# OFF

## 1

#### Interpretation: The aff must defend that member nations reduce intellectual property protections for all medicines.

#### The upward entailment test and adverb test determine the genericity of a bare plural

Leslie and Lerner 16 [Sarah-Jane Leslie, Ph.D., Princeton, 2007. Dean of the Graduate School and Class of 1943 Professor of Philosophy. Served as the vice dean for faculty development in the Office of the Dean of the Faculty, director of the Program in Linguistics, and founding director of the Program in Cognitive Science at Princeton University. Adam Lerner, PhD Philosophy, Postgraduate Research Associate, Princeton 2018. From 2018, Assistant Professor/Faculty Fellow in the Center for Bioethics at New York University. Member of the [Princeton Social Neuroscience Lab](http://psnlab.princeton.edu/).] “Generic Generalizations.” Stanford Encyclopedia of Philosophy. April 24, 2016. <https://plato.stanford.edu/entries/generics/> TG

1. Generics and Logical Form

In English, generics can be expressed using a variety of syntactic forms: bare plurals (e.g., “tigers are striped”), indefinite singulars (e.g., “a tiger is striped”), and definite singulars (“the tiger is striped”). However, none of these syntactic forms is dedicated to expressing generic claims; each can also be used to express existential and/or specific claims. Further, some generics express what appear to be generalizations over individuals (e.g., “tigers are striped”), while others appear to predicate properties directly of the kind (e.g., “dodos are extinct”). These facts and others give rise to a number of questions concerning the logical forms of generic statements.

1.1 Isolating the Generic Interpretation

Consider the following pairs of sentences:

(1)a.Tigers are striped.

b.Tigers are on the front lawn.

(2)a.A tiger is striped.

b.A tiger is on the front lawn.

(3)a.The tiger is striped.

b.The tiger is on the front lawn.

The sentence pairs above are prima facie syntactically parallel—both are subject-predicate sentences whose subjects consist of the same common noun coupled with the same, or no, article. However, the interpretation of first sentence of each pair is intuitively quite different from the interpretation of the second sentence in the pair. In the second sentences, we are talking about some particular tigers: a group of tigers in ([1b](https://plato.stanford.edu/entries/generics/#ex1b)), some individual tiger in ([2b](https://plato.stanford.edu/entries/generics/#ex2b)), and some unique salient or familiar tiger in ([3b](https://plato.stanford.edu/entries/generics/#ex3b))—a beloved pet, perhaps. In the first sentences, however, we are saying something general. There is/are no particular tiger or tigers that we are talking about.

The second sentences of the pairs receive what is called an existential interpretation. The hallmark of the existential interpretation of a sentence containing a bare plural or an indefinite singular is that it may be paraphrased with “some” with little or no change in meaning; hence the terminology “existential reading”. The application of the term “existential interpretation” is perhaps less appropriate when applied to the definite singular, but it is intended there to cover interpretation of the definite singular as referring to a unique contextually salient/familiar particular individual, not to a kind.

There are some tests that are helpful in distinguishing these two readings. For example, the existential interpretation is upward entailing, meaning that the statement will always remain true if we replace the subject term with a more inclusive term. Consider our examples above. In ([1b](https://plato.stanford.edu/entries/generics/#ex1b)), we can replace “tiger” with “animal” salva veritate, but in ([1a](https://plato.stanford.edu/entries/generics/#ex1a)) we cannot. If “tigers are on the lawn” is true, then “animals are on the lawn” must be true. However, “tigers are striped” is true, yet “animals are striped” is false. ([1a](https://plato.stanford.edu/entries/generics/#ex1a)) does not entail that animals are striped, but ([1b](https://plato.stanford.edu/entries/generics/#ex1b)) entails that animals are on the front lawn (Lawler 1973; Laca 1990; Krifka et al. 1995).

Another test concerns whether we can insert an adverb of quantification with minimal change of meaning (Krifka et al. 1995). For example, inserting “usually” in the sentences in ([1a](https://plato.stanford.edu/entries/generics/#ex1a)) (e.g., “tigers are usually striped”) produces only a small change in meaning, while inserting “usually” in ([1b](https://plato.stanford.edu/entries/generics/#ex1b)) dramatically alters the meaning of the sentence (e.g., “tigers are usually on the front lawn”). (For generics such as “mosquitoes carry malaria”, the adverb “sometimes” is perhaps better used than “usually” to mark off the generic reading.)

#### It applies to “Medicines” – adding “generally” to the res doesn’t substantially change its meaning because the res never specified further

#### Vote negative:

#### 1] Precision – they justify arbitrarily mooting words in the resolution at their own whim in order to justify some potentially good interp.

#### Semantics outweighs:

#### [a] Lexical priority – it doesn’t matter if their interp if the debate is not pertinent i.e. it might me more educational for me to study for AP physics, outweighs since the topic constrains what pragmatics are relevant.

#### [b] Pragmatics are always subject to debate – empirically proven since there’s no consensus on whether NIBs are truly fair – but you can’t BS textual accuracy so semantics serves as an objective constraint on the aff.

