#### The Meta-Ethic is Non-Naturalism.

#### [1] The naturalistic fallacy – examples of goodness fail to define the ultimate good. Moore 03,

[Moore, G. E. “Principia Ethica” <http://fair-use.org/g-e-moore/principia-ethica/>. Published 1903] SHS ZS

Good, then, if we mean by it that quality which we assert to belong to a thing, when we say that the thing is **good**, **is incapable of any definition**, in the most important sense of that word. The most important sense of definition is that in which a definition states what are the parts which invariably compose a certain whole; and in this sense **good has no definition because it** is simple and **has no parts**. **It is** one of those innumerable objects of thought which are themselves **incapable of definition**, because they are the ultimate terms of reference to which whatever is capable of definition must be defined. That there must be an indefinite number of such terms is obvious, on reflection; since we cannot define anything except by an analysis, which, when carried as far as it will go, refers us to something, which is simply different from anything else, and which by that ultimate difference explains the peculiarity of the whole which we are defining: for every whole contains some parts which are common to other wholes also. There is, therefore, no intrinsic difficulty in the contention that **good denotes a simple and indefinable quality**. There are many other instances of such qualities. **Consider yellow**, for example. **We may** try to **define it**, **by** describing its physical equivalent; we may state what kind of **light-vibrations** must stimulate the normal eye, in order that we may perceive it. **But** a moment’s reflection is sufficient to shew that those light-vibrations are not themselves what we mean by yellow. **They are not what we perceive**. Indeed, we should never have been able to discover their existence, unless we had first been struck by the patent difference of quality between the different colours. The most we can be entitled to say of those vibrations is that they are what corresponds in space to the yellow which we actually perceive. Yet **a mistake of this** simple **kind has** commonly **been made about good**. **It may be true that all things which are good are also something else**, just as it is true that all things which are yellow produce a certain kind of vibration in the light. And it is a fact, that Ethics aims at discovering what are those other properties belonging to all things which are good. **But** far **too many philosophers have thought that when they named those other properties they were actually defining good**; that these properties, in fact, were simply not other, but absolutely and entirely the same with goodness. This view I propose to call the naturalistic fallacy and of it I shall now endeavour to dispose.

#### [2] The is-ought fallacy – Naturalistic frameworks fail to derive an imperative to act. That is, even if you win pleasure biologically valuable, your framework doesn’t answer why we have a moral obligation to follow biology without appealing to a higher-order framework.

#### [3] The open question argument – Suppose X represents a natural property like pleasure. If X is analytically equivalent to good, then the question “Is it true X is good” becomes “Is it true good is good.” This either means A) Naturalistic frameworks result in a tautology of “Good is good” or b) X is not the same as good in which case non-naturalism is true.

#### [4] Only a priori knowledge is epistemically reliable. Descartes 41,

René, 1641. Discourse On Method ; and, Meditations on First Philosophy, NPR

Yet from everything I have just listed, how do I know that there is not something else which does not allow even the slightest occasion for doubt**?** Is there not a God, or whatever I may call him, who puts into me the thoughts I am now having? But why do I think this, since I myself may perhaps be the author of these thoughts**?** In that case am not I, at least, something? But I have just said that I have no senses and no body. This is the sticking point: what follows from this? Am I not so bound up with a body and with senses that I cannot exist without them? But I have convinced myself that there is absolutely nothing in the world, no sky, no earth, no minds, no bodies. Does it now follow that I too do not exist? No: if I convinced myself of something then I certainly existed. But there is a deceiver of supreme power and cunning who is deliberately and constantly deceiving me**.** In that case I too undoubtedly exist**,** if he is deceiving me; and let him deceive me as much as he can, he will never bring it about that I am nothing so long as I think that I am something**. So** after considering everything very thoroughly**,** I must finally conclude that this proposition, I am, I exist, is necessarily true whenever it is put forward by me or conceived in my mind. ButI do not yet have a sufficient understanding of what this ‘I’ is, that now necessarily exists. So I must be on my guard against carelessly taking something else to be this ‘I’, and so making a mistake in the very item of knowledge that I maintain is the most certain and evident of all. I will therefore go back and meditate on what I originally believed myself to be, before I embarked on this present train of thought. I will then subtract anything capable of being weakened, even minimally, by the arguments now introduced, so that what is left at the end may be exactly and only what is certain and unshakeable.

