## 1

#### Ethics must be derived from the constitutive features of agents – ethics based internally fail because they can’t generate universal obligations and ethics based externally fail because they are nonbinding as agents could opt-out which means they fail to guide action.

#### Empiricism could also change, meaning external fw are arbitrary.

#### past experiences have no effect on causality or internal link to continuity, i.e. raining yesterday doesn’t mean rain today.

#### Constitutivism solves – it allows for universal obligations among all agents but they are binding and cannot be opted out of.

#### Next, only practical reason is constitutive:

#### [1] Regress – to question why one should reason concedes its authority since it is an act of reasoning itself which proves it’s binding and inescapable

#### That means we must universally will maxims— any non-universalizable norm justifies someone’s ability to impede on your ends.

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

#### Prefer additionally:

#### 1] Performativity—freedom is the key to the process of justification of arguments. Willing that we should abide by their ethical theory presupposes that we own ourselves in the first place

#### 2] Consequentialism fails - a] induction fails: the logic of looking into the past to predict the future is predicated on past experiences, meaning it’s circular, b] butterfly effect: every consequence is infinitely cascading so we don’t know the true extent of our actions, meaning we cannot predict consequences

### 1NC – Offense

#### 1] Intellectual property is an inalienable personal right of economic use

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

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

#### Unauthorized publication and usage of text is wrongful and infringes on inalienable moral rights

Barron ’11. [Barron, Anne (2011) Kant, copyright and communicative freedom. Law and philosophy . pp. 1-48. <http://eprints.lse.ac.uk/37521/1/Kant_Copyright_and_Communicative_Freedom_%28lsero%29.pdf>] NChu

My claim in this article is that a significantly different, and arguably richer, conception of what a free culture entails and how the rights of authors relate to it emerges from a direct engagement with the philosophy of Immanuel Kant.15 The immediate justification for turning to Kant in this context is that he dealt very directly with the issue of authors’ rights – first in an essay published in 178516 (hereinafter ‘1785 Essay’) and again briefly in a section – entitled “What is a Book” – of his late work of political philosophy, Part I of The Metaphysics of Morals. 17 Moreover, he theorized these rights as speech rights, and not as rights of property in works considered as crystallizations of their authors’ communications.18 The most wellknown of the arguments contained in these writings can be briefly outlined. Kant’s premise is that a book considered as a material object must be distinguished from a book considered as the vehicle for an activity of authorial speech. On the one hand, an author’s manuscript, and every printed copy of it, is an ordinary object of property attracting an ordinary right of property vested in whomever is legitimately in possession of the object. This right would include the right to use the object, to sell the object and indeed to copy the object. On the other hand, a published book (considered as the vehicle of its author’s speech) is also a communication from publisher to public in the name of the author. Hence it is also an action, and as such it has its existence in a person – the person of the author. For Kant, it follows that unauthorized publication of copies of the author’s text – though not unauthorized reproduction as such – is wrongful. By selling copies of an author’s text to the public, the unauthorized publisher is not just dealing with commodities – printed books – in his own name, but is disseminating an author’s speech, thus compelling the author to speak against his will,19 to acknowledge the book as his own and be responsible for it.20 Actions “belong exclusively to the person of the author, and the author has in them an inalienable right always himself to speak through anyone else, the right, that is, that no one may deliver the same speech to the public other than in his (the author’s) name”21 or deliver a fundamentally altered speech in his name.22 However if the work is indeed so altered that it would be wrong to attribute it to the author, it can rightfully be published in the modifier’s name.23 These remarks on authors’ rights have not gone unnoticed by copyright lawyers. On the contrary, Kant’s 1785 Essay is often cited as inspiration for the theory – now institutionalized in international copyright law – that authors ought to have inalienable ‘moral’ rights in relation to their works.24 These are enforceable legal rights which are ‘moral’ in the sense that they concern authors’ non-pecuniary interests in relation to their works (such as the interest in being identified as author, and in ensuring that one’s works are published only in the form in which they were created); and they contrast with the economic rights (e.g. to control the reproduction and distribution of copies) which protect authors’ pecuniary interests in the commercial exploitation of their works. Yet moral rights in practice afford far less protection to authors than the theory would suggest, and transferable economic rights to the most commercially valuable works are more often than not held by corporate investors. And since it is economic rights which are the focus of concerns about copyright expansionism and its implications for the public domain, the formal recognition of a doctrine of moral rights has done little to allay these concerns.

