### 1

#### CP text: the member nations of the WTO ought to establish an international legal instrument to protect indigenous intellectual property

**WIPO no date** WIPO, xx-xx-xxxx, "Traditional Knowledge and Intellectual Property – Background Brief," No Publication, <https://www.wipo.int/pressroom/en/briefs/tk_ip.html?fbclid=IwAR2iLd8fJ4lNl_fhhwQBHvCdoFEfB44H5GHIWBBb0xGPVBt1fRJT-uzUXDU> SJ//DA

The current international system for protecting intellectual property was fashioned during the age of industrialization in the West and developed subsequently in line with the perceived needs of technologically advanced societies. However**, in recent years, indigenous peoples, local communities, and governments, mainly in developing countries, have demanded equivalent protection for traditional knowledge systems. In 2000, WIPO members established an Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), and in 2009 they agreed to develop an international legal instrument (or instruments) that would give traditional knowledge, genetic resources and traditional cultural expressions (folklore) effective protection. Such an instrument could range from a recommendation to WIPO members to a formal treaty that would bind countries choosing to ratify it.** Traditional knowledge is not so-called because of its antiquity. It is a living body of knowledge that is developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity. As such, it is not easily protected by the current intellectual property system, which typically grants protection for a limited period to inventions and original works by named individuals or companies. Its living nature also means that “traditional” knowledge is not easy to define. **Recognizing traditional forms of creativity and innovation as protectable intellectual property would be an historic shift in international law, enabling indigenous and local communities as well as governments to have a say over the use of their traditional knowledge by others.** This would make it possible, for example, to protect traditional remedies and indigenous art and music against misappropriation, and enable communities to control and benefit collectively from their commercial exploitation. Although the negotiations underway in WIPO have been initiated and propelled mainly by developing countries, the discussions are not neatly divided along “North-South” lines. Communities and governments do not necessarily share the same views, and some developed country governments, especially those with indigenous populations, are also active. Two types of intellectual property protection are being sought: **Defensive protection aims to stop people outside the community from acquiring intellectual property rights over traditional knowledge. India, for example, has compiled a searchable database of traditional medicine that can be used as evidence of prior art by patent examiners when assessing patent applications. This followed a well-known case in which the US Patent and Trademark Office granted a patent (later revoked) for the use of turmeric to treat wounds, a property well known to traditional communities in India and documented in ancient Sanskrit texts. Defensive strategies might also be used to protect sacred cultural manifestations, such as sacred symbols or words from being registered as trademarks.** Positive protection is the granting of rights that empower communities to promote their traditional knowledge, control its uses and benefit from its commercial exploitation. Some uses of traditional knowledge can be protected through the existing intellectual property system, and a number of countries have also developed specific legislation. However, any specific protection afforded under national law may not hold for other countries, one reason why many indigenous and local communities as well as governments are pressing for an international legal instrument. WIPO’s work on traditional knowledge addresses three distinct yet related areas: traditional knowledge in the strict sense (technical know-how, practices, skills, and innovations related to, say, biodiversity, agriculture or health); traditional cultural expressions/expressions of folklore (cultural manifestations such as music, art, designs, symbols and performances); and genetic resources (genetic material of actual or potential value found in plants, animals and micro-organisms). Although for many communities traditional knowledge, genetic resources and traditional cultural expressions form part of a single integrated heritage, from an intellectual property standpoint they raise different issues and may require different sets of solutions. In all three areas, in addition to work on an international legal instrument, WIPO is responding to requests from communities and governments for practical assistance and technical advice to enable communities to make more effective use of existing intellectual property systems and participate more effectively in the IGC’s negotiations. WIPO’s work includes assistance to develop and strengthen national and regional systems for the protection of traditional knowledge (policies, laws, information systems and practical tools) and the Creative Heritage Project which provides hands-on training for managing intellectual property rights and interests when documenting cultural heritage. Traditional knowledge When community members innovate within the traditional knowledge framework, they may use the patent system to protect their innovations. However, traditional knowledge as such - knowledge that has ancient roots and is often informal and oral - is not protected by conventional intellectual property systems. This has prompted some countries to develop their own sui generis (specific, special) systems for protecting traditional knowledge. There are also many initiatives underway to document traditional knowledge. In most cases the motive is to preserve or disseminate it, or to use it, for example, in environmental management, rather than for the purpose of legal protection. There are nevertheless concerns that if documentation makes traditional knowledge more widely available to the general public, especially if it can be accessed on the Internet, this could lead to misappropriation and use in ways that were not anticipated or intended by traditional knowledge holders. At the same time, documentation can help protect traditional knowledge, for example, by providing a confidential or secret record of traditional knowledge reserved for the relevant community only. **Some formal documentation and registries of traditional knowledge support sui generis protection systems, while traditional knowledge databases - such as India’s database on traditional medicine - play a role in defensive protection within the existing IP system. These examples demonstrate the importance of ensuring that documentation of traditional knowledge is linked to an intellectual property strategy and does not take place in a policy or legal vacuum.