# 1NC – Yale R1

## 1 – Theory

**Interpretation: all affirmative pre-emptive theory arguments must be placed at the top of the 1AC.**

**Violation: They’re not at the top**

**Standards:**

1. **Prep Skew – spikes on the bottom force me to create my 1NC strategy while reading the doc pre-round then totally alter it once I see the spikes – destroys a huge portion of my prep time. Saying “spikes on bottom” at the top doesn’t solve because I don’t know if you’ll get through all the spikes, which forces me to form multiple 1NCs that each counter different spikes, further skewing prep. Fair prep time is k2 fairness because the aff will have an unfair advantage if I haven’t had sufficient time to prep out their case.**
2. **Substance education – spikes on top mean I can plan out a better 1NC strategy that has more clash, leading to increased education on the topic.**

**Voters:**

**Fairness is a voter because**

1. **The only way a judge can determine who’s better is if we enter the debate on an even playing field.**
2. **People quit if they lose to unfair arguments so fairness is a prereq to debate’s existence.**

**Education is voter because:**

1. **It’s the only portable benefit of debate.**
2. **It’s the only reason we get funding.**

**Theory is drop the debater:**

1. **Only DTD enables theory to deter bad behavior and be a tool for norm setting. Drop the Arg just lets them dodge whatever they did wrong with barley any consequences.**
2. **Dropping the arg can’t rectify past abuse because the 1AC was uniquely bad, so there should be a consequence.**

**No RVI’s:**

1. **they’re illogical – it doesn’t make sense to reward someone for not doing anything bad. People need to do good things to win.**
2. **RVI’s chill legitimate theory, justifying even more abuse.**

**Competing Interps:**

**a. Reasonability usually lacks a brightline and favors unnecessary judge intervention.**

**b. Reasonability lets them arbitrarily choose a brightline that favors their arguments – skews fairness.**

## 2 – Contracts

#### The reason morality exists in the first place is to regulate our actions towards others. If any moral code is not motivational then there is no reason to do what is right and that code merely fails to escape the skeptical conclusion. Motivational externalism collapses into internalism.

**Joyce 1**, Richard (Professor of Philosophy at Victoria University Wellington, New Zealand). The Myth of Morality. 2001. [Bracketed for grammatical clarity] //Park City NL

Back to the [Suppose] external reason[s]. Suppose it were claimed, instead, that I have a reason to refrain from drinking the coffee because it is tapu and must not be touched. This reason claim will be urged regardless of what I may say about my indifference to tapu, or my citing of nihilistic desires to tempt the hand of fate. [r]egardless of my desires (it is claimed) I ought not drink - l have a reason not to drink. But how could that reason ever explain any action of mine? Could the external reason even explain my [action] from drinking? Clearly, in order to explain it the external reason must have some causally efficacious role [in] among the antecedents of the action (in this case, an omission) — l must have in some manner. "internalized" it. The only possibility, it would seem, consistent with its being an external reason, is that I believe the external reason claim [but] : I believe that the coffee is tapu. There's no doubting that such a belief can play a role in explaining actions - including my refraining from drinking the coffee. The question is whether the belief alone can[not] produce action, to which the correct answer is “No.” A very familiar and eminently sensible view says that **in** order to explain an action the belief must couple with desires (such that those same desires had in the absence of the belief would not have resulted in the action). And this seems correct: if I believe that the coffee is [bad] tapu but really just don’t care about that, then I will not refrain from drinking it. So in order for the belief to explain action it must couple with [desire] elements - but in that case the putative external reason collapses into an internal one.

#### Additionally, agents can only be motivated by their own desires; not the external desires of another because:

#### [A] External desires are inaccessible through empirical uncertainty – an evil demon could deceive us, we could be dreaming, or in a simulation, and we’re unable to know others’ experiences, so externalism is an unreliable basis for ethics since we can only verify and access internal drives.

#### [B] Individuals have unlimited wants and those are not communicated, so we never know what others want

#### [C] We only care about our own desires as individuals are self interested and don’t care about helping others, even if we did know how to help.