#### [5] Only Non-naturalism through reason solves determinism. Kant 81, Critique of Pure Reason. Because this empirical character itself must be drawn from appearances as effect, and from the rule which experience provides, all the actions of the human being in appearance are determined in accord with the order of nature by his empirical character and the other cooperating causes ; and if we could investigate all the appearances of his power of choice down to their basis, then there would be no human action that we could not predict with certainty, and recognize as necessary given its preceding conditions. Thus in regard to this empirical character there is no freedom, and according to this character we can consider the human being solely by observing, and, as happens in anthropology, by trying to investigate the moving causes of his actions physiologically But if we consider the very same actions in relation to reason, not, to be sure, in relation to speculative reason, in order to explain them as regards their origin, but insofar as reason is the cause of producing them by themselves — in a word, if we compare them with reason in a practical respect — then we find a rule and order that is entirely other than the natural order. For perhaps everything that has happened in the course of nature, and on empirical grounds inevitably had to happen, nevertheless ought not to have happened. At times, however, we find, or at least believe we have found, that the ideas of reason have actually proved their causality in regard to the actions of human beings as appearances, and that therefore these actions have occurred not through empirical causes, no, but because they were determined by grounds of reason. Suppose now that one could say reason has causality in regard to appearance; could reason’s action then be called free even though in its empirical character (in the mode of sense) it is all precisely determined and necessary? The empirical character is once again determined in the intelligible character (in the mode of thought). We are not acquainted with the latter, but it is indicated through appearances, which really give only the mode of sense (the empirical character) for immediate cognition. Now the action, insofar as it is to be attributed to the mode of thought as its cause, nevertheless does not follow from it in accord with empirical laws, i.e. in such a way that it is preceded by the conditions of pure reason, but only their effects in the appearance of inner sense precede it. Pure reason, as a merely intelligible faculty, is not subject to the form of time, and hence not subject to the conditions of the temporal sequence. The causality of reason in the intelligible character does not arise or start working at a certain time in producing an effect. For then it would itself be subject to the natural law of appearances, to the extent that this law determines causal series in time, and its causality would then be nature and not freedom.  Thus we could say that if reason can have causality in regard to appearances, then it is a faculty through which the sensible condition of an empirical series of effects first begins. For the condition that lies in reason is not sensible and does not itself begin. Accordingly, there takes place here what we did not find in any empirical series: that the condition of a successive series of occurrences could itself be empirically unconditioned. For here the condition is outside the series of appearances (in the intelligible) and hence not subject to any sensible condition or to any determination of time through any passing cause. Nevertheless, this very same cause in another relation also belongs to the series of appearances. The human being himself is an appearance. His power of choice has an empirical character, which is the (empirical) cause of all his actions. There is not one of these conditions determining human beings according to this character which is not contained in the series of natural effects and does not obey the laws of nature according to which no empirically unconditioned causality is present among the things that happen in time. Hence no given action (since it can be perceived only as appearance) can begin absolutely from itself. But of reason one cannot say that before the state in which it determines the power of choice, another state precedes in which this state itself is determined. For since reason itself is not an appearance and is not subject at all to any conditions of sensibility, no temporal sequence takes place in it even as to its causality, and thus the dynamical law of nature, which determines the temporal sequence according to rules, cannot be applied to it. Reason is thus the persisting condition of all voluntary actions under which the human being appears. Even before it happens, every one of these actions is determined beforehand in the empirical character of the human being. In regard to the intelligible character, of which the empirical one is only the sensible schema, nobefore or after applies, and every action, irrespective of the temporal relation in which it stands to other appearances, is the immediate effect of the intelligible character of pure reason; reason therefore acts freely, without being determined dynamically by external or internal grounds temporally preceding it in the chain of natural causes, and this freedom of reason can not only be regarded negatively, as independence from empirical conditions (for then the faculty of reason would cease to be a cause of appearances), but also indicated positively by a faculty of beginning a series of occurrences from itself, in such a way that in reason itself nothing begins, but as the unconditioned condition of every voluntary action, it allows of no condition prior to it in time, whereas its effect begins in the series of appearances, but can never constitute an absolutely first beginning in this series. In order to clarify the regulative principle of reason through an example of its empirical use — not in order to confirm it (for such proofs are unworkable for transcendental propositions) — one may take a voluntary action, e.g. a malicious lie, through which a person has brought about a certain confusion in society; and one may first investigate its moving causes, through which it arose, judging on that basis how the lie and its consequences could be imputed to the person. WIth this first intent one goes into the sources of the person’s empirical character, seeking them in a bad upbringing, bad company, and also finding them in the wickedness of a natural temper insensitive to shame, partly in carelessness and thoughtlessness; in so doing one does not leave out of account the occasioning causes. In all this one proceeds as with any investigation in the series of determining causes for a given natural effect.  Now even if one believes the action to be determined by these [natural] causes, one nonetheless blames the agent, [because] and not on account of his unhappy natural temper, not on account of the circumstances influencing him, not even on account of the life he has led previously; for one presupposes that it can be entirely set aside how that life was constituted, and that the series of conditions that transpired might not have been, but rather that this deed could be regarded as entirely unconditioned in regard to the previous state, as though with that act the agent had started a series of consequences entirely from themself himself. This blame is grounded on the law of reason, which regards reason as a cause that, regardless of all the empirical conditions just named, could have and ought to have determined the conduct of the person to be other than it is. And indeed one regards the causality of reason not as a mere concurrence with other causes, e but as complete in itself, even if sensuous incentives were not for it but were indeed entirely against it; the action is ascribed to the agent’s intelligible character: now, in the moment when he lies, it is entirely his fault; hence reason, regardless of all empirical conditions of the deed, is fully free, and this deed is to be attributed entirely to its failure to act.