** In the WIPO talks, many argue that use of traditional knowledge ought to be subject to free, prior and informed consent, especially for sacred and secret materials. However, others fear that granting exclusive control over traditional cultures could stifle innovation, diminish the public domain and be difficult to implement in practice. Genetic resources Genetic resources themselves are not intellectual property (they are not creations of the human mind) and thus cannot be directly protected as intellectual property. However, inventions based on or developed using genetic resources (associated with traditional knowledge or not) may be patentable or protected by plant breeders’ rights. In considering intellectual property aspects of use of genetic resources, WIPO’s work complements the international legal and policy framework defined by the Convention on Biological Diversity (CBD), and its Nagoya Protocol, and the International Treaty on Genetic Resources for Food and Agriculture of the United Nations Food and Agriculture Organization. Issues under discussion at WIPO include: Defensive protection of genetic resources: This strand of the work aims at preventing patents being granted over genetic resources (and associated traditional knowledge) which do not fulfil the existing requirements of novelty and inventiveness. In this context, to help patent examiners find relevant prior art, proposals have been made that genetic resources and traditional knowledge databases could help patent examiners avoid erroneous patents and WIPO has improved its own search tools and patent classification systems. The other, more controversial, strand concerns the possible disqualification of patent applications that do not comply with CBD obligations on prior informed consent, mutually agreed terms, fair and equitable benefit-sharing, and disclosure of origin. “Biopiracy” is a term sometimes used loosely to describe biodiversity-related patents that do not meet patentability criteria or that do not comply with the CBD’s obligations – but this term has no precise or agreed meaning. Disclosure requirements: A number of countries have enacted domestic legislation putting into effect the CBD obligations that access to a country’s genetic resources should depend on securing that country’s prior informed consent and agreeing to fair and equitable benefit sharing. WIPO members are considering whether, and to what extent, the intellectual property system should be used to support and implement these obligations. Many, but not all, WIPO members want to make it mandatory for patent applications to show the source or origin of genetic resources, as well as evidence of prior informed consent and a benefit sharing agreement. Parallel discussions are also taking place in the World Trade Organization’s Council on Trade Related Aspects of Intellectual Property (TRIPS). WIPO also deals with the intellectual property aspects of mutually agreed terms for fair and equitable benefit-sharing. It has developed, and regularly updates, an online database of relevant contractual practices, and has prepared draft guidelines on intellectual property clauses in access and benefit-sharing agreements. Traditional cultural expressions Traditional cultural expressions (folklore) are seen as integral to the cultural and social identities of indigenous and local communities, embodying know-how and skills, and transmitting core values and beliefs. Protecting folklore contributes to economic development, encourages cultural diversity and helps preserve cultural heritage. Traditional cultural expressions can sometimes be protected by existing systems, such as copyright and related rights, geographical indications, appellations of origin, trademarks and certification marks. For example, contemporary adaptations of folklore are copyrightable, while performances of traditional songs and music may come under the WIPO Performances and Phonograms Treaty. Trademarks can be used to identify authentic indigenous arts, as the Maori Arts Board in New Zealand, Te Waka Toi, has done. Some countries also have special legislation for the protection of folklore. Panama has established a registration system for traditional cultural expressions, while the Pacific Regional Framework for the Protection of Traditional Knowledge and Expressions of Culture gives “traditional owners” the right to authorize or prevent use of protected folklore and receive a share of the benefits from any commercial exploitation. Developing an international legal instrument Because the existing international intellectual property system does not fully protect traditional knowledge and traditional cultural expressions, many communities and governments have called for an international legal instrument providing sui generis protection. **An international legal instrument would define what is meant by traditional knowledge and traditional cultural expressions, who the rights holders would be, how competing claims by communities would be resolved, and what rights and exceptions ought to apply. Working out the details is complex and there are divergent views on the best ways forward, including whether intellectual property-type rights are appropriate for protecting traditional forms of innovation and creativity. To take just one example, communities may wish to control all uses of their traditional cultural expressions, including works inspired by them, even if they are not direct copies. Copyright law, on the other hand, permits building on the work of others, provided there is sufficient originality. The text of the legal instrument will have to define where the line is to be drawn between legitimate borrowing and unauthorized appropriation.** On genetic resources, countries agree that intellectual property protection and the conservation of biodiversity should be mutually supportive, but differ on how this should be achieved and whether any changes to current intellectual property rules are necessary. **Representatives of indigenous and local communities are assisted by the WIPO Voluntary Fund to attend the WIPO talks, and their active participation will continue to be crucial for a successful outcome**. WIPO members have agreed to expedite their work so as to decide in late 2012 whether to convene a diplomatic conference for final adoption of one or more international instruments.