#### Only a contractarian system that derives principles of mutual restraint from individuals’ self-interest account for this fact because contractarian principles are necessarily in the interest of all parties involved because they wouldn’t constrain their action against their will.

**Gauthier 86** Gauthier, David P. *Morals by Agreement*. Oxford: Clarendon, 1986. Print. // Park City NL

Moral principles are introduced as the objects of full voluntary ex ante agreement among rational persons. Such agreement is hypothetical, in supposing a pre-moral context for the adoption of moral rules and practices. But the parties to agreement are real, determinate individuals, distinguished by their capacities, situations, and concerns. In so far as [Since] they would agree to constraints on their choices, restraining their pursuit of their own interests, they acknowledge a distinction between what they may and may not do. As rational persons understanding the structure of their interaction, they recognize for mutual constraint, and so for a moral dimension in their affairs.

#### Additionally, self-interest is determined at the time of the original decision to rise to a norm of mutual self-restraint. For example, I might say that eating ice cream is in my self-interest because I’m hungry even if it will lead to extinction somehow in the future.

#### Thus, the standard is consistency with contractarian principles of mutual restraint, defined as those principles by which individuals would constrain their actions with the belief that doing so would serve their self-interest.

#### Prefer additionally:

#### [1] Consent – contractarianism is based on consent – implicit in acceptance of a contract – which ultimately determines what qualifies as good or evil. Moral theories must be based in consent otherwise actions could never be determinate.

**Enoch 15** David Enoch. “Against Public Reason.” Central European University. 2015.

Recall the characteristic feature of public reason accounts – in order to reconcile liberty and authority, they require that the relevant authority or principles be justified to all those subject to the authority.And while falling short of requiring consent, this requirement does require some kind of engagement of the subjects as they actually are. But this creates a problem, at least in the context of hoping to vindicate some contemporary states. The problem is that actual citizens of actual large-scale contemporary states are a very varied bunch. Different people are committed – sometimes even in the deepest ways – **to all sorts of views and doctrines,** they value – even intrinsically – all sorts of different things. If the justifications offered to them are to engage them as they actually are – perhaps based on principles they accept, or on the values they hold dear, or on what is already there in their motivational set – then it’s hard to believe that there is anything at all that can be justified to all. This is perhaps clearest on consensus versions of public reason accounts, according to which for a political principle (e.g.) to be legitimate there must be a justification for it that is available (in the relevant way) to all11. **But it** remains true even on convergence views, according to which the condition **necessary for legitimacy is just that for any citizen, there’s a justification available to her** (without the further requirement that it must be the very same justification that’s available to all)12 . So long as the justification-to requirement is non-vacuous, and so long as the relevant constituency consist of all the citizens of a contemporary state as we actually find them, it’s hard to imagine anything at all passing the bar.

#### [2] Infinite Regress – Only contractarianism can avoid an infinite regress. When we look to an external authority to derive normative conceptions of the good, we are left wondering why a certain good is actually good. Any conception of morality and what people are due begs the question of why our assessment of individual dues ought be preferred over other assessments. Contractarianism avoids this by allowing individuals to construct conceptions of the good based on a rational restriction of their future actions.

#### [3] Performativity – You agree to 4 minutes of prep and if you tried to go over the judges would down you or tell the tournament to DQ you. Their very performance justifies the NC framework and proves the AC collapses to the NC.

**Now negate:**

#### Negotiations for the WTO TRIPS agreement formed a legitimate contract there was omnilateral consensus. Pharmaceutical agreements have specifically been supported when faced with recent challenges. TRIPS provides the best possible contract because alternative bilateral ones lack flexibility and legitimacy for developing countries.

