements:**

**[1] Performativity - you agree to prep time, speech times, the res, etc - proves debate requires the existence is mutual agreements to function - means responses to my fw presume its true and absent contracts we can’t express communitarian obligations**

**[2] Bindingness - theories cannot be legitimate absent a motivation to follow it - only a theory that we have consented to can take into account our own desires and give us a reason to follow it - otherwise communitarianism would never be considered legitimate**

**[3] Restraint - their theory presumes a contract with others to mutually follow their theory, so we’re a side constraint - if the other is not bound by mutual restraint - then they are not morally bound in the community which makes it impossible**

**That negates:**

**[1] Aff breaks existing contracts. Weighs under their fw directly since breaking promises violates trust in a community**

**Sauer 21** [Hans; Deputy General Counsel and Vice President for Intellectual Property for the Biotechnology Innovation Organization (BIO), a major trade association representing more than 1,000 biotechnology companies from the medical, agricultural, environmental, and industrial sectors. At BIO, he advises the organization’s board of directors, amicus committee, and various staff committees on patent and other intellectual-property-related matters. Before taking his current position at BIO in 2006, he was chief patent counsel for MGI Pharma Inc. in Bloomington, MN, and senior patent counsel for Guilford Pharmaceuticals Inc. in Baltimore, MD. Mr. Sauer holds a M.S. degree in biology from the University of Ulm in his native Germany, a Ph.D. in neuroscience from the University of Lund, Sweden, and a J.D. degree from Georgetown University Law Center, where he serves as adjunct professor; “Waiving IP Rights During Times of COVID: A ‘False Good Idea’,” IP Watch Dog; 4/19/21; https://www.ipwatchdog.com/2021/04/19/waiving-ip-rights-during-times-of-covid-a-false-good-idea/id=132399/] Justin

One wonders whether Congressional proponents of the TRIPS Waiver have given any thought as to how it could be implemented in U.S. law. There is no mechanism in U.S. law for simply waiving vested IP rights. Amendments to the federal patent, copyright, food and drug, and other federal statutes would need to be attempted; trade secret protections under 50 state laws overridden; and the waiver’s interference with the IP and confidentiality provisions of myriad existing private contracts would need to be sorted out. As a result, the Federal Government would have to assume unforeseeable and potentially colossal financial liability. And because the waiver is intended for the benefit of foreign developing nations, the legality of any attempt at U.S. domestic implementation would be doubtful, as Congress has no authority to expropriate U.S. property to benefit foreign countries. It is of course possible that Congressional proponents of the waiver are merely engaging in virtue-signaling, without any intention of ever implementing anything. But nonetheless, the waiver is certain to invite similar legislative train wrecks in other countries that aspire to the rule of law, and it is perplexing how little forethought seems to have gone into the proposal.

**[2] Aff forecloses future contracts**

**Hilty et al 21** [Reto Hilty Director at the Max Planck Institute for Innovation and Competition and a professor at the University of Zurich Pedro Henrique D. Batista Doctoral student and Junior Research Fellow at the Max Planck Institute for Innovation and Competition Suelen Carls Senior Research Fellow at the Max Planck Institute for Innovation and Competition Daria Kim Senior Research Fellow at the Max Planck Institute for Innovation and Competition Matthias Lamping Senior Research Fellow at the Max Planck Institute for Innovation and Competition Peter R. Slowinski Doctoral student and Junior Research Fellow at the Max Planck Institute for Innovation and Competition; “10 Arguments against a Waiver of Intellectual Property Rights,” Oxford Law; 6/29/21; https://www.law.ox.ac.uk/business-law-blog/blog/2021/06/10-arguments-against-waiver-intellectual-property-rights] Justin

2. Intellectual property rights are the basis for collaborations and contracts The development cycle of the new mRNA and vector vaccines—from the provision of the technological basis to safety studies and marketing authorisation—is tremendously multifaceted. Nevertheless, throughout the development, production and distribution of vaccines against Covid-19, cooperation has reached an unprecedented level—despite the typically fierce competition in the biopharmaceutical sector. Intellectual property rights and particularly patents are normally the basis for such cooperation; they provide assurance that contracts will be fulfilled. Even a temporary waiver of these rights may therefore have detrimental consequences for the willingness to cooperate.