#### 2] Limits and ground – their model allows affs to defend any medicine which explodes neg prep bc theres an infinite amount I can’t prepare for, like covid-19 vaccines, influenza, common colds, Marijuana, etc. and they all bracket out different DA’s

3] TVA: Read a whole res aff with the same advantage

## 2

#### the member nations of the World Trade Organization should form an intellectual property system that uses patents, prizes, grants, and tax credits for cannabis.

#### The counterplan solves the aff’s concerns with squo patent policy – the solution isn’t to waive patents, but to restructure IP programs.

Hemel and Ouellette 13 [Daniel Hemel received his J.D. from Yale Law School in 2012 and his M.Phil. from the University of Oxford in 2009. Lisa Larrimore Ouellette is a Visiting Fellow at the Yale Law School Information Society Project; she received her J.D. from Yale Law School in 2011 and her Ph.D. in Physics from Cornell University in 2008.) "Beyond the Patents–Prizes Debate," Texas Law Review, 4-7-2013] SM

Thus far, the patents-versus-prizes-versus-grants debate has generated useful insights regarding innovation policy choices. For instance, the patent system aggregates privately held information regarding the private costs and benefits of potential projects. Meanwhile, prizes and grants channel R&D efforts toward innovations that yield limited profits in the marketplace but significant benefits for society. Prizes and grants also avoid the deadweight losses associated with patent monopolies, although they correspondingly entail cross-subsidization of product users by nonusers. Finally, grants—unlike patents and prizes—deliver ex ante transfers and thus reduce the social costs of capital market frictions. However, by truncating the menu of policy options, the framing of the debate has led participants to overlook the potential benefits of tax incentives for innovation. For example, we show that even when market actors have superior information regarding R&D projects than government officials do, patents are not the only mechanism for aggregating this privately held information and allocating R&D expenditures accordingly: tax credits can achieve similar outcomes. Alternately, even if one believes that ex ante incentives are superior to ex post rewards because of capital market frictions, this belief does not necessarily suggest that government grants are the best option: refundable tax credits can replicate many of the advantages of government grants. And even if one favors user-pays systems over cross-subsidization, this preference does not necessarily require adoption of the patent mechanism: targeted sales taxes funding grants, prizes, or credits can mimic the user-pays features of patent law. This last dimension of the innovation policy debate—the distribution of costs—is all too often overlooked, and while we do not provide an exhaustive treatment of the moral and ethical issues associated with user- pays and cross-subsidization systems, we provide a preliminary analysis of the normative considerations that ought to inform innovation policy choices. Moreover, although our Article provides only a broad overview of the obstacles to innovation policy reform arising out of international treaties and domestic political configurations, we believe that this overview reveals that the obstacles to reform—while considerable—are not insurmountable. Ultimately, we do not argue that one innovation policy option strictly dominates the others in all instances. To the contrary, we sketch out the case for innovation policy pluralism—with patents, prizes, grants, and tax incentives all playing a role in efforts to encourage research and development. With a more nuanced understanding of the similarities and differences among patents, prizes, grants, and tax credits, scholars and policymakers will be better positioned to imagine new combinations of innovation incentives that improve upon the status quo.

#### The problem is that squo patent law is too rigid – the counterplan solves.

Grimes 21 [Warren Grimes: Irving D and Florence Rosenberg Professor of Law, Southwestern Law School, Los Angeles, USA) "Perverse Results from Pharmaceutical Patents in the United States," International Review of Intellectual Property and Competition Law, 4-28-2021] SM

The Covid-19 pandemic points to a generalized weakness in the patent system as it relates to pharmaceuticals. Most patent systems invite bipolar results: either a patent is valid, or it is not valid. The period of patent protection is fixed and cannot be adjusted based on the value of the invention for society. Methods of exploiting the patent tend to be predetermined by existing statutory or case law. There is little room for a more flexible or nuanced system of rewarding valuable R&D.

When it comes to promoting drug research, governments have already moved away from exclusive reliance on the patent system. In the United States, the National Institutes of Health, a government agency, subsidizes certain medical research. These schemes, however, have been somewhat haphazard. Designing an overall system for rewarding medical R&D deserves more serious reflection and analysis. It is time to consider alternative ways of rewarding valuable R&D, such as a prize system, perhaps funded by nation states or by the WHO.Footnote22 Disinterested scientists or academics could be charged with awarding the prize funds for worthwhile research. Such a system might partially replace the patent system or be supplementary to it.