#### The moral law must be universal - our judgements can’t only apply to ourselves any more than 2+2=4 can be true only for me.

#### Thus, the standard is consistency with the categorical imperative.

#### Prefer:

#### 1. Regress– I can keep asking “why should I follow this.” Regress collapses to skep since no one can generate obligations absent grounds for accepting them. Only reason solves since asking “why reason?” asks for a reason for reasons, which concedes its authority.

#### 2. Bindingness – Reason is constitutive to the subject, meaning its inescapable. To act against it would be irrational

#### 3. problem of relativism – inability to know each other’s experience makes it an unreliable basis for ethics. People could just say they don’t experience the same.

#### 4. Action Theory – Every action can be broken down to infinite amounts of movements, i.e. me moving my arm can be broken down to every state my arm is in. Only reason can unify these movements because we use practical reason to achieve our goals, means all actions collapse to reason

#### 5] Consequentialism fails

#### A] moral culpability: double bind, either 1. we can never evaluate the ethicality of an action until after we observe the effects of the action, making consq not action guiding or 2. people can claim they acted justly based on a subjective prediction even if they committed a blatantly immoral act. outweighs–ethics cannot function absent a system that holds people accountable.

#### B] Predictions impossible – there is so non-arbitrary cutoff to calculations when analyzes the effects of actions. When one action is done, that results in an infinite of other chain events which eventually makes any two actions the same.

#### C] no way to evaluate predictions – 1. we need a metric to determine a probability of certain actions occurring, but we also need a metric to determine the probability of the prior metric being true and so on to infinite 2. there is no reason for why past trends continue – that is justified by experiencing the fact that past trends continue which is in it itself a past trend

#### D] Aggregation impossible – multiple chemicals in the brain can make me happy. No way to compare them.

#### 6] Answering my framework concedes it.

Hoppe [Hoppe, Hans-Hermann (Hans-Hermann Hoppe is Professor Emeritus of Economics at the University of Nevada,). “A Theory of Socialism and Capitalism: Economics, Politics, and Ethics.” Chapter 7, pg. 159, 1989. 2/17/18 \*\*BRACKETED FOR GENDERED LANGUAGE]

Thus it can be stated that whenever a person claims that some statement can be justified, [s]he at least implicitly assumes the following norm to be justified: Nobody has the right to uninvitedly aggress against the body of any other person and thus delimit or restrict anyone’s control over [their] own body.” This rule is implied in the concept of justification as argumentative justification. Justifying means justifying without having to rely on coercion. In fact, if one formulates the opposite of this rule, i.e., “everybody has the right to uninvitedly aggress against other people” (a rule, by the way, that would pass the formal test of the universalization principle!), then it is easy to see that this rule is not, and never could be, defended in argumentation. To do so would in fact have to presuppose the validity of precisely its opposite, i.e., the aforementioned principle of nonaggresslon.

#### 7] Humans naturally aspire to be rational and impulsively attempt to reason from a perspective that transcends their unique circumstance – proves my framework is key to a stable concept of agency. This hijacks other frameworks because they presuppose a consistent concept of an agent; without a clearly defined agent, ethics have nothing to guide and fail.

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Why not accept "I don't feel like it" as a reason on this occasion while resolving to reject it on all others? Again the answer is clear. If a consideration counts as a reason for acting, then it counts as a reason whenever it is true. And on almost any morning, it's true that you don't feel like swimming. Yet if a reason is a consideration that counts as a reason whenever it's true, then why not dispense with reasons so defined? Why do you feel compelled to act for that sort of consideration? Since you don't feel like swimming, you might just roll over and go back to sleep, without bothering to find some fact about the present occasion from which you're willing to draw similar implications whenever it is true. How odd, to skip exercise in order to sleep and then to lose sleep anyway over finding a reason not to exercise! ~ Kant offered an explanation for this oddity. His explanation was that acting for reasons is essential to being a person, something to which you unavoidably aspire. In order to be a person, you must have an approach to the world that is sufficiently coherent and constant to qualify as a single, continuing point-of-view. And part of what gives you a single, continuing point-of-view is your acceptance of particular considerations as having the force of reasons whenever they are true. We might be tempted to make this point by saying that you are a unified, persisting person and hence that you do approach practical questions from a point-of-view framed by constant reasons. But this way of making the point wouldn't explain why you feel compelled to act for reasons; it would simply locate acting for reasons in a broader context, as part of what makes you a person. One of Kant's greatest insights, however, is that a unified, persisting person is something that you are because it is something that you aspire to be. Antecedently to this aspiration, you are merely aware that you are capable of being a person. But any creature aware that it is capable of being a person, in Kant's view, is ipso facto capable of appreciating the value of being a person and is therefore ineluctably drawn toward personhood. The value of being a person in the present context is precisely that of attaining a perspective that transcends that of your current, momentary self. Right now, you would rather sleep than swim, but you also know that if you roll over and sleep, you will wake up wishing that you had swum instead. Your impulse to decide on the basis of reasons is, at bottom, an impulse to transcend these momentary points-of-view, by attaining a single, constant perspective that can subsume both of them. It's like the impulse to attain a higher vantage point that overlooks the restricted standpoints on the ground below. This higher vantage point is neither your current perspective of wanting to sleep, nor your later perspective of wishing you had swum, but a timeless perspective from which you can reflect on now-wanting-this and later-wishing-that, a perspective from which you can attach constant practical implications to these considerations and come to a stable, all-things-considered judgment.