### 2

#### Permissibility and presumption negate – [a] the resolution indicates the aff has to prove an obligation, and permissibility would deny the existence of an obligation [b] Statements are more often false than true because any part can be false. This means you negate if there is no offense because the resolution is probably false.

#### Ethics must begin a priori:

#### [1] Uncertainty – our experiences are inaccessible to others which allows people to say they don’t experience the same, however a priori principles are universally applied to all agents.

#### [2] Bindingness – I can keep asking “why should I follow this” which results in skep since obligations are predicated on ignorantly accepting rules. Only reason solves since asking “why reason?” requires reason which concedes its authority and equally proves agency as constitutive

#### 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 the standard: [a] 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. Thus, it is logically incoherent to justify the neg arguments/standard without first willing that we can pursue ends free from others [b] Frameworks are topicality interps of the word ought so they should be theoretically justified. Prefer on resource disparities—a focus on evidence and statistics privileges debaters with the most preround prep which excludes lone-wolfs who lack huge evidence files. A debate under my framework can easily be won without any prep since huge evidence files aren’t required.

#### [c] Only universalizable reason can effectively explain the perspectives of agents – that’s the best method for combatting oppression.

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 **criticism**s **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.**

#### Offence:

#### 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.

#### 2]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.

#### IPs are a necessary check on companies free-riding off associations of quality. that treats people as ­means to an end and takes advantage of their efforts which violates the principle of humanity

Wong et al 20 [Liana, Ian, and Shayerah; Analyst in International Trade and Finance; Specialist in International Trade and Finance; Specialist in International Trade and Finance; “Intellectual Property Rights and International Trade,” \*Updated\* 5/12/20; CRS; <https://www.everycrsreport.com/files/20200512_RL34292_2023354cc06b0a4425a2c5e02c0b13024426d206.pdf>] Justin

Trademark protection in the United States is governed jointly by state and federal law. The main federal statute is the Lanham Act of 1946 (Title 15 of the United States Code). Trademarks permit the seller to use a distinctive word, name, symbol, or device to identify and market a product or company. Marks can also be used to denote services from a particularly company. The trademark allows quick identification of the source of a product, and for good or ill, can become an indicator of a product's quality. If for good, the trademark can be valuable by conveying an instant assurance of quality to consumers. Trademark law serves to prevent other companies with similar merchandise from free-riding on the association of quality with the trademarked item. Thus, a trademarked good may command a premium in the marketplace because of its reputation. To be eligible for a trademark, the words or symbol used by the business must be sufficiently distinctive; generic names of commodities, for example, cannot be trademarked. Trademark rights are acquired through use or through registration with the PTO.