#### We don’t decrease intellectual property – the CP is in the opposite direction of the aff, so the perm fails.

#### The aff reverses innovative potential – strong IP protection is k2 innovation.

Cory 17 [Nigel Cory is a trade policy analyst at the Information Technology and Innovation Foundation.April 30, 2017, “How Intellectual Property Protection Incentivizes Innovation” <https://www.globaltrademag.com/intellectual-property-protection-incentivizes-innovation/> //gord0]

World Intellectual Property Day was marked last week, an important moment to consider the critical relationship between [intellectual property (IP) protection](https://www.globaltrademag.com/global-trade-daily/commentary/free-trade-and-the-threat-to-intellectual-property-protection-in-china) and innovation. Just as we have in years past, the [Information Technology and Innovation Foundation (ITIF)](https://www.globaltrademag.com/global-trade-daily/trump-right-china-poses-economic-threat) took a deeper look at the latest data on the strength of IP laws and the amount of innovative, creative output around the word, and found that overall, countries with stronger IP protection also have more creative output, even at varying levels of development. The results show why countries need to support efforts to ensure international rules address new and emerging IP issues in order to ensure that firms and countries are maximizing their innovative and creative potential. ITIF compared the strength of IP laws and the effectiveness of anti-counterfeiting laws based on data from the World Economic Forum’s Global Competitiveness Report 2016-17 with creative output scores from the Global Innovation Index 2016, a report from Cornell University, INSEAD, and the World Intellectual Property Organization (WIPO). The Global Innovation Index combines three measures of creativity. First, “intangible assets” combines measures of domestic and international trademark applications and rates of information and communication technology adoption. Second, “creative goods and services” measures trade in creative services and output by a nation’s media, printing and publishing, and entertainment industries. Finally, “online creativity” measures a nation’s top-level internet domains, as well as the number of YouTube videos uploaded and Wikipedia pages edited. The key finding is that there is a strong positive correlation (0.74) between the strength of IP protections and countries’ score on creative outputs, based on a sample of 119 countries (only those countries which had all the necessary data). ITIF assessments in 2016 and 2014 produced similar results of 0.70 (from a sample of 127 countries) and 0.72 (from a sample of 136). Some advocates that are opposed to IP protections claim IP only benefits high-income countries. To test whether the correlation was solely based on income, the data were divided between high-income (>$20,000 GDP per capita), middle-income ($5,000-$19,999 GDP per capita), and low-income nations (<$5,000 GDP per capita). The sample has 33 high-income countries, 37 middle-income countries, and 49 low-income countries. Similar to past years, the relationship between IP protection and creative output was strongest in high-income countries, with a correlation of 0.51, but it was still positive for both middle-income (0.19) and low-income countries (0.22). In other words, even for the poorest nations, stronger IP protection was associated with stronger creative outputs, which in turn lead to job creation and GDP growth. As in past reports, the Global Competitiveness Report 2016-17 shows that it’s difficult for countries to score well in creative outputs without ranking highly in intellectual property protections. The average level of IP protection for the top 20 most-creative countries (5.85 out of 7) is well above the average (4.37). Delving deeper, the analysis shows that the 50 countries with above average total creative outputs also have above average intellectual property protections (5.01). ***Setting New International Norms: Analyzing IP, Creative Output, and Trade Agreements*** At the multilateral level, the World Intellectual Property Organization’s Copyright Treaty sets a basic framework for its 95 member-countries to enact to prevent unauthorized access to and use of creative works on the Internet, such as for computer programs and databases. Along with the Performances and Phonogram Treaty, it comprises WIPO’s “Internet Treaties,” which aim to update and supplement core international IP agreements—the Berne Convention and Rome Convention—which were adopted or last revised over 50 years ago. This year’s analysis shows the value of the Copyright Treaty’s basic levels of digital IP protections. Our analysis included 88 of the 95 WIPO Copyright Treaty members. These nations had a level of IP protection and creative output above the average for the entire sample: 4.5 vs. 4.37, and 93.5 vs. 87.7, respectively. Meanwhile, non-members (the sample included 31) had an average level of protection and creative output well below the average: 4 vs. 4.37, and 71 vs. 87, respectively. These results show why bilateral, regional, and multilateral efforts to update the issues addressed by the Copyright Treaty and other digital IP issues should be supported. Given that this treaty was negotiated in the 1990s and came into force in 2002, there are obvious needs for further updates given changes in technology and the digital economy. Efforts to set higher common levels of IP protection and enforcement have mainly occurred at the regional level, especially in the Asia-Pacific, with the [Trans-Pacific Partnership (TPP)](https://www.globaltrademag.com/global-trade-daily/commentary/trans-pacific-partnership-questions-answers) leading the way and the Regional Comprehensive Economic Partnership (RCEP) addressing this as well. Unfortunately, the future of the TPP is in serious doubt given America’s withdrawal, but if the other 11 members were to decide to implement the agreement, it would hopefully include the TPP’s high-standard IP chapter. Still, the TPP’s developing-country members (Malaysia, Vietnam, and Peru) need to make significant progress to close the gap to developed-country-member levels of protection and creative output. In 2016, out 119 countries, Malaysia ranked 27th in IP protection and 42nd in output (both improvements from 109th and 34th in 2015, which had 127 countries), Vietnam ranked 92nd and 51st (up from 82nd and down from 54th), and Peru ranked 100th and 67th (slightly up from 96th and 61st). RCEP shows an even bigger gulf between leaders and laggards. The 16 members of RCEP include developed countries with high-standard free trade agreements and IP systems (such as Australia, Singapore, and Korea), but also a broader range of developing countries that do poorly with IP protection and creative output (such as Cambodia, China, India, the Philippines, and Thailand). Developing-country members of RCEP have a below-average level of IP protection (4.05) and total creative output (72.8). In reality, this underperformance is likely much worse given Laos and Myanmar are not included in the sample due to a lack of data. The membership complicates the potential for a high-standard IP chapter. While China has made efforts to improve its domestic IP and innovation systems, it has likewise sought to steal or coerce IP from foreign firms and has failed to push for strong IP as part of past trade agreements. Other RCEP members have also not prioritized IP in their past trade agreements, so the level of ambition in RCEP is going to be much lower than TPP if these members prevail over the countries with well-developed IP systems, such as Australia, Japan, Korea, and Singapore, especially if the RCEP succumbs to the same misguided scare campaign as the TPP’s IP chapter. However, IP is just one of many divisions that could prolong, or ultimately doom, RCEP’s future. ***Correlation Does Not Equal Causation, But IP is Key to Incentivizing Creativity and Innovation*** Of course, correlation does not equal causation, and enacting higher levels of intellectual property protections will not always automatically lead to greater creative output. IP does not function in a void without other policy support. An OECD literature review and empirical study found that efforts to strengthen IP protections over the last two decades had a positive economic impact but that variations were due to certain complementary factors, such as human capital, legal and institutional conditions, and fiscal incentives. This all leads back to a central point worth remembering this World Intellectual Property Day: Whether a country is trying to catch up to the technology frontier, or push it ahead, stronger intellectual property protections are crucial to incentivizing the creativity and innovation that helps make this happen. Given this, countries—at all levels of development—that want to spur innovation need to support efforts to ensure international norms reflect the modern challenges facing IP protection and enforcement and help set better, shared IP rules in order to ensure that firms and countries are maximizing their innovative and creative potential.