#### 8] Theoretical justifications - A) Resource disparities—a focus on evidence privileges debaters with the most prep. A Kantian debate can be won without prep since only analytics are required. Controls the internal link to other voters because accessibility is a pre-req, B) Real world education—an understanding of Kant is key to understanding law in the real world because most states abide by inviolable side-constraints in their constitutions—Germany proves.

#### Ripstein 09 (Arthur Ripstein Force and Freedom: Kant's Legal and Political Philosophy. Harvard University Press, 2009.).

#### The German Constitutional Court’s reasoning reflects the underlying Kantian thought that the state’s obligation to uphold a rightful condition and protect its citizens is unconditional, not simply because of some fond- ness for rules, but rather because the use of force is merely unilateral un- less its authorization could proceed from an omnilateral will. People could only give themselves laws consistent with their innate right of humanity. As a result, the numbers cannot matter. If the state cannot order a person to stand in the path of a bullet that endangers an innocent person, it cannot order that person to stand in the path of a bullet that endangers many people. And if the state cannot order a person to do so, then it can- not exempt itself from such a prohibition in the case of a person who is likely to die anyway. The People give themselves laws not for their advantage, but for their independence, which they cannot trade against any- thing.

#### 9] K Solvency – Oppression is caused by arbitrary exclusion of others – only universalizability makes sure that include everyone equally

**Farr 02** [Arnold Farr (prof of phil @ UKentucky, focusing on German idealism, philosophy of race, postmodernism, psychoanalysis, and liberation philosophy). “Can a Philosophy of Race Afford to Abandon the Kantian Categorical Imperative?” JOURNAL of SOCIAL PHILOSOPHY, Vol. 33 No. 1, Spring 2002, 17–32.]