Otten 15

Otten, Adrian. “The TRIPS negotiations: An overview.” 2015. World Trade Organization. https://www.wto.org/english/res\_e/booksp\_e/trips\_agree\_e/chapter\_3\_e.pdf

Former director of the WTO’s intellectual property division. // Park City NL

With the passage of time and in the light of the difficulties that the WTO has since had in making headway in its negotiating agenda, the scale of the TRIPS Agreement seems the more remarkable. The pre-existing public international law no longer provided the basis for a functioning multilateral rule of law in the IP area, especially in the field of industrial property where it was silent on most of the key parameters of a minimum standard of protection (protectable subject matter, rights, exceptions and term), not to mention enforcement. Building on and incorporating the key WIPO conventions, the TRIPS Agreement provided for minimum standards in these areas and made the whole Agreement subject to a functioning system for the resolution of disputes between governments, for the first time in the IP area. The Agreement has continued to form the centrepiece of the multilateral rule of law in an area where there had been marked signs of this breaking down with resort to unilateral withdrawals of trade commitments. It is precisely **because there were strong** perceptions of **divergences of interest** that **it was essential to achieve a multilateral consensus** on how far governments could be expected to go, when setting their domestic IP regimes, in taking account of the interests of their trading partners. The TRIPS Agreement, including the WTO dispute settlement system as applied to it, has stood the test of the last 20 years relatively well. While worked on from both sides (to interpret the flexibilities as broadly as possible and to seek TRIPS-plus commitments through international negotiations in other contexts), **no effort has been made to reopen the basic balances** found in the Agreement, **except** on one relatively small but important point **in regard to** the **compulsory licensing of pharmaceutical products – where a solution was agreed**. So how was all this possible? As indicated earlier, it was generally recognized that at stake in the Uruguay Round was the very existence of a multilateral system of international trade relations. Indeed, the reality of this was recognized in the fact that the WTO Agreement provided for a new GATT, not the incorporation of the pre-existing GATT, and that any government that decided not to join it would lose its pre-existing trade rights. As also indicated earlier, developed countries became increasingly convinced, as the negotiations progressed, of the central importance to their future international competitiveness of the technology, creativity and reputation incorporated in the goods and services they produced and thus of the TRIPS negotiations, and developing countries came to accept that a successful outcome to the Uruguay Round would require a major result on the TRIPS negotiations. But it was not just in the area of TRIPS that the results of the Uruguay Round exceeded what could have been reasonably envisaged at the outset. This was also the case in some areas to which developing countries attached importance, including as trade-offs for TRIPS: agriculture, which went from being largely excluded from trade commitments to being arguably more comprehensively covered than other areas (although often at higher levels of protection); textiles and clothing, where the previous system of trade restrictions was phased out by 2005 (not by chance the same timeframe as for key developing country obligations under the TRIPS Agreement); and the bringing of emergency safeguard measures under effective multilateral rules, including the end of so-called grey-area measures (such as voluntary export restraints). In other areas, the results also exceeded Punta del Este expectations: the very concept and structure of the WTO, including the multilateral application of virtually all agreements; the greatly strengthened and more juridical dispute settlement system; the establishment of a comprehensive framework for the liberalization of trade in services; and the preference for price-based balance-of-payments restrictions, to name only some. In broader terms, the Uruguay Round represented a major evolution in the basic character of the multilateral trading system, from one focused on border measures applied to goods to one dealing with a spectrum of laws and regulations governing the conditions of competition between the goods, services and persons of contracting parties. Underlying the dissatisfaction with the pre-existing trading system and creating the conditions for these Uruguay Round achievements was a changing view of the role of trade and international markets in economic and social development, especially in developing countries and the countries of the eastern bloc. The failure The TRIPS negotiations: An overview 75 of economic planning and import substitution policies followed by many developing countries and the success of the east Asian “tiger” economies and some ASEAN countries and Chile, which were following more export- and market-oriented policies, was not only influential in other developing countries but also meant that there was a growing kernel of developing countries committed to a major strengthening of the multilateral trading system from the outset. The dramatic collapse of the communist systems in Eastern Europe after the fall of the Berlin Wall in 1989 was both a reflection of the Zeitgeist and a great stimulus to it. Although the TRIPS Agreement went further and faster than some would have decided by themselves, much that was in it was going with the grain of economic policy thinking and reform under way at the time in many developing and Eastern European countries, where there was growing interest in the role of IP systems in promoting domestic innovation and creativity and facilitating the transfer of technology and foreign direct investment. Another major consideration for developing countries in accepting the **TRIPS Agreement** was the international recognition they **secured** in it of **important elements of balance and flexibility in IP systems**, to safeguard their right to modulate their IP regimes **to meet their national developmental, technological and public health objectives**. **The alternative of negotiating bilaterally with major trading partners**, where developing countries would find it more difficult to use their collective weight and to exploit the differences between the major demandeurs, **could not** be expected to **yield as much flexibility or** give it the same degree of **legitimacy.** When one considers how unusual were the circumstances that made the TRIPS Agreement – and, more generally, the results of the Uruguay Round – possible, one can also understand more readily the difficulties that the WTO has since had in making headway. Paradoxically perhaps, it may be that the comparative success of the WTO in “holding the ring”, even at a time of severe international economic difficulties, has made making progress more difficult: on the whole, the prospect of new benefits is a weak incentive compared with the prospect of the loss of existing ones when it comes to the willingness of governments to expend the political capital necessary for change. Moreover, it may be that the very size of the Uruguay Round results, especially in the TRIPS area, and the lack of appreciation of the special nature of the circumstances that made them possible, has made some governments unduly cautious. There are also other factors complicating progress. One may be the rigour of the WTO dispute settlement system. This has obvious advantages in providing an expectation of greater security of the benefits being negotiated, but it does the same also for the obligations being entered into. This can make negotiators more cautious and perhaps lead to a greater role for lawyers at the expense of dealmakers. A further factor has been the increasing political importance of nongovernmental organizations, especially those that claim to represent the public interest and that have a synergetic relationship with the media. While they are a positive force in ensuring that some aspects are fully taken into account, they also increase the political cost of making the compromises necessary in any international negotiation. But perhaps most fundamentally, the WTO and its members are faced with making a transition to a world where a wider spectrum of countries must take the initiative if progress is to be made. Fortunately, its structures do not need modifying to take account of the changing importance of countries in the international trading system (unlike in the cases of the International Monetary Fund and the World Bank, or even the UN), but attitudes do, in both countries that formerly assumed leadership and those that now need to. These changes began in the Uruguay Round, but have still some way to go before the multilateral system can once more play its proper role.