A related concept to trademarks is geographical indications (GIs), which are also protected by the Lanham Act. The GI acts to protect the quality and reputation of a distinctive product originating in a certain region; however, the benefit does not accrue to a sole producer, but rather the producers of a product originating from a particular region. GIs are generally sought for agricultural products, or wines and spirits. Protection for GIs is acquired in the United States by registration with the PTO, through a process similar to trademark registration.

### 3

#### Interpretation: affirmative debaters must delineate what intellectual property they reduce in the 1AC.

#### Four types of IP that are vastly different.

Ackerman 17 [Peter; Founder & CEO, Innovation Asset Group, Inc; “The 4 Main Types of Intellectual Property and Related Costs,” Decipher; 1/6/17; <https://www.innovation-asset.com/blog/the-4-main-types-of-intellectual-property-and-related-costs>] Justin

Intellectual property protection isn’t as simple as declaring ownership of a particular product or asset. In most countries, there are four primary types of intellectual property (IP) that can be legally protected: patents, trademarks, copyrights, and trade secrets. Each has their own attributes, requirements and costs.

Before narrowing your focus on which form of protection to use, know that these forms of protection are not mutually exclusive. Depending on what you’re doing, you might be able to use a “belt & suspenders” approach and apply multiple forms of protection, or one approach might be the most sensible. Read the descriptions below to get some of the basics.

Used to protect inventive ideas or processes – things that are new, useful and nonobvious - patents are what most often come to mind when thinking of IP protection. **Patents** are also used to protect newly engineered plant species or strains, as well.

Procedure For most companies, patents result from the following stages: Conceptualization Typically, innovation teams work to address a common problem facing their organization, industry, or the world at large when developing their idea. When they’ve arrived at a solution or concept, they’ll draw up plans and gather the resources necessary to make it a reality. Prototypes or drawings can be created to provide a more accurate description of the end product or process. Invention Disclosure An internal review process often occurs with every invention. The innovation team consists of internal counsel and an invention review panel of varying disciplines. The reviewers assess, rate, rank, score, and highlight potential flaws in the supporting documents and descriptions for the invention, which are then addressed by the inventor. These reviews can and often do take place multiple times for a single invention. Patent Application If the invention is deemed meritorious enough for the pursuit of patent protection, some organizations prepare their own provisional or nonprovisional patent applications. Others will farm this stage out. There may be more tweaks as an application is prepared, and then submission to the appropriate patent office and the prosecution stage begins (the back & forth with the government patent office). Typically it is outside counsel that manages this process and related docketing activities. Docketing is the overarching name for activities that include management of paperwork and meeting filing deadlines specified by the government patent office. Because the application process is often very complicated, patent offices highly recommend working with experienced patent attorneys to handle this process. Maintenance Once a patent is approved, it has a finite lifetime. Patent holders are responsible for maintaining and tracking the usage of their patents and paying the appropriate periodic government renewal fees. If a given technology or other patented asset is collecting dust, you might not want to renew it. Instead, you can try and sell, license or donate it. Conversely, if a patented asset is performing well through product sales or licensing activities and its life is getting shorter, you might think about innovating ahead and maintaining competitive momentum. Costs Costs will vary depending on the country or countries where you file an application, and can run into tens of thousands of dollars depending on the invention’s complexity, plus attorney fees. Maintenance fees over the lifetime of the patent can run into thousands more per patent, per country where patent rights have been granted. You have to keep your eyes on these costs.

Trademark

A trademark is unlike a patent in that it protects words, phrases, symbols, sounds, smells and color schemes. Trademarks are often considered assets that describe or otherwise identify the source of underlying products or services that a company provides, such as the MGM lion roar, the Home Depot orange color scheme, the Intel Inside logo, and so on.