One of the most popular criticisms of **Kant’s** moral philosophy is that it is too formalistic.13 That is, the universal nature of the categorical imperative leaves it devoid of content. Such a principle is useless since moral decisions are made by concrete individuals in a concrete, historical, and social situation. This type of criticism lies behind Lewis Gordon’s rejection of any attempt to ground an antiracist position on Kantian principles. The rejection of universal principles for the sake of emphasizing the historical embeddedness of the human agent is widespread in recent philosophy and social theory. I will argue here on Kantian grounds that although a distinction between the **universal and** the **concrete** is a valid distinction, the **unity** of the two **is required** for an understanding of human agency. The attack on Kantian formalism began with Hegel’s criticism of the Kantian philosophy.14 The list of contemporary theorists who follow Hegel’s line of criticism is far too long to deal with in the scope of this paper. Although these theorists may approach the problem of Kantian formalism from a variety of angles, the spirit of their criticism is basically the same: The universality of the categorical imperative is an abstraction from one’s empirical conditions. Kant is often accused of making the moral agent an abstract, empty, noumenal subject. Nothing could be further from the truth. The Kantian subject is an embodied, empirical, concrete subject. However, this concrete subject has a dual nature. Kant claims in the Critique of Pure Reason as well as in the Grounding that human beings have an intelligible and empirical character.15 It is impossible to understand and do justice to Kant’s moral theory without taking seriously the relation between these two characters. The very concept of morality is impossible without the tension between the two. By “empirical character” Kant simply means that we have a sensual nature. We are physical creatures with physical drives or desires. The very fact that **I cannot simply satisfy** my **desires without considering** the **rightness** or wrongness of my actions suggests that my **empirical character must be** held **in check** by something, or else I behave like a Freudian id. My empiri- cal character must be held in check by my intelligible character, which is the legislative activity of practical reason. It is through our intelligible character that we formulate **principles** that keep our empirical impulses in check. The categorical imperative is the supreme principle of morality that is constructed by the moral agent in his/her moment of self-transcendence. What I have called self-transcendence may be best explained in the following passage by Onora O’Neill: In restricting our maxims to those that meet the test of the categorical imperative we refuse to base our lives on maxims that necessarily make our own case an exception. The reason why a universilizability criterion is morally signiﬁcant is that it makes our own case no special exception (G, IV, 404). In accepting the Categorical Imperative we accept the moral reality of other selves, and hence the possibility (not, note, the reality) of a moral community. The Formula **of Universal Law** enjoins no more than that **we act only on maxims that are open to others also**.16 O’Neill’s description of the universalizability criterion includes the notion of self-transcendence that I am working to explicate here to the extent that like self-transcendence, universalizable moral principles require that the individ- ual think beyond his or her own particular desires. **The individual is** **not allowed to exclude others** as rational moral agents who have the right to act as he acts in a given situation. For example, if I decide to use another person merely as a means for my own end I must recognize the other person’s right to do the same to me. I cannot consistently will that I use another as a means only and will that I not be used in the same manner by another. Hence, the universalizability criterion is a principle of consistency and a principle of inclusion. That is, in choosing my maxims I attempt to include the perspective of other moral agents. … Whereas most criticisms are aimed at the formulation of universal law and the formula of autonomy, our analysis here will focus on the formula of an end in itself and the formula of the kingdom of ends, since we have already addressed the problem of universality. The latter will be discussed ﬁrst. At issue here is what Kant means by “kingdom of ends.” Kant writes: “By ‘kingdom’ I understand a systematic union of different rational beings through common laws.”32 The above passage indicates that Kant recognizes different, perhaps different kinds, of rational beings; however, the problem for most critics of Kant lies in the assumption that Kant suggests that the “kingdom of ends” requires that we abstract from personal differences and content of private ends. The Kantian conception of rational beings requires such an abstraction. Some feminists and philosophers of race have found this abstract notion of rational beings problematic because they take it to mean that rationality is necessarily white, male, and European.33 Hence, the systematic union of rational beings can mean only the systematic union of white, European males. I ﬁnd this interpretation of Kant’s moral theory quite puzzling. Surely another interpretation is available. That is, the implication that in Kant’s philosophy, rationality can only apply to white, European males does not seem to be the only alternative. The problem seems to lie in the requirement of abstraction. There are two ways of looking at the abstraction requirement that I think are faithful to Kant’s text and that overcome the criticisms of this requirement. First, the **abstraction** requirement may be best understood **as a demand for intersubjectivity** or recognition. Second, it may be understood as an attempt **to avoid ethical egoism** in determining maxims for our actions. It is unfortunate that Kant never worked out a theory of intersubjectivity, as did his successors Fichte and Hegel. However, this is not to say that there is not in Kant’s philosophy a tacit theory of intersubjectivity or recognition. The abstraction requirement simply demands that in the midst of our concrete differences we recognize ourselves in the other and the other in ourselves. That is, we recognize in others the humanity that we have in common. Recognition of our common humanity is at the same time recognition of rationality in the other. We recognize in the other the capacity for selfdetermination and the capacity to legislate for a kingdom of ends. This brings us to the second interpretation of the abstraction requirement. **To avoid** ethical **egoism one must abstract from** (think beyond) one’s own personal interest and **subjective maxims**. That is, the categorical imperative requires that I recognize that I am a member of the realm of rational beings. Hence, I organize my maxims in consideration of other rational beings. Under such a principle other people cannot be treated merely as a means for my end but must be treated as ends in themselves. The merit of the categorical imperative for a philosophy of race is **that** it **contravenes racist ideology** to the extent that racist ideology is based **on the use of persons** of a different race **as a means to an end** rather than as ends in themselves. Embedded in the formulation of an end in itself and the formula of the kingdom of ends is the recognition of the common hope for humanity. That is, maxims ought to be chosen on the basis of an ideal, a hope for the amelioration of humanity. This ideal or ethical commonwealth (as Kant calls it in the Religion) is the kingdom of ends.34 Although the merits of Kant’s moral theory may be recognizable at this point, we are still in a bit of a bind. It still seems problematic that the moral theory of a racist is essentially an antiracist theory. Further, what shall we do with Henry Louis Gates’s suggestion that we use the Observations on the Feeling of the Beautiful and Sublime to deconstruct the Grounding? What I have tried to suggest is that instead of abandoning the categorical imperative we should attempt to deepen our understanding of it and its place in Kant’s critical philosophy. A deeper reading of the Grounding and Kant’s philosophy in general may produce the deconstruction35 suggested by Gates. However, a text is not necessarily deconstructed by reading it against another. Texts often deconstruct themselves if read properly. To be sure, the best way to understand a text is to read it in context. Hence, if the Grounding is read within the context of the critical philosophy, the tools for a deconstruction of the text are provided by its context and the tensions within the text. Gates is right to suggest that the Grounding must be deconstructed. However, this deconstruction requires much more than reading the Observations on the Feeling of the Beautiful and Sublime against the Grounding. It requires a complete engagement with the critical philosophy. Such an engagement discloses some of Kant’s very signiﬁcant claims about humanity and the practical role of reason. With this disclosure, deconstruction of the Grounding can begin. What **deconstruction will reveal** is not necessarily the inconsistency of Kant’s moral philosophy or the racist or sexist nature of the categorical imperative, but rather, it will disclose the **disunity** between Kant’s theory and his own feelings about blacks and women. Although the theory is consistent and emancipatory and should apply to all persons, **Kant** the man **has his own** personal and moral **problems**. Although Kant’s attitude toward people of African descent was deplorable, **it would be equally deplorable to reject** the categorical imperative **without ﬁrst exploring** its **emancipatory potential**.

