#### Their focus on the body as a site for politics limits the emancipatory potential for disability studies---it only demonizes that which it seeks to avoid, inevitably recreating exclusion

Anna Mollow 4, PhD candidate in English at the University of California, Berkeley. IDENTITY POLITICS ANDDISABILITY STUDIES:A CRITIQUE OF RECENT THEORY quod.lib.umich.edu/cgi/t/text/text-idx?cc=mqr;c=mqr;c=mqrarchive;idno=act2080.0043.218;rgn=main;view=text;xc=1;g=mqrg

The most troubling aspect of Thomson's use of identity politics is her definition of disability as visible physical difference. Extraordinary Bodies locates "the disabled people of the later twentieth-century" at the end of a historical trajectory that begins with "the wondrous monsters of antiquity" and moves to "the fascinating freaks of the nineteenth-century" (58). Undoubtedly, many of the people who appeared in nineteenth-century freak shows might today be described as disabled. But other nineteenth-century constructions that have little to do with visual bodily difference—such as the hysteric or the invalid—are also important to consider in a history of disability. Thomson, however, tends to equate disability with visible difference. She writes that "the disabled body is a spectacle . . . in a complex relation between seer and seen" (136). In literature, she claims, disability "functions only as a visual difference"; and throughout history, female "deviance" is "always attributed to some visible characteristic" (10-11; 28; emphasis added) I do not mean to suggest that Thomson would deny that many people with invisible impairments are disabled; on the contrary, like each of the critics I discuss in this essay, Thomson is committed to combating oppression of people with all forms of disability. In fact, early in the first chapter of her book, she provides a definition of disability that includes a number of non-visible impairments (13). Yet Thomson does not explain in Extraordinary Bodies how her definition of disability as a visual spectacle might be reconciled with her recognition of arthritis as a disability, or with the ADA's inclusion of conditions such as carpal tunnel syndrome, Chronic Fatigue Syndrome, hypertension, and chronic back pain under the category of disability. [24] Thomson's unintentional elision of invisible disability has potentially serious political repercussions; people with unseen disabilities are often objects of suspicion and disbelief. [25] Thomson's narrow definition of disability does not result from a wish to exclude, but rather from the use of an identity politics model. Critics of identity politics point out that the construction of identity is an inevitably exclusionary process; one defines who one is in part by saying what one is not, thus producing what Butler has called a "constitutive outside" (xi). In Extraordinary Bodies, this constitutive outside might be understood as disease. Thomson's construction of a positive disabled identity is facilitated by her emphatic disassociation of disability from disease. She seeks "to recast [disability] from a form of pathology to a form of ethnicity" (6). The title of her conclusion—"From Pathology to Identity"—repeats the call for such a transition in understanding disability.

#### Abstract critique keeps us from forefronting political reform to create material change for disability.

Ruckelshaus 17 [Jay, Rhodes Scholar and graduate student in political theory at the University of Oxford, and the founder and president of Ramp Less Traveled, a nonprofit organization that helps students with spinal cord injuries pursue higher education. 01/18/17 "The Non-Politics of Disability.” <https://www.nytimes.com/2017/01/18/opinion/denouncing-trump-wont-help-disability-rights.html>] JCH-PF

Disability rights enjoy a seemingly ironclad moral consensus, an ostensible unanimity that is striking given America’s entrenched polarization and the antagonism surrounding other identity movements. Many are wary of L.G.B.T. rights or the Black Lives Matter movement, but it seems beyond the pale — almost cruel — to oppose disability rights. Nobody wants to be anti-disability. Initially, this harmony would seem helpful. Free from partisan discord, advancements for the approximately 57 million Americans with disabilities should be easier to achieve, borne aloft by the wings of certain progress. Why, then, do rampant unemployment and educational disparities endure, and why does success remain the exception? I think part of the reason is the insulation of our pro-disabled political consensus. Its logic is rooted not in any deep belief in the equal worth of citizens with disabilities, but rather in a general aversion to disability. This is related to the charity impulse that has always surrounded disability — and has constrained liberation efforts by assuming that inequities are unfortunate but natural realities to be mitigated through compassion, rather than politically structured injustices. There is also a profound lack of disabled people in the public sphere, meaning any substantive discussion that does occur is extremely rare. I suspect many people I talk to about disability maintain an implicit hope that, if they nod as vigorously as possible, the issue will simply go away. In this way, support for disability rights is similar to the act of expressing perfunctory thanks to military veterans. It temporarily absolves us of the responsibility to address the heart of the matter. Moreover, the apparent moral consensus may be mostly superficial. In trying to enact accessibility, disability advocates encounter increasing resistance as the effort and costs involved in proposals come closer to being realized. (Consider the neighborhood store that decides it’s just too costly to install a ramp, or the community lecture that excludes deaf attendees by refusing to hire a sign-language interpreter.) Instead of facilitating change, false unity actually restrains change. It stifles the more substantive conversations true progress requires. And our inability to speak honestly — and contentiously — about disability shows how the politics of disability is in this sense non-political. We are the worse for it. In addition to greater participation in the public sphere, true progress for citizens with disabilities will require a willingness to confront the issues head-on, even when — especially when — citizens disagree on competing solutions. We must politicize disability — not in the cable-news, grandstanding kind of way, but in the term’s more formal sense. The work of the Belgian political theorist Chantal Mouffe can help illuminate what’s at stake. Mouffe begins with the premise that human relations are inherently antagonistic: Political change always requires controversial transfers in power or prestige, and it is an illusion to imagine politics without confrontation. Per this “agonistic” conception of democracy, a healthy political order is one that prefers vigorous, good-faith argumentation to complacent consensus. Until we publicly recognize real disagreements surrounding disability and accessibility, Mouffe would insist, we are doomed to a vacuous, empty debate that is neither political nor productive. Recall the Kovaleski incident. I’m not suggesting that the abhorrence of Mr. Trump’s actions is open to legitimate questioning. But in their forcefully reassuring comments and messages, my friends prevented any serious discussion of disability at the level where reasonable disagreement does exist. Where will the money come from to fund disability employment schemes? How do we even define “disability”? Despite — and, I would argue, partly because of — the broad condemnation of Mr. Trump for his insensitivity, there was no substantive public discussion of such issues. You may be thinking, haven’t we had enough politics lately? Maybe it’s a blessing that disability isn’t as political as it might be; it avoids the drama and messiness that now seem to define our common life. Avoiding politics might be possible if disability were an exclusively private affair. But it is fundamentally a public concern, affecting everyone directly or indirectly and revealing our obligations to one another as members of a democratic society. Issues of accessibility can be fully addressed only through public institutions and collective effort. For the disability community, there is no answer but politics. But politics need not be repulsive. That’s the beauty of Mouffe’s agonism: By legitimating clashing arguments and welcoming them into the political fold, unproductive antagonism becomes constructive, and compromises emerge.