## 4

**Interp: If debaters cite dictionaries for definitions, they must explicitly provide a link to be able to access that definition in the speech that the definition was read**

**The standard is evidence ethics - they can just be making up their definition and we’d never know it - links are key to check evidence and ensure ethical practices. Outweighs because its a literal rule of LD not to miscut so to vote for anything else is out of your jurisdiction. Asking you doesn’t solve - links define our pre-cx prep and incentivizes you to be infinitely abusive and hope no one calls you out - creates a norm where people aren’t punished for bad norms. Not regressive - its a literal rule of LD that cited cards must have a link or alternate way to access it, which they don’t have**

## 5

**CP: The member nations of the World Trade Organization ought to engage in a prior and binding consultation with the World Intellectual Property Organization to reduce intellectual property protections for medicines**

John **Zarocostas**, [freelance journalist] December **2017**, "Perspectives on access to medicines and IP rights," No Publication, <https://www.wipo.int/wipo_magazine/en/2017/06/article_0002.html> //SR

Could multilateral agencies like WIPO be more creative in addressing patents and medicines? Ellen ’t Hoen: WIPO remains focused on NTDs, where there is a strong consensus that progress can be made. But WIPO could do more to help countries operationalize TRIPS flexibilities, for example by providing model legislation and more detailed practical advice on how to implement legislation relating to patent law and public health. We have seen the marvelous things that WIPO can achieve for the public good with the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled. The public interest really is at the heart of that agreement. One could imagine something similar in the area of patents and health and further exploration of a variety of ways to support R&D such as open source innovation and prize fund models – see, for example, Alternatives to the Patent System that are used to support R&D Efforts (CDIP/14/INF/12). WIPO is the UN agency dealing with IP, and yet discussions about IP and some of the most complex issues from a public policy perspective often happen outside the Organization. A more substantive and evidence-based debate should be held at WIPO that moves away from ideological postures and political positions. Only then can a sound policy debate take place.

**WIPO says yes**

James **Pooley, 5-25**-2021, "The Big Secret Behind the Proposed TRIPS Waiver," IPWatchdog, <https://www.ipwatchdog.com/2021/05/25/big-secret-behind-proposed-trips-waiver/id=133905/> //SR

Here’s the thing to remember about TRIPS: it only creates obligations of governments to pass laws supporting intellectual property rights of various kinds: patents, copyrights, designs, trademarks, and trade secrets. It doesn’t affect the private ownership of those rights. That’s an important distinction, especially for trade secrets (or “undisclosed information” as it’s called in TRIPS), because unlike the other “registered” rights, it doesn’t depend on a government grant. It just requires a legal system that enforces confidentiality. The provisions of TRIPS were not new for industrialized countries. But for the developing world the agreement represented a tradeoff: adopt our framework for protecting IP (including our own, like drug patents), and you’ll get the benefit of increased wealth and productivity that comes with joining the club we’re going to call the World Trade Organization. What seemed to sell this deal was the expectation that “technology transfer” from industrial north to agricultural, extractive south would happen as a result. Remember that phrase “technology transfer,” because it’s at the hidden heart of the current waiver proposal. You see, published patents are available for anyone to read and learn from, and developing countries still have the option to compel licenses from patent owners if needed to address serious domestic needs, including pandemics. But patents are only a part of most stories of technology transfer, because in order to actually build the factory and produce the goods, you need to know more than what’s in the patents. When I managed the PCT in Geneva, I heard a lot about this from developing country delegates to WIPO. They expressed great disappointment in how TRIPS seemed to be a “bait and switch” scam, in which the promised benefit never materialized. Patents are fine, but that doesn’t tell you how to adjust the dials on the machines to get the best outcomes. They thought they would be getting all that “know-how,” too. For some traditional pharmaceuticals, this lack of know-how may not be a showstopper. The patent claims may describe a particular small molecule that provides a certain therapeutic effect. If you already know how to make pills, then manufacturing it can sometimes be relatively straightforward. Sometimes, but not always. Moreover, biopharma generally, and mRNA vaccine technology in particular, are quite different from traditional drugs. Developing a process to reliably produce these medications at scale is astonishingly difficult and depends on years of experimentation involving cell growth times, temperatures, and other variables. That body of knowledge represents the trade secrets of the developers. It is enormously valuable, and not just for making COVID-19 vaccines. Creating other therapeutics based on the mRNA platform would be much easier and quicker with the benefit of knowing what tends to work and what doesn’t.