#### There is no pre/post fiat distinction since if I win my theory is true, then it describes the way the world works in round. That means I can weigh the aff against pre-fiat arguments.

### Plan

#### I contend that WTO Member states ought to reduce IP protections on medicine.

#### 1] Intellectual property is inherently not subject to property rights protections:

#### A) Logic – it’s impossible for an individual to claim ownership over a non-natural property because the protections of property requires a good to be protected. You cannot ensure another agents doesn’t steal an idea since the idea exists purely metaphysically

#### B) It’s non-rival

#### Pievatolo, 10 (Maria Chiara Pievatolo, 1-21-2010, accessed on 9-12-2021, Bfp.sp.unipi, "Freedom, ownership and copyright: why does Kant reject the concept of intellectual property?", http://bfp.sp.unipi.it/chiara/lm/kantpisa1.html)//ML

In the Metaphysics of Morals, Kant seems to take for granted that the objects of real rights are only corporeal entities or res corporales: «Sache ist ein Ding, was keiner Zurechnung fähig ist. Ein jedes Object der freien Willkür, welches selbst der Freiheit ermangelt, heiß daher Sache (res corporalis)». 32 Theoretically, however, such a negative definition could have been appropriate to incorporeal things as well. According to Kant, the rightful possession of a thing should be distinguished from its sensible possession. Something external would be rightfully mine «only if I may assume that i could be wronged by another's use of a thing even though I am not in possession of it» (AA.06 245:13-16). The rightful possession is an intelligible, not sensible, relation. I can claim that my bicycle is mine only if I am entitled to require that nobody takes it even when I leave it alone in the backyard. Kant's theory of property is very different from Fichte's principle of property as explained in his 1793 essay, according to which we are the rightful owners of a thing, the appropriation of which by another is physically impossible. For this reason, according to Fichte, the originality of the exposition entitles an author to claim a rightful property on his work. Is it really so obvious that originality implies property? Property is a comfortable social convention that allows us to avoid to quarrel all the time over the use of material objects. It is so comfortable just because it is physically possible to appropriate things; we do not need to invoke property when something cannot be separated from someone. I say both that my fingerprints or my writing style are "mine" and that my bicycle is "mine". But these two "mine" have a different meaning: the former is the "mine" of attribution; the latter is the "mine" of property. The former can be used to identify someone, and conveys the historical circumstance that something is related exclusively to someone; the latter points only to an accidental relation with an external thing, if we consider it from a physical point of view. It is possible to lie on a historical circumstance, by plagiarizing a text, i.e. by attributing it to a person who did not wrote it. However, properly speaking, no one can "steal" the historical connection between "my" writing style and me: the convention of property is useless, in this case. Besides, if Fichte's principle were the only justification of property right, it would undermine the very concept of it: as it is physically possible to "attribute" my bicycle to another, when I leave it alone in the backyard, everyone would be entitled to take it for himself. As Kant would have said, a legal property right cannot be founded on sensible situations, but only on intelligible relations. Although he defines things as res corporales, Kant determines the rightful possession of a thing as a possession without detentio, by ignoring all its sensible facets. Such a possession - a possession of a thing without holding it - is exerted on an object that is "merely distinct from me", regardless of its position in space and time. Space and time, indeed, are sensible determinations and should be left out of consideration. According to the postulate of practical reason with regard to rights, property is justified by a permissive law of reason: 33 if a rightful possession were not possible, every object would be a res nullius and nobody would be entitled to use it. Kant implicitly denies that a res nullius can be used by everyone at the same time. His tacit assumption suggests that the objects of property, besides being distinct from the subjects, are excludable and rivalrous as well, just like the res corporales. Kant asserts that something external is mine if I would be wronged by being disturbed in my use of it even though I am not in possession of it (AA.6, 249:5-7). If property is a merely intelligible relation with an object that is simply distinct from the subject, we have no reason to deny that such an object might be immaterial as well, just like the objects of intellectual property. Why, then, does Kant refrain from using the very concept of it?According to him, a speech is an action of a person: it belongs to the realm of personal rights. A person who is speaking to the people is engaging a relationship with them; if someone else engages such a relationship in his name, he needs his authorization. The reprinter, as it were, does not play with property: he is only an agent without authority. Speeches, by Kant, cannot be separated from persons: he has seen the unholy promised land of intellectual property without entering it.According to Kant, before the acquired rights, everyone has a moral capacity for putting others under obligation that he calls innate right or internal meum vel tuum (AA.06, 237:24-25). The innate right is only one: freedom as independence from being constrained by another's choice, insofar it can coexist with the freedom of every other in accordance with a universal law.Freedom belongs to every human being by virtue of his humanity: in other words, it has to be assumed before every civil constitution, because it is the very possibility condition of law. Freedom implies innate equality, «that is, independence from being bound by others to more than one can in turn bind them; hence a human being's quality of being his own master (sui iuris), as well as being a human being beyond reproach (iusti) since before he performs any act affecting rights he has done no wrong to anyone, and finally his being authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it - such things as merely communicating his thoughts to them.» (AA.06, 237-238) 34In spite of his intellectual theory of property, 35 Kant does not enter in the realm of intellectual property for a strong systematic reason. Liberty of speech is an important part of the innate right of freedom. It cannot be suppressed without suppressing freedom itself. If the ius reale were applied to speeches, a basic element of freedom would be reduced to an alienable thing, making it easy to mix copyright protection and censorship. 36 Property rights are based on the assumption that its objects are excludable and rivalrous and need to be appropriated by someone to be used. We cannot, however, deal with speeches as they were excludable and rivalrous things that need to be appropriated to be of some use, because excluding people from speeches would be like excluding them from freedom. Therefore, Kant binds speeches to the persons and their actions, and limits the scope of copyright to publishing, or, better, to the publishing of the age of print: the Nachdruck is unjust only when someone reproduces a text without the author's permission and distributes its copies to the public. If someone copies a book for his personal use, or lets others do it, or translates and elaborates a text, there is no copyright violation, just because it is not involved any intrinsic property right, but only the exercise of the innate right of freedom. The boundary of Kant's copyright is the public use of reason, as a key element of a basic right that should be recognized to everyone. Kant does not stick to the Roman Law tradition because of conservatism, but because of Enlightenment.