Procedure Trademarks do not necessarily require government approval to be in effect; they can apply through abundant use in interstate commerce. Still, registration of a trademark affords far superior protection and is gained by filing an application with the proper government office. A trademark application requires the company or user to provide a clear description and representation of the mark and its uses in conjunction with associated products or services. As with patents, it’s a good idea to partner with outside counsel that specializes in trademark applications and/or search services so they can help ensure there is a clear path for your desired mark. Costs Trademarks are generally quite less expensive to obtain. According to the US Patent and Trademark Office, trademark registration currently costs between $225 and $325 for each class code you use per mark. Attorney and search fees are extra. There are also periodic (and relatively inexpensive) government maintenance fees for trademarks.

Copyrights do not protect ideas, but rather the manner in which ideas are expressed (“original works of authorship”) - written works, art, music, architectural drawings, or even programming code for software (most evident nowadays in video game entertainment). With certain exceptions, copyrights allow the owner of the protected materials to control reproduction, performance, new versioning or adaptations, public performance and distribution of the works. Procedure Copyrights in general attach when the original works become fixed in a tangible medium, but should be registered with the government copyright office for optimal protection in the form of damages, injunctions and confiscation. Copyright registration applications are much simpler than patents or trademarks, and typically can be obtained by the author alone. The US Copyright Office encourages use of their online application system, and requires a sample of the work to be protected and some background information about the author. Costs Depending on the type of work being protected, currently fees vary between $25-$100 in the US. The most frequent copyright registration sought is for one work by one author, and costs about $35.

Trade Secret

Trade secrets are proprietary procedures, systems, devices, formulas, strategies or other information that is confidential and exclusive to the company using them. They act as competitive advantages for the business. Procedure There actually isn’t a federally-regulated registration process for trade secrets. Instead, the onus is on the company in possession of the secret to take necessary precautions to maintain it as such. This is an ongoing, proactive process and can include clearly marking relevant documents as “Confidential,” implementing physical and data security measures, keeping logs of visitors and restricting access. The issuance of nondisclosure agreements or other documented assurances of secrecy can also be employed. One of the first defenses typically put up when you assert that someone misappropriated your trade secret is that you failed to adequately treat it as a trade secret. Costs Though there are no official registration costs, there are costs associated with taking appropriate precautions and security measures. You must weigh the competitive significance of your secrets against the cost of protecting them.

#### Violation:

#### Negate:

#### 1] Shiftiness- they can redefine what intellectual properties the 1ac defends in the 1ar which decks strategy and allows them to wriggle out of negative positions which strips the neg of specific IP DAs, IP PICs, and case answers. They will always win on specificity weighing.

#### CX can’t resolve this and is bad because A] Not flowed B] Skews 6 min of prep C] They can lie and no way to check D] Debaters can be shady.

#### 2] Real World- policy makers will always specify what the object of change is. That outweighs since debate has no value without portable application. It also means zero solvency since the WTO, absent spec, can circumvent aff’s policy since they can say they didn’t know what was affected.

#### This spec shell isn’t regressive- it literally determines what the affirmative implements and who it affects

### 4

#### The neg burden is to prove that the aff won’t logically happen in the status quo, and the aff burden is to prove that it will.

#### Prefer:

#### 1] Text –

#### A] Ought is “used to express logical consequence” as defined by Merriam-Webster

(<http://www.merriam-webster.com/dictionary/ought>) //Massa

#### B] Oxford Dictionary defines ought as “used to indicate something that is probable.”

<https://en.oxforddictionaries.com/definition/ought> //Massa

#### 2] Debatability – A] it focuses debates on empirics about squo trends rather than irresolvable abstract principles that’ve been argued for years – resolvability is an independent voter cuz otherwise the judge can’t make a decision which means it’s a constraint on any burden because otherwise the round is impossible B] moral framework debate is impossible.

