## 1

#### Interpretation: Reduce is distinct from simply changing

#### Reduce requires a net decrease

Public Law 87-253

**(Omnibus Budget Reconciliation Act of 1982, 97th US Congress, Sept 8, 1982, Lexis)**

**E) Prior to approving any application for a refund, the Secretary shall require evidence that such reduction in marketings has taken place and that** such reduction is a net decrease **in marketings of milk and has** not **been** offset by expansion **of production** in **other production facilities in which the person has an interest or by transfer of partial interest in the produc- tion facility or by the taking of** any other action**. which is a scheme or device to qualify for payment.**

#### Violation: Compulsory licenses do not reduce patent protections

Santos Rutschman 21 Santos Rutschman, Ana (Professor of Law, St. Louis University) and Julia Barnes-Weise (Executive Director of the Global Healthcare Innovation Alliances Accelerator a non-profit organization spun out of a program in Public Policy at Duke University, and a Senior Consultant to the Coalition for Epidemic Preparedness Innovations. She is a lawyer, global health policy consultant, entrepreneur and Certified Licensing Professional). "The COVID-19 Vaccine Patent Waiver: The Wrong Tool for the Right Goal." Bill of Health (2021) (2021)./SJKS

In the past, some of these countries have used legal tools in [highly effective ways](https://pubmed.ncbi.nlm.nih.gov/27699996/). The TRIPS Agreement — the main legal international intellectual property framework, now implemented by virtually all countries — [allows](https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm) for the compulsory licensing of patented products in situations that [include](https://www.wto.org/english/tratop_e/trips_e/public_health_faq_e.htm) public health crises such as a pandemic or epidemic. Compulsory licensing does not extinguish or suspend patent rights, but rather consists in the governmental granting of licenses to third parties against the wishes of the patent holder. The licensee is then able to use the patent-protected technology against the [payment](https://www.who.int/medicines/areas/technical_cooperation/WHOTCM2005.1_OMS.pdf?ua=1) of a royalty.

#### Vote neg:

#### 1] Limits and ground– their model allows affs to defend anything from data exclusivity to patent linkages— there's no universal DA since it’s impossible to know each change of the patent system— that explodes neg prep and leads to random patent change of the week affs which makes cutting stable neg links impossible — limits key to reciprocal engagement since they create a caselist for neg prep (innovation, collaboration, econ, : all core neg literature thrown away)

#### 2] Precision o/w – anything else justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

#### 3] TVA – defend the advantage to a whole rez timeframe. We don’t prevent new FWs, mechanisms, or advantages. PICs don’t solve – our model allows you to specify countries and medicines.

#### Fairness – debate is a competitive activity that requires fairness for objective evaluation. Outweighs because it’s the only intrinsic part of debate – all other rules can be debated over but rely on some conception of fairness to be justified.

#### Drop the debater – a] deter future abuse and b] set better norms for debate.

#### Competing interps – [a] reasonability is arbitrary and encourages judge intervention since there’s no clear norm, [b] it creates a race to the top where we create the best possible norms for debate.

#### No RVIs – a] illogical, you don’t win for proving that you meet the burden of being fair, logic outweighs since it’s a prerequisite for evaluating any other argument, b] RVIs incentivize baiting theory and prepping it out which leads to maximally abusive practices

## 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.

#### Morality must be grounded in a priori truth to guide action, otherwise everyone would have different ethical codes and follow different rules. And, truth exists independent of human experience since certain things can be self-proving, i.e. a triangle has three sides. This is the difference between a priori and a posteriori. Things that are true by observation are just true by a matter of chance. For example, the cat may be on the mat, but we can also conceive of a world in which the cat is not on the mat. In contrast, we can’t conceive of a world in which a triangle does not have three sides since it is tautologically true. Reject a posteriori truth since they are just arbitrary states of being, not constitutive of ethics.