## 3

#### Interpretation: The affirmative must specify which intellectual property rights they reduce and to what degree they reduce them.

#### There’s no normal means.

Chopra 18, Samir. “The Idea of Intellectual Property Is Nonsensical and Pernicious: Aeon Essays.” Aeon, Aeon Magazine, 12 Nov. 2018, aeon.co/essays/the-idea-of-intellectual-property-is-nonsensical-and-pernicious. Samir Choprais professor of philosophy at Brooklyn College of the City University of New York. He is the author of several books, including A Legal Theory for Autonomous Artificial Agents (2011), co-authored with Laurence White.//sid

In the United States, media and technology have been shaped by these laws, and indeed many artists and creators owe their livelihoods to such protections. But recently, in response to the new ways in which the digital era facilitates the creation and distribution of scientific and artistic products, the foundations of these protections have been questioned. Those calling for reform, such as the law professors Lawrence Lessig and James Boyle, free software advocates such as Richard Stallman, and law and economics scholars such as William Landes and Judge Richard Posner, ask: is ‘intellectual property’ the same kind of property as ‘tangible property’, and are legal protections for the latter appropriate for the former? And to that query, we can add: is ‘intellectual property’ an appropriate general term for the widely disparate areas of law it encompasses? The answer to all these questions is no. And answering the latter question will help to answer the former. Stallman is a computer hacker extraordinaire and the fieriest exponent of the free-software movement, which holds that computer users and programmers should be free to copy, share and distribute software source code. He has argued that the term ‘intellectual property’ be discarded in favour of the precise and directed use of ‘copyright’, ‘patents’, ‘trademarks’ or ‘trade secrets’ instead – and he’s right. This is not merely semantic quibbling. The language in which a political and cultural debate is conducted very often determines its outcome. Stallman notes that copyright, patent, trademark and trade secret law were motivated by widely differing considerations. Their intended purposes, the objects covered and the permissible constraints all vary. In fact, knowledge of one body of law rarely carries over to another. (A common confusion is to imagine that an object protected by one area of law is actually protected by another: ‘McDonald’s’ is protected by trademark law, not copyright law, as many consumers seem to think.) Such diversity renders most ‘general statements … using “intellectual property”… false,’ Stallman [writes](https://www.gnu.org/philosophy/not-ipr.en.html). Consider the common claim that intellectual property promotes innovation: this is actually true only of patent law. Novels are copyrighted even if they are formulaic, and copyright only incentivises the production of new works as public goods while allowing creators to make a living. These limited rights do not address innovations, which is also true of trademark and trade secret law. Crucially, ‘intellectual property’ is only partially concerned with rewarding creativity (that motivation is found in copyright law alone). Much more than creativity is ‘needed to make a patentable invention’, Stallman explains, while trademark and trade secret law are orthogonal to creativity or its encouragement. Clubbing these diversities under the term ‘intellectual property’ has induced a terrible intellectual error A general term is useful only if it subsumes related concepts in such a way that semantic value is added. If our comprehension is not increased by our chosen generalised term, then we shouldn’t use it. A common claim such as ‘they stole my intellectual property’ is singularly uninformative, since the general term ‘intellectual property’ obscures more than it illuminates. If copyright infringement is alleged, we try to identify the copyrightable concrete expression, the nature of the infringement and so on. If patent infringement is alleged, we check another set of conditions (does the ‘new’ invention replicate the design of the older one?), and so on for trademarks (does the offending symbol substantially and misleadingly resemble the protected trademark?) and trade secrets (did the enterprise attempt to keep supposedly protected information secret?) The use of the general term ‘intellectual property’ tells us precisely nothing. Furthermore, the extreme generality encouraged by ‘intellectual property’ obscuresthe specific areas of contention created by the varying legal regimes. Those debating copyright law wonder whether the copying of academic papers should be allowed; patent law is irrelevant here. Those debating patent law wonder whether pharmaceutical companies should have to issue compulsory licences for life-saving drugs to poor countries; copyright law is irrelevant here. ‘Fair use’ is contested in copyright litigation; there is no such notion in patent law. ‘Non-obviousness’ is contested in patent law; there is no such notion in copyright law. Clubbing these diversities under the term ‘intellectual property’ has induced a terrible intellectual error: facile and misleading overgeneralisation. Indiscriminate use of ‘intellectual property’ has unsurprisingly bred absurdity. Anything associated with a ‘creator’ – be it artistic or scientific – is often grouped under ‘intellectual property’, which doesn’t make much sense. And the widespread embrace of ‘intellectual property’ has led to historical amnesia. According to Stallman, many Americans have held that ‘the framers of the US Constitution had a principled, procompetitive attitude to intellectual property’. But Article 1, Section 8, Clause 8 of the US Constitution authorises only copyright and patent law. It does not mention trademark law or trade secret law. Why then does ‘intellectual property’ remain in use? Because it has polemical and rhetorical value. Its deployment, especially by a putative owner, is a powerful inducement to change one’s position in a policy argument. It is one thing to accuse someone of copyright infringement, and another to accuse of them of the theft of property. The former sounds like a legally resolvable technicality; the latter sounds like an unambiguously sinful act.