Joyce 02 Joyce, Richard. Myth of Morality. Port Chester, NY, USA: Cambridge University Press, 2002. p 45-47.

This distinction between what is accepted from within an institution, and “stepping out” of that institution and appraising it from an exterior perspective, is close to Carnap’s distinction between internal and external questions. 15 Certain **“linguistic frameworks”** (as Carnap calls them) **bring** with them **new** terms and **ways of talking: accepting the language of “things” licenses making assertions** like “The shirt is in the cupboard”; **accepting mathematics allows one to say “There is a prime number greater than one hundred”;** accepting the language of propositions permits saying “Chicago is large is a true proposition,” etc. Internal to the framework in question, confirming or disconfirming the truth of these propositions is a trivial matter. But traditionally **philosophers have interest**ed themselves **in** the external question – **the issue of the adequacy of the framework itself:** “Do objects exist?”, “Does the world exist?”, “**Are there numbers?”,** “Are the propositions?”, etc. Carnap’s argument is that **the** external **question,** as it has been typically construed, **does not make sense. From a perspective that accepts mathematics, the answer to the question “Do numbers exist?” is just** trivially **“Yes.”** From a perspective which has not accepted mathematics, Carnap thinks, the only sensible way of construing the question is not as a theoretical question, but as a practical one: “Shall I accept the framework of mathematics?”, and this pragmatic question is to be answered by consideration of the efficiency, the fruitfulness, the usefulness,etc., of the adoption. But the (traditional) **philosopher’s questions** – “But is mathematics true?”, “Are there really numbers?” – **are pseudo-questions.** By turning traditional philosophical questions into practical questions of the form “Shall I adopt...?”, Carnap is offering a noncognitive analysis of metaphysics. Since I am claiming that we can critically inspect morality from an external perspective – that we can ask whether there are any non-institutional reasons accompanying moral injunctions – and that such questioning would not amount to a “Shall we adopt...?” query, Carnap’s position represents a threat. What arguments does Carnap offer to his conclusion? He starts with the example of the “thing language,” which involves reference to objects that exist in time and space. **To** step out of the thing language and **ask “But does the world exist?” is a mistake,** Carnap thinks, **because the very notion of “existence” is a term which belongs to the thing language, and can be understood only within that framework, “hence this concept cannot be meaningfully applied to the system itself.”** 16 Moving on to the external question “Do numbers exist?” Carnap cannot use the same argument – he cannot say that “existence” is internal to the number language and thus cannot be applied to the system as a whole. Instead he says that philosophers who ask the question do not mean material existence, but have no clear understanding of what other kind of existence might be involved, thus such questions have no cognitive content. It appears that this is the form of argument which he is willing to generalize to all further cases: **persons who dispute** whether propositions exist, **whether properties exist,** etc., do not know what they are arguing over, thus they **are not arguing over the truth of a proposition,** but over the practical value of their respective positions. Carnap adds that this is so because there is nothing that both parties would possibly count as evidence that would sway the debate one way or the other.

#### 3] Neg definition choice – the aff should have defined ought in the 1ac not doing so they have forfeited their right to read a new definition – kills 1NC strategy since I premised my engagement on a lack of your definition.

#### Now negate:

#### 1] Inherency – either a) the aff is non-inherent and you vote neg on presumption or b) it is and it isn’t going to happen since there are structural barriers that preclude.

#### 2] Motion is impossible – [a] To go anywhere, you must go halfway first, and then you must go half of the remaining distance, and half of the remaining distance, and so forth to infinity – thus, motion is impossible because it necessitates traversing an infinite number of spaces in a finite amount of time.