#### Past objections to TRIPS negate – any objections were consensually ignored in order to ensure the agreement passed

Otten 15

Otten, Adrian. “The TRIPS negotiations: An overview.” 2015. World Trade Organization. https://www.wto.org/english/res\_e/booksp\_e/trips\_agree\_e/chapter\_3\_e.pdf

Former director of the WTO’s intellectual property division. // Park City NL

The tabling of the Draft Final Act was a major step forward, but it was done on the responsibility of the Chair of the TNC and it remained to be seen how acceptable it would be to participants. Moreover, the arduous process of negotiating specific schedules of tariff, agriculture and services commitments still had to be completed, as did the legal drafting clean-up of the texts. On matters of substance, the most controversial parts were agriculture, anti-dumping and the concept and details of the proposed MTO, which had been drawn up rather rapidly in the last days before the circulation of the Draft Final Act. It was not until the autumn of 1993 that the time was ripe to attempt to resolve outstanding difficulties in the draft texts and complete the Round. The new GATT Director-General and Chair of the TNC, Peter Sutherland, asked Michael Cartland of Hong Kong, acting as a friend of the Chair, to take on the task of resolving any outstanding TRIPS issues. One feature of these consultations was five proposals from the United States, on rental rights and respect for contractual arrangements in the area of copyright and related rights, pipeline and 70 Adrian Otten test data protection in regard to pharmaceuticals, and shorter transition periods in regard to enforcement obligations. While **many** other **delegations, developed and developing, would** also **have preferred** some **changes to** the **TRIPS** text in the Draft Final Act, **they** took the view that they **could live with it as** part of **a balanced outcome to the Round and** that **any reopening would be dangerous**. Some developing countries (Egypt, India and Indonesia) indicated what sorts of changes they would like to see if the draft were to be reopened. In the final days of the negotiations, the United States’ priorities switched to limiting the scope for compulsory licensing in the area of semiconductor technology. The other major issue was a concern raised, notably by Canada and many developing countries, about the applicability of so-called non-violation dispute settlement cases in the TRIPS area. These delegations argued that they were not reopening the TRIPS text, but were putting forward their proposals pursuant to a footnote to the TRIPS dispute settlement provision in that text that said that it might need to be revised in the light of the outcome of the work on the integrated dispute settlement system; this had been included because work had been still under way on the proposed integrated dispute settlement system up until the tabling of the Draft Final Act. In the end, two changes were agreed: the addition to Article 64 of paragraphs 2 and 3 on non-violation disputes and the addition of the language in Article 31(c) in regard to semiconductor technology. Otherwise, the final TRIPS Agreementtext was in substance that tabled in the Draft Final Act of December 1991.