#### Reduce requires quantification.

Passarello 13 – J.D. Candidate, Duke University School of Law, 2013. (Nicholas, NOTE: THE ITEM VETO AND THE THREAT OF APPROPRIATIONS BUNDLING IN ALASKA, 30 Alaska L. Rev. 125, Lexis)//BB

With respect to the item veto power, the question in the case was whether or not the governor could strike descriptive language without affecting the rest of the appropriation. The state constitution clearly guarantees the power to "strike or reduce items in appropriations bills." 61 To determine what exactly it is that the governor may strike, the Alaska Supreme Court here addressed the meaning of "item" for the first time. 62 The court concluded that "item" means "a sum of money dedicated to a particular purpose." 63 This holding rested on five lines of analysis, all of which indicate that the amount of an appropriation is the object affected by the item veto power. First, the court noted that the word "item" implies "a notion of unity between two essential elements of an appropriation: the amount and the purpose." 64 Altering the amount of an item is expressly allowed in the Constitution via the reduction power, 65 but to alter the purpose would destroy that unity by fundamentally changing the item into something else not enacted by the legislature. 66 Second, the use of the word "reduce" implies a quantitative effect, and the drafters likely intended the companion word "strike" to [\*136] have the same type of effect as well. 67 Third, "reduce" and "strike" describe the same action applied to different extents: when an amount is "reduced" to the point where it is lessened to nothing, it is effectively "struck." 68 Thus, the object of the "strike"must be associated with an amount of money to the extent that it can be lessened. 69 Fourth, the historical purpose of the item veto was to curtail the amount of state spending by mitigating the effects of log-rolling, a purpose most closely directed at the amount of the appropriation. 70 Fifth, "public policy disfavors a reading of "item' that would permit the executive branch to substantively alter the legislature's appropriation bills, resulting in appropriations passed without the protection our constitution contemplates." 71 For these reasons, the court concluded that the power to "strike" only refers to completely diminishing the amount of an appropriations item, not the descriptive language accompanying it.

#### Violation: they don’t

#### Standards

#### a] Shiftiness – vague plan wording wrecks Neg Ground since it’s impossible to know which DAs link or which CPs are competitive since different IP’s have different implications – absent 1AC specification, the 1AR can squirrel out of links by saying they don’t effect a certain protection or they don’t reduce IP enough to trigger the link.

#### b] Topic Education – nuanced debates about IP requires specification since each form of IPR has specific issues related to it so generalization disincentivizes in-depth research. Topic Education is a voter since we only debate the topic for two months.

#### Reductions Spec isn’t regressive – it’s a core discussion central to the literature, we’ve read a card proving predictability, and is a floor for topic debates.

#### CX doesn’t check - 1] Skews pre-round prep – key to in-depth clash, 2] Judges don’t flow CX which makes it unverifiable

#### Education is a voter since it is the only portable and durable skill that influences our subject formation. Fairness is a voter since a] debate is a game, competition equity matters proven by desire for wins, b] is worthless without rules and equal access.