### Case

#### Consequences Fail: a] Every action has infinite stemming consequences, because every consequence can cause another consequence so we can’t predict. b] Induction is circular because it relies on the assumption that nature will hold uniform and we could only reach that conclusion through inductive reasoning based on observation of past events. c] Every action is infinitely divisible, only intents unify because we commit the end point of an action – but consequences cannot determine what step of action is moral d] Yes act/omission distinction – there are infinite events occurring over which you have no control, so you can never be moral

**Mills is a Kantian, shows how modern forms of kant can be used to take minority experiences into account**

**Mills**, C. W. (20**17**), Black radical Kantiansim, https://www.pdcnet.org/resphilosophica/content/resphilosophica\_2018\_0095\_0001\_0001\_0033

**This essay tries to develop a “black radical Kantianism”—that is, a Kantianism informed by the black experience in modernity.** After looking briefly at socialist and feminist appropriations of Kant, I argue that an analogous black radical appropriation should draw on the distinctive social ontology and view of the state associated with the black radical tradition. In ethics, this would mean working with a (color-conscious rather than colorblind) social ontology of white persons and black sub-persons and then asking what respect for oneself and others would require under those circumstances. In **political philosophy, it would mean framing the state as a** Rassenstaat (**a racial state) and then asking what measures of corrective justice would be necessary to bring about the ideal** Rechtsstaat.

#### The WTO can’t enforce the aff- causes circumvention.

Lamp 19 [Nicholas; Assistant Professor of Law at Queen’s University; “What Just Happened at the WTO? Everything You Need to Know, Brink News,” 12/16/19; <https://www.brinknews.com/what-just-happened-at-the-wto-everything-you-need-to-know/>] Justin

Nicolas Lamp: For the first time since the establishment of the WTO in 1995, the Appellate Body cannot accept any new appeals, and that has knock-on effects on the whole global trade dispute settlement system. When a member appeals a WTO panel report, it goes to the Appellate Body, but if there is no Appellate Body, it means that that panel report will not become binding and will not attain legal force.

The absence of the Appellate Body means that members can now effectively block the dispute settlement proceedings by what has been called appealing panel reports “into the void.”

The WTO panels will continue to function as normal. When a panel issues a report, it will normally be automatically adopted — unless it is appealed. And so, even though the panel is working, the respondent in a dispute now has the option of blocking the adoption of the panel’s report. It can, thereby, shield itself from the legal consequences of a report that finds that the member has acted inconsistently with its WTO obligations.

#### Companies will just obtain a patent in a different sector.

Thomas 15 [John R; Visiting Scholar, CRS; “Tailoring the Patent System for Specific Industries, Congressional Research Service,” CRS; 2015; <https://crsreports.congress.gov/product/pdf/R/R43264/7>] Justin

In view of the concerns noted above, commentators have gone so far to say that “it has become increasingly difficult to believe that a one-size-fits-all approach to patent law can survive.”75 To the extent the current patent system creates a blanket set of rules that apply comparably to distinct industries, it likely over-encourages innovation in some contexts and under-incentivizes it in others.76 Further, some observers have asserted that the need of firms to identify and access the patented inventions of others may differ among industries.77 As a result, the case can be made that distinct industrial, technological, and market characteristics that exist across the breadth of the U.S. economy compel industry-specific patent statutes. However, others have questioned the wisdom and practicality of such line-drawing.78 The following concerns, among others, have been identified:

• Over its long history, the U.S. patent system has flexibly adapted to new technologies such as biotechnology and computer software. Legislative adoption of technology-specific categories may leave unanticipated, cutting-edge technologies outside the patent system.79

• Defining a specific industry or category of technologies may prove to be a contested proposition.

80 • Over time, new industries may emerge and old industries may consolidate. The dynamic nature of the U.S. economy suggests greater need for legislative oversight within a differentiated patent regime.

81 • Even if an industry or technology remains relatively stable, the innovation environment within it might change. For example, technological or scientific advances might open new possibilities for research and development within hidebound industries—but also increase expense and risk for those firms.

82 • Distinct patent rights among industries or technologies may lead to strategic behavior on behalf of patent applicants. For example, a computer program that controls a fuel injector within an automobile could possibly be identified as either an automobile-related or a computer-related invention.

83 •The legislative effort to enact sector-specific patent laws may provide an opportunity for politically savvy firms to exert more lobbying and political power, at the possible expense of less sophisticated firms.