## Case

### OV

1. **Intuition: Kant justifies actions that are intuitively immoral. Kant tells us to never lie, but lying may be justified in some cases. For example, someone hiding Jews in their basement in Nazi Germany would lie to SS officers even if lying is immoral. Kant would tell that person to work with the Nazis.**
2. **Tailoring Objection: I can tailor maxims to be specific and universalizable. For example, I can say “Only people named Noam can lie, but not to each other.” It’s universalizable, but still bad. Universalizability doesn’t prevent immoral action.**
3. **Shmagency Objection: Kantianism requires all people to be active moral agents. However, one can merely choose to act out of self-interest rather than moral reasoning. That takes out Kant because it relies on everyone being a moral actor.**
4. **Contradiction: Situations where one must violate the categorical imperative no matter what they choose to do. For example, one is given a choice where they can either lie or be pressured into hurting someone. Kant gives no solution, as one can’t weigh between maxims. That makes Kant non-action binding in many situations.**

### Line by Line

#### Reason isn’t a priori:

1. **Some people can’t reason: young children and individuals with intellectual disabilities can’t use formal logic to make ethical choices,**
2. **Peoples’ reasoning is influenced by their experiences and values. Parents teach their children how to think, peoples’ experiences lead them to make different decisions, and cultural differences lead to differing moral compasses. If reason was objective, a priori, and constitutive to humanity, then everybody would agree on ethics.**
3. **Cross apply the shmagency objection – not everybody chooses to reason**

**Uncertainty NQ and triggers solipsism**

**No warrant for a priori solving is/ought gap**

#### A2 Performativity:

1. **Frameworks other than kant also justify defending an ethic (insert why yours does)**
2. **The performance of debate undermines Kantian epistemology: the fact that we need to discuss ethics proves that morality can’t be conceived of solely by rationality.**

### Kant Turns

#### 1] Intellectual property is an inalienable personal right – key to preserving freedom

**Pozzo 6** Pozzo, Riccardo. “Immanuel Kant on Intellectual Property.” Trans/Form/Ação, vol. 29, no. 2, 2006, pp. 11–18., doi:10.1590/s0101-31732006000200002. SJ//DA recut SJKS recut Cookie JX recut Park City NL