#### C) it violates freedom – ownership of immaterial ideas equates to ownership over other people

**Long 95** (Roderick T. Long, 1995, accessed on 9-7-2021, Free Nation Foundation, "The Libertarian Case Against Intellectual Property Rights", <http://freenation.org/a/f31l1.html>) //ML

Ethically, property rights of any kind have to be justified as extensions of the right of individuals to control their own lives. Thus any alleged property rights that conflict with this moral basis — like the "right" to own slaves — are invalidated. In my judgment, intellectual property rights also fail to pass this test. To enforce copyright laws and the like is to prevent people from making peaceful use of the information they possess. If you have acquired the information legitimately (say, by buying a book), then on what grounds can you be prevented from using it, reproducing it, trading it? Is this not a violation of the freedom of speech and press? It may be objected that the person who originated the information deserves ownership rights over it. But information is not a concrete thing an individual can control; it is a universal, existing in other people's minds and other people's property, and over these the originator has no legitimate sovereignty. You cannot own information without owning other people. Suppose I write a poem, and you read it and memorize it. By memorizing it, you have in effect created a "software" duplicate of the poem to be stored in your brain. But clearly I can claim no rights over that copy so long as you remain a free and autonomous individual. That copy in your head is yours and no one else's.But now suppose you proceed to transcribe my poem, to make a "hard copy" of the information stored in your brain. The materials you use — pen and ink — are your own property. The information template which you used — that is, the stored memory of the poem — is also your own property. So how can the hard copy you produce from these materials be anything but yours to publish, sell, adapt, or otherwise treat as you please?An item of intellectual property is a universal. Unless we are to believe in Platonic Forms, universals as such do not exist, except insofar as they are realized in their many particular instances. Accordingly, I do not see how anyone can claim to own, say, the text of Atlas Shrugged unless that amounts to a claim to own every single physical copy of Atlas Shrugged. But the copy of Atlas Shrugged on my bookshelf does not belong to Ayn Rand or to her estate. It belongs to me. I bought it. I paid for it. (Rand presumably got royalties from the sale, and I'm sure it wasn't sold without her permission!)The moral case against patents is even clearer. A patent is, in effect, a claim of ownership over a law of nature. What if Newton had claimed to own calculus, or the law of gravity? Would we have to pay a fee to his estate every time we used one of the principles he discovered? "... the patent monopoly ... consists in protecting inventors ... against competition for a period long enough to extort from the people a reward enormously in excess of the labor measure of their services, — in other words, in giving certain people a right of property for a term of years in laws and facts of Nature, and the power to exact tribute from others for the use of this natural wealth, which should be open to all."(Benjamin Tucker, Instead of a Book, By a Man Too Busy to Write One: A Fragmentary Exposition of Philosophical Anarchism (New York: Tucker, 1893), p. 13.)Defenders of patents claim that patent laws protect ownership only of inventions, not of discoveries. (Likewise, defenders of copyright claim that copyright laws protect only implementations of ideas, not the ideas themselves.) But this distinction is an artificial one. Laws of nature come in varying degrees of generality and specificity; if it is a law of nature that copper conducts electricity, it is no less a law of nature that this much copper, arranged in this configuration, with these other materials arranged so, makes a workable battery. And so on.Suppose you are trapped at the bottom of a ravine. Sabre-tooth tigers are approaching hungrily. Your only hope is to quickly construct a levitation device I've recently invented. You know how it works, because you attended a public lecture I gave on the topic. And it's easy to construct, quite rapidly, out of materials you see lying around in the ravine. But there's a problem. I've patented my levitation device. I own it — not just the individual model I built, but the universal. Thus, you can't construct your means of escape without using my property. And I, mean old skinflint that I am, refuse to give my permission. And so the tigers dine well.This highlights the moral problem with the notion of intellectual property. By claiming a patent on my levitation device, I'm saying that you are not permitted to use your own knowledge to further your ends. By what right? Another problem with patents is that, when it comes to laws of nature, even fairly specific ones, the odds are quite good that two people, working independently but drawing on the same background of research, may come up with the same invention (discovery) independently. Yet patent law will arbitrarily grant exclusive rights to the inventor who reaches the patent office first; the second inventor, despite having developed the idea on his own, will be forbidden to market his invention.