#### And, a priori truth has to apply to everyone: [a] absent universal ethics, morality becomes arbitrary and fails to guide action, which means that ethics is rendered useless. [b] it’s a tautological contradiction: any non-universal norm justifies someone’s ability to impede on your ends, which also means universalizability acts as a side constraint on all other frameworks.

#### Thus, the standard is consistency with willing universal maxims.

Prefer additionally

#### 1] Ethical frameworks are topicality interpretations of the word ought so they must be theoretically justified. Prefer on resource disparities—focusing on evidence and statistics privileges debaters with the most preround prep excluding lone-wolfs who lack huge evidence files. A debater under my framework can easily be won without any prep since minimal evidence is required. That controls the internal link to other voters because a pre-req to debating is access to the activity.

#### 2] performativity

### 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 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.

## Case

### fw

#### Under consequentialism anything is permissible

#### 1. Problem of induction

Vickers 14, John Vickers, 2014, The Problem of Induction, https://plato.stanford.edu/entries/induction-problem/

The original problem of induction can be simply put. It concerns the support or justification of inductive methods; methods that predict or infer, in Hume's words, that “instances of which we have had no experience resemble those of which we have had experience” (THN, 89). Such methods are clearly essential in scientific reasoning as well as in the conduct of our everyday affairs. The problem is how to support or justify them and it leads to a dilemma: the principle cannot be proved deductively, for it is contingent, and only necessary truths can be proved deductively. Nor can it be supported inductively—by arguing that it has always or usually been reliable in the past—for that would beg the question by assuming just what is to be proved.

#### Takes out their offense since it is predicated on using past experiences.

#### 2. Prediction is impossible. Any action can lead to a domino effect that can have disastrous impacts in the end. For example, if I sneeze, it could lead to a butterfly effect that eventually causes my sneeze to form into a hurricane and kill thousands.

#### 3. Aggregate pleasure is impossible because pain is incommunicable – 5 headaches and a migraine can’t be compared since I don’t know how it feels for you versus me and if it’s the same or different, meaning weighing consequences is arbitrary. permissibility

#### 4. Consequentialism is irresolvable because if a bigger harm can outweigh a smaller, there’s always a non-zero chance of a bigger harm in the future and there’s no non-arbitrary point at which consequences stop being relevant

#### 5. No impact to anything – the universe is infinite.

Bostrom 11 Nick Bostrom (Professor, Faculty of Philosophy & Oxford Martin School Director, Future of Humanity Institute Director, Oxford Martin Programme on the Impacts of Future Technology University of Oxford) “Infinite Ethics” Analysis and Metaphysics, Vol. 10 (2011): pp. 9-59

In the standard Big Bang model, assuming the simplest topology (i.e., that space is singly connected), there are three basic possibilities: the universe can be open, flat, or closed. Current data suggests a flat or open universe, although the final verdict is pending. If the universe is either open or flat, then it is spatially infinite at every point in time and the model entails that it contains an infinite number of galaxies, stars, and planets. There exists a common misconception which confuses the universe with the (finite) “observable universe”. But the observable part—the part that could causally affect us—would be just an infinitesimal fraction of the whole. Statements about the “mass of the universe” or the “number of protons in the universe” generally refer to the content of this observable part; see e.g. [1]. Many cosmologists believe that our universe is just one in an infinite ensemble of universes (a multiverse), and this adds to the probability that the world is canonically infinite; for a popular review, see [2]. The “many worlds” of the Everett version of quantum physics, however, would not in any obvious way amount to the relevant kind of infinity; both because whether the “world”-count reaches infinity or merely a large finitude might be an artifact of convenient formalism rather than reflecting of physical reality, and also because the ethical significance of each Everettian “world” should, plausibly, be weighted by its associated measure (amplitude squared), which is a normalized; see e.g. [3].