Corpus mysticum, opus mysticum, propriété incorporelle, proprietà letteraria, geistiges Eigentum. All these terms mean **intellectual property, the existence of which is intuitively clear because of the unbreakable bond that ties the work to its creator.** The book belongs to whomever has written it, the picture to whomever has painted it, the sculpture to whomever has sculpted it; and this independently from the number of exemplars of the book or of the work of art in their passages from owner to owner. The initial bond cannot change and it ensures the author authority on the work. Kant writes in section 31/II of the Metaphysics of Morals: “Why does unauthorized publishing, which strikes one even at first glance as unjust, still have an appearance of being rightful? Because on the one hand a book is a corporeal artifact (opus mechanicum) that can be reproduced (by someone in legitimate possession of a copy of it), so that there is a right to a thing with regard to it. On the other hand a book is also a mere discourse of the publisher to the public, which the publisher may not repeat publicly without having a mandate from the author to do so (praestatio operae), and this is a right against a person. The error consists in mistaking one of these rights for the other” (Kant, 1902, t.6, p.290). The corpus mysticum, **the work considered as an immaterial good, remains property of the author on behalf of the original right of its creation. The corpus mechanicum consists of the exemplars of the book or of the work of art. It becomes the property of whoever has bought the material object in which the work has been reproduced or expressed.** Seneca points out in De beneficiis (VII, 6) the difference between owning a thing and owning its use. He tells us that the bookseller Dorus had the habit of calling Cicero’s books his own, while there are people who claim books their own because they have written them and other people that do the same because they have bought them. Seneca concludes that the books can be correctly said to belong to both, for it is true they belong to both, but in a different way **The peculiarity of intellectual property consists thus first in being indeed a property, but property of an action; and second in being indeed inalienable, but also transferable in commission and license to a publisher. The bond the author has on his work confers him a moral right that is indeed a personal right. It is also a right to exploit economically his work in all possible ways, a right of economic use, which is a patrimonial right. Kant and Fichte argued that moral right and the right of economic use are strictly connected, and that the offense to one implies inevitably offense to the other.** In eighteenth-century Germany, the free use came into discussion among the presuppositions of a democratic renewal of state and society. In his Supplement to the Consideration of Publishing and Its Rights, Reimarus asked writers “instead of writing for the aristocracy, to write for the tiers état of the reader’s world.” (Reimarus, 1791b, p.595). **He saluted with enthusiasm the claim of disenfranchising from the monopoly of English publishers expressed in the American Act for the Encouragement of Learning of May 31, 1790. Kant, however, was firm in embracing intellectual property. Referring himself to Roman Law, he asked for its legislative formulation not only as patrimonial right, but also as a personal right.** In Of the Illegitimity of Pirate Publishing, he considered the moral faculties related to **intellectual property as an “inalienable right (ius personalissimum) always himself to speak through anyone else, the right, that is, that no one may deliver the same speech to the public other than in his (the author’s) name”** (Kant, 1902, t.8, p.85). Fichte went farther in the Demonstration of the Illegitimity of Pirate Publishing. **He saw intellectual property as a part of his metaphysical construction of intellectual activity, which was based on the principle that thoughts “are not transmitted hand to hand, they are not paid with shining cash, neither are they transmitted to us if we take home the book that contains them and put it into our library.** In order to make those thoughts our own an action is still missing: we must read the book, meditate – provided it is not completely trivial – on its content, consider it under different aspects and eventually accept it within our connections of ideas” (Fichte, 1964, t.I/1, p.411). At the center of the discussion was the practice of reprinting books in a pirate edition after having them reset word after words after an exemplar of the original edition. Given Germany’s division in a myriad of small states, the imperial privilege was ineffective against pirate publishing. Kant and Fichte spoke for the acceptance of the right to defend the work of an author by the usurpations of others so that he may receive a patrimonial advantage from those who utilize the work acquiring new knowledge and/or an aesthetic experience. In particular, Fichte declared the absolute primacy of the moral faculties within the corpus mysticum. He divided the latter into a formal and a material part. “This intellectual element must be divided anew into what is material, the content of the book, the thoughts it presents; and the form of these thoughts, the manner in which, the connection in which, the formulations and the words by means of which the book presents them” (Fichte, 1964, t.I/1, p.411). Fichte’s underlining the author’s exclusive right to the intellectual content of his book – “the appropriation of which through another is physically impossible” (ibid.) – brought him to the extreme of prohibiting any form of copy that is not meant for personal use. In Publishing Considered anew, Reimarus considered on the contrary copyright in its patrimonial aspects as a limitation to free trade: “What would not happen were a universal protection against pirate publishing guaranteed? Monopoly and safer sales certainly do not procure convenient price; on the contrary, they are at the origin of great abuses. The only condition for convenient price is free-trade, and one cannot help noticing that upon the appearance of a private edition, publishers are forced to substantially lower the price of a book” (Reimarus, 1791a, pp.402-3). Reimarus admitted of being unable to argue in terms of justice. Justice was of no bearing, he said, for whom, like himself, considered undemonstrated the author’s permanent property of his work (herein supported by the legislative vacuum of those years). What mattered, he said, was equity. In sum, Reimarus anticipated today’s stance on free use by referring to the principle that public interest on knowledge ought to prevail on the author’s interest and to balance the copyright. Moreover, Reimarus extended his argument beyond the realm of literary production to embrace, among others, the today vital issue of pharmaceutical production on patented receipts. “Let us suppose that at some place a detailed description for the preparation of a good medicine or of any other useful thing be published, why may not somebody who lives in places that are far away from that one copy it to use it for his own profit and but must instead ask the original publisher for the issue of each exemplar?” (Reimarus, 1791b, t.2, pp.584). To sum up, Reimarus’s stance does not seem respondent to rule of law. For in all dubious case the general rule ought to prevail, fighting intellectual property with anti-monopolistic arguments in favor of free trade brings with itself consequences that are not tranquilizing also for the ones that are expected to apply the law. **By resetting literary texts, one could obviously expurgate some errors. More frequently, however, some were added, given the exclusively commercial objectives of the reprints. The valid principle was, thus, that reprints were less precise than original editions, but they were much cheaper for the simple reason that the pirate publisher had a merely moral obligation against the author and the original publisher. In fact, he was not held to pay any honorarium to the author upon handling over the manuscript, nor to paying him royalties, nor to pay anything to the original publisher. The** only expense in charge of the pirate publisher was buying the exemplar of the original edition out of which he was to make, as we say today, a free use.