#### The aff violates the categorical imperative and is non-universalizable- governments have a binding obligation to protect creations

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

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

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## 2

**Permissibility and presumption negate: a) Lack of obligation proves the resolution false. Ought means moral obligation (Merriam Webster) so if the aff can’t prove there is a moral obligation, then they haven’t proven the res true. b) A statement is more likely false because any part can be false. 2 + 3 = 5 can be altered in any way and it would be false c) affirming is easier—they have infinite prep going in, speak first and last, and there is no time skew because we both have 13 minutes, meaning they get more time to make new arguments.**

#### Skep is true and negates –

#### 1] Paradoxes-

#### A] Good Samaritan- In order to say I want to fix X problem, you must say that you want X problem to exist, since it requires the problem to exist to solve, which makes a moral attempt inherently immoral. This also means affirming negates because you need the resolution to not have happened in order to have an obligation.

#### B] Meno’s- In order to discover something, it must already be known – this makes the quest for knowledge incomprehensible and impossible

#### C] Rule following – there in nothing inherent in a rule that mandates a certain interpretation – for example, there in nothing inherent in an arrow about showing direction. That means we can’t set moral rules because those rules need rules to interpret them – the moral rule they set is infinitely regressive.

#### D] Derrida’s – a moral action must be immediate because waiting allows for injustice to occur, however in acting early we suspend our cognitive deliberation and thus lack the ability to make a fully informed, just decision. Thus, striving for morality is inherently immoral and obligations are contradictory.

#### E] Decision making paradox - In order to decide to do the affirmative we need a decision-making procedure to enact it, vote for it, and to determine it is a good decision. But to chose a decision-making procedure requires another meta level decision making procedure leading to infinite regress since every decision requires another decision to chose how to make a decision.

#### F] Grain Paradox- A single grain of millet makes no sound upon falling, but a thousand grains make a sound. But a thousand nothings cannot make something which means the physical world is paradoxical.

#### 2] Knowledge is infinitely regressive – in order to believe in a fact, you need knowledge of other facts to justify your belief in that fact, but the same applies to those facts, which means knowledge is infinitely regressive – epistemic skep

#### 3] Morality is circular - The framework starts from the premise of upholding morality. Your framework then defines what constitutes morality. That’s a double bind because either a) your framework is circular because by defining morality you are changing the burden of what your framework must be in the first place or b) morality is an undefinable concept which means normative obligations cannot be generated.

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#### The Role of the Ballot is to vote for the debater who best proves the truth or falsity of the resolution. The aff must prove it true and the neg must prove it false.

#### A] Constitutivism – Five dictionaries[[1]](#footnote-1) define to negate as to deny the truth of and affirm[[2]](#footnote-2) as to prove true, and tab and ballot software tell the judge to vote aff or neg – the ballot is constitutively asking for a truth value of the res. Other role of the ballots are justified by their consequences; only TT is justified by what the ballot actually is in the first place. Constitutivism outweighs – the judge only has the jurisdiction to vote on the truth or falsity, even if there are possibly better options; in a game of chess, even if you think of something that would break the rules to make the game more interesting, you don’t do it because the rules determine how the game even works. Jurisdiction controls the internal link to all other voters – disregarding it causes judge intervention and doesn’t let the judge know what they can vote on.

#### B] Collapses - all counter ROBs assume the truth value of every statement – saying “my ROB is better” is the same as saying “it is true that my ROB is better” which concedes to the authority of truth testing; you are just truth testing between ROBs when weighing them.

#### C] Coordination – the topic is the only focal point that both debaters can use to work together to have a debate. In order for us to debate each other, we have to use this focal point and shifting it makes the discussion impossible and uncoordinated, which means it controls the internal link to all your education arguments.

## 3

#### 1] member  is "a part or organ of the body, especially a limb" but an organ can’t have obligations

#### 2] of  is to "expressing an age" but the rez doesn’t delineate a length of time

#### 3] reduce  is to "(of a person) lose weight, typically by dieting" but IP doesn’t have a body to lose weight.

#### 4] for  is "in place of" but medicines aren’t replacing IP.

#### 5] medicine  is "(especially among some North American Indian peoples) a spell, charm, or fetish believed to have healing, protective, or other power" but you can’t have IP for a spell.

#### 6] Arrows Paradox- If we divide time into discrete 0-duration slices, no motion is happening in each of them, so taking them all as a whole, motion is impossible, so negate because the aff action is impossible.

#### 7] Bonini’s Paradox- As a model of a complex system becomes more complete, it becomes less understandable; for it to be more understandable it must be less complete and therefore less accurate. Therefore no philosophical or political model can be useful.

1. <http://dictionary.reference.com/browse/negate>, <http://www.merriam-webster.com/dictionary/negate>, <http://www.thefreedictionary.com/negate>, <http://www.vocabulary.com/dictionary/negate>, <http://www.oxforddictionaries.com/definition/english/negate> [↑](#footnote-ref-1)
2. *Dictionary.com – maintain as true, Merriam Webster – to say that something is true, Vocabulary.com – to affirm something is to confirm that it is true, Oxford dictionaries – accept the validity of, Thefreedictionary – assert to be true* [↑](#footnote-ref-2)