#### Drop the debater – a] deters future abuse through a loss and b] set better norms for debate since you are less likely to repeat a practice you can lose for

#### Competing interps – [a] reasonability is arbitrary and encourages judge intervention since there’s no clear model of debate, [b] it creates a race to the top where we create the best possible norms for debate through offense [c] offense defense paradigm is the best method for evaluation since you can compare benefits under both interps easier.

#### No RVIs – a] illogical, you don’t win for proving that you meet the burden of being fair, if logic isn’t true then you should hack against them, b] RVIs incentivize baiting theory and prepping it out which leads to maximally abusive practices

# CASE

#### Medical marijuana is not the solution – don’t replace one drug with another

https://www.caron.org/blog/medical-marijuana-is-not-the-solution-to-the-opioid-crisis

Other potentially dangerous consequences include an increase in infants born with THC, marijuana’s main psychoactive ingredient, in their systems. Studies show that marijuana use by mothers during pregnancy can cause changes in the brains of developing fetuses, while children born to mothers who smoked marijuana while pregnant have difficulty with reading and listening comprehension, impulsivity and attention.

We agree with Dr. Boxer that alternative approaches to treating chronic pain are an important part of the solution to the opioid crisis. However, we also believe that swapping out one addictive substance for another carries significant risk. Proven alternative pain management strategies, such as cognitive behavioral therapy, acupuncture, medical massage, physical therapy, should be mandated by the government as well as covered by insurance companies.

Two decades ago, opioids were considered the most effective way to manage pain, and now we are experiencing an unprecedented epidemic. We need to proceed with caution to ensure we don’t develop “solutions” that only serve to deepen the addiction crisis.

#### NO warrant in the entirety of the 1AC that describes why ppl w opioid addictions will switch to marijuana – even if it’s a better option, the aff has no reason to think ppl who are horribly affected by drugs can make logical decisions

#### NO warrant for why ppl wouldn’t both switch to mj and use opioids –

#### Their terrorist scenario can happen with laced weed

#### Laced opioids from individuals and small groups are FAR different from nerve agents in Syria – totally different groups and motivations, don’t let them retain an i/l between them

#### No warrant for why monopolies wouldn’t innovate – plenty of big companies have innovated.

#### Circumvention and they don’t solve – even if they say “durable fiat”, they have not defined the scope of the plan in the 1AC so you don’t know what the plan would materially look like

Mercurio 6/24 [Simon F.S. Li Professor of Law, The Chinese University of Hong Kong, Shatin, Hong Kong. June 24, 2021. “The IP Waiver for COVID-19: Bad Policy, Bad Precedent” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/> Accessed 8/25 //gord0]