#### 2] The aff is non-universalizable because IP rights are good in general – they value freedom and promote innovation

**Van Dyke 18** Raymond Van Dyke, 7-17-2018, "The Categorical Imperative for Innovation and Patenting," IPWatchdog, <https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/> SJ//DA recut SJKS recut Park City NL

As we shall see, applying **Kantian logic entails first acknowledging some basic principles; that the people have a right to express themselves, that that expression (the fruits of their labor) has value and is theirs (unless consent is given otherwise), and that government is obligated to protect people and their property. Thus, an inventor or creator has a right in their own creation, which cannot be taken from them without their consent.** So, employing this canon, **a proposed Categorical Imperative (CI) is the following Statement: creators should be protected against the unlawful taking of their creation by others. Applying this Statement to everyone, i.e., does the Statement hold water if everyone does this, leads to a yes determination. Whether a child, a book or a prototype, creations of all sorts should be protected, and this CI stands.** This result also dovetails with the purpose of government: to protect the people and their possessions by providing laws to that effect, whether for the protection of tangible or intangible things. **However, a contrary proposal can be postulated: everyone should be able to use the creations of another without charge. Can this Statement rise to the level of a CI? This proposal, upon analysis would also lead to chaos. Hollywood, for example, unable to protect their films, television shows or any content, would either be out of business or have robust encryption and other trade secret protections, which would seriously undermine content distribution and consumer enjoyment.** **Likewise, inventors, unable to license or sell their innovations or make any money to cover R&D, would not bother to invent or also resort to strong trade secret. Why even create?** This approach thus undermines and greatly hinders the distribution of ideas in a free society, which is contrary to the paradigm of the U.S. patent and copyright systems, which promotes dissemination. By allowing freeriding, innovation and creativity would be thwarted (or at least not encouraged) and trade secret protection would become the mainstay for society with the heightened distrust.

### A2 offense

1. **Freedom doesn’t affirm – there’s no warrant for why the categorical imperative justifies liberty. Don’t let them read new framework arguments in the 2NR – creates a 2:1 speech skew and a 7:6 time skew**
2. **Lindsey and Teles:**
   1. **No connection to the framework**
   2. **Wrong – ppl just don’t have rights to things others made first – 2nd place shouldn’t count**
3. **Kinsella:**