### Advantage

#### 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.

#### Recent evidence confirms

Hillman and Tippett 21 [Jennifer A; Senior fellow for trade and international political economy; Alex; Research associate for international economics, at the Council on Foreign Relations; “Europe and the Prospects for WTO Reform,” CFR; 3/10/21; <https://www.cfr.org/blog/europe-and-prospects-wto-reform>] Justin

The WTO has been in the clutches of a slow-moving crisis for years. At its heart are a series of disputes about the role of the WTO’s Appellate Body, the final arbiter in the WTO’s Dispute Settlement System. Today, the Appellate Body sits empty, severely undermining the capacity of the WTO to resolve trade disputes.

Since the start of the Trump administration, the United States has refused to appoint any new members to the body, effectively allowing countries to avoid compliance with WTO rulings. The primary driver of this drastic action has been American frustration at perceived judicial overreach. U.S. policymakers, starting with the George W. Bush administration, have repeatedly voiced their displeasure with Appellate Body decisions, contending that certain decisions have reached beyond the text of existing WTO agreements.

#### Aff gets circumvented- powerful countries use bilateral agreements to force other countries to accept their IPR protections- its empirically proven

DC = developing country

NIT = Net Importers of Technology (this references developing countries)

NET = Net Exporters of Technology (countries with advanced economies)

Marcellin 16 Marcellin, Sherry (Professor, London School of Economics). The political economy of pharmaceutical patents: US sectional interests and the African Group at the WTO. Routledge, 2016./SJKS

In July 1988, prior to the Montreal Mid-Term Review, DCs had sensed that the approach being proposed by industrialised countries was desirable on the grounds that the alternative would be a proliferation of unilateral or bilateral actions (MTN.GNG/NG11/8: 31). These NITs maintained that acceptance of such an approach would be tantamount to creating a licence to force, in the name of trade, modifications in standards for the protection of IP in a way that had not been found acceptable or possible so far in WIPO (ibid). Brazil subsequently informed the Group that on October 20, 1988, unilateral restrictions had been applied by the US to Brazilian exports as a retaliatory measure in connection with an IP issue; that this type of action seriously inhibited Brazil’s participation in the work of the Group, since ‘no country could be expected to participate in negotiations while experiencing pressures on the substance of its position’ (MTN.GNG/NG11/10: 27). The Brazilian delegate maintained that such action by the US constituted a blatant infringement of GATT rules and was contrary to the Standstill commitment of the Punta del Este Declaration. ‘The United States action was an attempt to coerce Brazil to change its intellectual property legislation, and furthermore represented an attempt by the United States to improve its negotiating position in the Uruguay Round’ (ibid). A US delegate countered that the measures had been taken with regret and as a last resort after all alternative ways of defending legitimate US interests had been exhausted, and that the US further believed that the adoption of effective patent protection was in Brazil’s own interest (ibid: 28). The US had therefore applied its strategy of coercive unilateralism against one of the two most important players championing the cause of the South in the TRIPS negotiations, the other being India. Apprehensive about the resistance of this dominant Southern duo, the United States sought to utilise its market size as a bargaining tool to secure changes to national IP regimes. It therefore decided to impact the more powerful of the two at the time, thereby indirectly admonishing India and the entire coalition against strengthened IP rules, as well as their domestic export constituencies who would be affected by US decisions to restrict imports. Moreover, because Brazil and India appeared to be collaborating extensively in maintaining a united front, a resulting strain on Brazil’s economy would likely affect their co-operation. However, since market opening and closure have been treated as the currency of trade negotiations in the post-war period (Steinberg 2002: 347), the move to place restrictions on Brazilian exports by the largest consumer market in the GPE should not have been entirely unanticipated. Brazil was also the regional leader in South America and disciplining it would send an unequivocal warning to other South American countries (Drahos and Braithwaite 2002: 136), including Argentina, Chile and Peru who were also active participants in the negotiations. This would mark the start of a series of coercive strategies aimed at compliance with the US private-sector envisioned GATT IPP.