#### D) Creationism –IP is not created by individuals, but is discovered a priori through reason that every agent has. That makes the intellectual realm a public bank of knowledge that some have better access to because of natural resources like access to education. That means the conditions for the creation of that non-natural property is purely determined by empirical factors that are ethically irrelevant

#### 2] Absolute protection on patents allows free-riding and stifles scientific growth

**Vethan Law Firm 16** (Vethan Law, 11-14-2016, accessed on 9-12-2021, Info.vethanlaw, "Free Rider Problem: What Is IP and the Problem of Free Riding?", https://info.vethanlaw.com/blog/intellectual-property-what-is-ip-and-the-problem-of-free-riding)//ML

The free rider problem found in intellectual property protection is that owners of patents, overly supported by the judicial and legislative branches, believe their patents provide them absolute rights. This can create a free rider problem because patents are not developed in a vacuum outside of the flow of history or the allocation of resources. Many patent owners, by virtue of “standing on the shoulders of giants," free ride on resources, goods or services for which they have not paid. Fundamental scientific discoveries such as the principles of internal combustion, general and special relativity, the double-helix structure, and binary code were never patented; the famous scientists behind them never “monetized” in the current parlance. New inventors know this, and craft their patent strategies accordingly. The cumulative result of this is an “under-provision of those goods and services,” i.e. work in basic science, or the kind of work that falls outside of patentable subject matter. There is an accompanying over-eagerness to secure patent rights as though they conferred worth in and of themselves, rather than merely striking the right monopoly vs. novelty balance necessary to foster innovation. Too often, this comes even at the expense of determining whether the patented article or process will be otherwise legally compliant, or profitably marketable!

#### 3] It’s non-universalizable to own an idea – nothing is truly original so we’d run out of creations, meaning you wouldn’t be able to make an ownership claim over your own ideas

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### Underview

#### Interp – The negative must grant the aff presumption or permissibility. A violation would be reading both or contesting one in the 2n. Prefer – A) Strat skew – otherwise it incentivizes the 1n to read multiple NIBs and frontload the 1n with presumption and permissibility offense which is particularly bad since there isn’t a substantive truth to either side it’s a q of how long you can spend on it which means the neg wins substance every round B) Topic ed – spamming presumption and permissibility incentivizes the neg to only read things like skep and a prioris to collapse the debate to those layers C) Timeskew – I have to invest major time in the 1ar winning both because 2n flexibility can collapse to either one with a hidden trigger, only having to answer one or do weighing saves me half that time which is key in the 4 min 1ar.

#### 2) 1AR gets theory if the 1N does, only way to be reciprocal and prevent infinite abuse

#### a) drop the debater because the 1ar is too short to rectify abuse AND have a shot on substance due to severance from dropping the argument

#### b) No neg RVI since a 6-minute 2N dump on theory makes the 3 min 2AR impossible deterring affs from checking abuse.

#### c) Make them weigh neg theory against side bias because otherwise aff abuse is just fairly rectifying for time skew, and you presume aff

#### d) Evaluate aff theory lexically prior to neg theory- the neg has the ability to win their shell and beat back the aff shell in the long 2NR, whereas it’s impossible for me to beat back their shell and my shell in the short 2AR. The 2NR explodes neg’sstrategic options, but aff needs to sit down on one arg to win in the 2AR.