The role of intellectual property rights (IPRs) and access to medicines is contentious. On the one hand, IPRs encourage investment, innovation and the advancement of health science. On the other hand, the limited-term monopoly rights can result in artificially high prices and become a barrier to access to medicines. While the wisdom of the IPRs system has at times been tested, it has proven its value in the current COVID-19 pandemic as IPRs played a large role in the rapid (and unprecedented) development and availability of multiple vaccines. Despite the success, India and South Africa proposed that the World Trade Organization (WTO) waive IPRs under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in order to increase access to vaccines and other COVID-19-related technologies.[1](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn1) The proposal, tabled at a meeting of the TRIPS Council in October 2020, calls on Members to waive IPRs relating to and having an impact on the “prevention, containment or treatment of COVID-19”.[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn2) The proposal attracted support from the majority of developing country Members,[3](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn3) but was opposed by a handful of Members including the United States (US).[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn4) Given that consensus could not be reached within the deadline of 90 days as set out in Art. IX:3 of the Agreement Establishing the WTO, Members agreed to keep the waiver proposal on the agenda of the TRIPS Council in 2021.[5](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn5) On 5 May 2021, the US reversed its position and announced that it would support a waiver for COVID-19 vaccines.[6](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn6) To be clear, this does not mean that the US supported the waiver as proposed by India and South Africa. Instead, the US has simply agreed to negotiate the perimeters of a waiver. Others, including the European Union (EU), Canada, Australia, Norway, Switzerland, the United Kingdom (UK) and even leading developing countries such as Brazil, Chile and Mexico remain opposed or lukewarm on the waiver.[7](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn7) The US dropping opposition does not mean the concerns of other Members will simply disappear – one would hope that these nations opposed the waiver for valid reasons and did not simply blindly follow the US. Indeed, many of the above-listed Members remain unconvinced that even such a draconian step as a waiver of IPRs would accomplish the goal of increased vaccine production.[8](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn8) For its part, the EU continues to favour an approach which makes better use of existing flexibilities available in the TRIPS Agreement.[9](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn9) Thus, those expecting quick agreement on the waiver will be disappointed. Negotiations at the WTO are always difficult and lengthy, and US Trade Representative Katherine Tai acknowledged that the “negotiations will take time given the consensus-based nature of the institution and the complexity of the issues involved”.[10](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn10) Issues of negotiation will include the scope of the waiver. Whereas the original proposal and its amended form extend the waiver beyond patents and vaccines to include nearly all forms of IP (i.e. copyright,[11](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn11) industrial designs and trade secrets) as well as to all “health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the prevention, treatment or containment of COVID-19”[12](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn12) (with no requirement on how or the extent to which they are related to or useful in combatting COVID-19), the US and others seem to support a waiver limited to patents and vaccines.[13](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn13) The length of the waiver will also be a contentious negotiating issue, with proponents seeking a virtual indefinite waiver lasting until the Membership agrees by consensus that it is no longer required – meaning even a single Member’s objection to ending the waiver would mean the waiver continues to remain in force[14](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn14) – as will the request that any action claimed to be taken under the waiver is outside the scope of the WTO’s dispute settlement mechanism.[15](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn15) These provisions will almost certainly be opposed by other Members, who would perhaps agree to a time-limited waiver which could be extended rather than an unchallengeable indefinite waiver which will be difficult to reverse. The proposal also fails to mention anything in relation to transparency and notification requirements and lacks safeguards against abuse or diversion. These points will likely also prove contentious in the negotiations. With so many initial divergences and as yet undiscussed issues, the negotiations at best could be completed by the time of the next WTO Ministerial Conference, scheduled to begin on 20 November 2021. There is precedent in this regard, as previous TRIPS negotiations involving IP and pharmaceuticals were not fully resolved until the days before the Ministerial Conferences (in 2003 and 2005).[16](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn16) There is also a chance that the negotiations will continue past the calendar year 2021. The chance for a swift negotiation diminished with the release of a revised proposal by India and South Africa on 22 May 2021. As mentioned above, the proposal contains no limit as to product coverage, scope, notification requirements or safeguards and proposes that the waiver will remain in effect for what could be an indefinite period. This was not a proposal designed to engender quick negotiations and a solution. Instead, the proposal perhaps reveals India’s and South Africa’s true intent to use the COVID-19 pandemic as an excuse to roll-back IPRs rather than a good-faith effort to rapidly increase access to lifesaving vaccines and treatments around the world. It is not only the length of time which is an issue but also the ultimate impact of the waiver. A waiver simply means that a WTO Member would not be in violation of its WTO obligations if it does not protect and enforce the COVID-19-related IPRs for the duration of the waiver. The waiver would thus allow Members to deviate from their international obligations but not obligate Members to suspend protection and enforcement of the IPRs. Members like the US who support the waiver may not implement the necessary domestic legislation to waive IPRs within the jurisdiction. It is questionable whether the US could even legally implement the waiver given that IPRs are a matter of constitutional law.[17](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn17) The US announcement remains meaningful, however, for two reasons. First, it signals a departure from the longstanding and bipartisan support for the pharmaceutical industry, which for decades has been instrumental in setting the IP and trade agenda.[18](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn18) Second, it sends a strong signal that the US does not oppose others from waiving patent protection for vaccines. This shift may also be part of a broader and alternative strategy to increase vaccine production and distribution, whereby the US is not viewing or supporting waiver negotiations as a legal tool but more so as a threat to encourage vaccine innovators to increase production. In essence, the desired reaction would be that the IP holders increase efforts to license, transfer technology and expand manufacturing – exactly what the world needs at this time. Alan Beattie, writing in the Financial Times, believes that even the proponents of the waiver desire this outcome: “having talked to the proponents, [the original proposal] was always a tactical position designed to start a debate, identify possible support and flush out opponents rather than a likely outcome. To that end, it seems to have worked rather well.”[19](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn19) India’s negotiator to the TRIPS Agreement and longtime WTO staffer, Jayashree Watal, agrees, stating the proposal is an “indirect attempt to put pressure on the original manufacturers to cooperate [and license production to companies in their countries]”.[20](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn20) This view makes sense, as the proponents (and their supporters) have not even pointed to one credible instance where IPRs have blocked the production of a COVID-19 vaccine. Moreover, it is well known that the leading vaccines using mRNA are difficult to reproduce and having the “blueprints” does not guarantee safe and effective production. Simply stated, if a pastry chef provides instructions on how to bake a cake, the cake they bake is still going to be better than cakes baked by novices using the exact same recipe. The know-how and trade secrets are the key ingredient to the manufacture of quality, safe and effective pharmaceuticals or vaccines, and not only is it not transferred through compulsory licenses but it is hard to imagine how any government would force the transfer of such information even under a waiver. For this reason, instead of encouraging production everywhere – including in locations where safety and efficacy standards are virtually nonexistent – and accepting that there will be a flood of substandard vaccines coming onto the world market (with devastating effects) it is much more sensible to find out where potential manufacturing capabilities exist and find ways to exploit them and scale them up. When asked if a waiver would improve vaccine availability and equity, Watal responded: “No. It won’t. That’s clear.”[21](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn21) I share Watal’s view and do not support a TRIPS waiver for IPRs or even a limited waiver for patents. With evidence mounting that “what the proposal … will definitely not achieve is speeding up the Covid-19 vaccination rate in India or other parts of the Global South”[22](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn22) I refuse to sacrifice academic integrity by supporting a proposal simply because it is gaining traction in some circles.[23](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn23) IPRs played a key role in delivering vaccines within a year of the discovery of a new pathogen; it seems inexplicable that the world would abandon the system without any evidence that IPRs are limiting during the current crisis.[24](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn24) Moreover, innovators have been generous in licensing technology transfer and production and one would be hard-pressed to find credible reports of qualified generic producers being refused a license. This is not surprising, since multiple competing vaccines are on the market it simply does not make economic sense for innovators to refuse a license – the generic manufacturer would simply obtain a license (and market share) and pay royalties to a competitor. Instead, I support efforts to enable prompt and effective use of existing flexibilities in the TRIPS Agreement and concerted and coordinated efforts involving governments and the private sector to ensure all qualified generic producers willing and capable of manufacturing vaccines are doing so and to create supply by working to bring more facilities up to standard. Cooperation will not only lead us out of this pandemic but also put us in a better position to deal with the next one. Killing the goose that laid the golden egg may seem appealing to some in the short term but will only ensure that no eggs are delivered in the next pandemic.

#### ~~TRIPS alone is too ambiguous to serve as a sufficient legal standard~~

~~Halaijan 13~~

~~Dina Halaijan (JD, Brooklyn Law School). “Inadequacy of TRIPS & the Compulsory License: Why Broad Compulsory Licensing is Not a Viable Solution to the Access Medicine Problem.” Brooklyn Journal of International Law. Volume 38, Issue 3, Article 7 (2013). JDN.~~ [~~https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1050&context=bjil~~](https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1050&context=bjil)

~~3. Definitional Ambiguities & Ambiguities in Scope~~

~~Ambiguities in the interpretation of TRIPS due to the lack of substantive guidelines or definitions also hinder its effective use by~~ **~~increasing the risk of litigation.~~**~~111 The Doha Declaration merely stated that individual countries have “the right to determine what constitutes a national emergency or other circumstances of extreme urgency” in deciding to grant a compulsory license, and thus did little to ameliorate the different interpretive approaches of developed and developing countries.112~~ **~~The flexible scope~~** ~~of compulsory licenses~~ **~~lends to abuse which further instills resistance and suspicion~~** ~~from pharmaceutical companies.113 For example, Egypt’s compulsory license for Pfizer’s Viagra tarnishes the reputation of compulsory licensing because erectile dysfunction is clearly a less dire situation and one likely not intended to be covered by the public health exception of TRIPS.114 Such excessive abuse and over-use of compulsory licensing likely encourages pharmaceutical companies to aggressively resist valid uses of compulsory licenses to prevent~~ **~~over-expansion of scope.~~**~~115 In addition to ambiguity in the scope of intended diseases, conflicting interpretations exist in the type of pharmaceutical products intended for compulsory licensing.116 The scope of countries that should benefit from compulsory licensing remains another area of contention.117 Not limiting the scope of applicable nations may create a~~ **~~chilling effect~~** ~~on the types of drugs pharmaceutical companies choose to invest in and develop to avoid the potential for a compulsory license,~~ **~~which hurts developing nations most in need of help.~~**~~118 Interpreting the morality exclusion in Article 27(2) also proves difficult, as~~ **~~there is no universally accepted definition.~~**~~119 In addition to causing differing interpretations between countries, the lack of concrete definitions allows countries to alter their position to fit their self-interest and creates potential for abuse.120 For example, despite the United States’ narrow interpretation of TRIPS flexibilities, the United States contradicted itself during the 2001 anthrax scare by suggesting use of a compulsory license for Cipro, a drug that combats the effects of anthrax.121 On a related note, as India’s government and pharmaceutical industry’s capabilities grow, the future of India’s willingness to grant compulsory licenses and produce cheap generic drugs for export to other developing countries is questionable.122 Indian companies may opt to serve their selfinterest and become “innovator companies” to compete globally with other large pharmaceutical companies.123 The vagueness of Article 30, which allowed a narrow interpretation to be given by the WTO dispute resolution panel, is a further impediment to increasing access to medicines.124 Calculating adequate remuneration for payment to the patent holder when a compulsory license is issued is another obstacle to successful use of TRIPS flexibilities and is further complicated by the requirement to take the economic value of the authorization into account, as TRIPS does not provide guidance to determine what is ‘adequate’ and what is the authorization’s ‘value.’125 The WTO members’ inability to reach a decision regarding parallel importation created a “fundamental flaw” of ambiguity.126 In regard to compulsory licensing under the Paragraph 6 Decision, drugs made for export must be distinguishable by special labels, colors, or shapes to prevent trade diversion.127 However, lack of monitoring guidelines and repercussions makes the re-exportation issue troubling.128~~