#### Framing for the Links – they cannot leverage the entirety of the Disability Drive against the Aff – only the marginal link differential between the Aff and Squo

#### AT Futurism – L/T – Pandemics uniquely hurt people w/ disabilities disproportionately – opening up the Economy absent contact tracing is the sacrifice of the disabled body for productivity – flips their uniqueness

Diament 20 Michelle Diament 9-8-2020 "COVID-19 Disproportionately Impacting Those With Developmental Disabilities" <https://www.disabilityscoop.com/2020/09/08/covid-19-disproportionately-impacting-developmental-disabilities/28909/> //Elmer

The life-altering effects of COVID-19 have been tougher on people with intellectual and developmental disabilities than just about anyone else and they need more support, a group of experts is warning. A letter published recently in the American Journal of Psychiatry on behalf of the directors of the nation’s 13 intellectual and developmental disabilities research centers — which are funded by the National Institutes of Health — is sounding the alarm about the devastating impact the pandemic has had on an already vulnerable population. Many people with developmental disabilities have lost access to caregivers and service providers and these **supports may not return given the financial toll of** the pandemic on agencies and state budgets, the experts say. Those with developmental disabilities are also struggling with limited access to schooling and therapies, may be unable to use technology to connect with others and may not understand what they need to do to protect themselves from the coronavirus. “Among noninfected persons in the United States, **few are more adversely affected by COVID-19 than individuals with intellectual and developmental disabilities, given that a vast proportion require in-person care or critical therapeutic support within their living environments, with little backup or systematic coverage for prolonged interruption of services**,” writes John N. Constantino, co-director of the Intellectual and Developmental Disabilities Research Center at Washington University School of Medicine in St. Louis, and colleagues at Harvard Medical School, the University of North Carolina at Chapel Hill and the Association of University Centers on Disabilities.

#### People w/ underlying disabilities are also significantly more at risk which proves that re-opening absent the Aff in the Squo actively kills them disproportionately

#### Future not sole province of the child

Ruti, professor of Critical Theory at the University of Toronto, March, ‘17

(Mari, *The Ethics of Opting Out: Queer Theory's Defiant Subjects*, Columbia University Press, pg. 90-91)

The stakes of Muñoz’s accusation are high, revolving around the question of who can afford to relinquish all hope of a better future in the way that Edelman’s rendering of queer negativity—with includes the derisive critique of the child as a sentimental emblem of reproductive futurity that I mentioned in chapter 1—calls for. Muñoz suggests that only those who “have” a future in the first place have the luxury of flirting with the idea of rejecting it; conversely, those whose futures are concretely (empirically) threatened are unlikely to advocate the annihilation of these futures. More specifically, Muñoz contends that it would be disastrous to “hand over futurity to normative white reproductive futurity,” arguing that the fact that this version of futurity is currently winning “is all the more reason to call on a utopian political imagination that will enable us to glimpse another time and place: a ‘not-yet’ where queer youths of color actually get to grow up” (2009, 95–96). In this manner, Muñoz alerts us to the fact that while Edelman elevates the child to an icon of reproductive futurity, “the future” has never been the province of all children; that is, though Muñoz agrees with the broad outlines of Edelman’s critique of reproductive futurity, he reminds us that this critique does not apply to the vast majority of the world’s children, that “racialized kids, queer kids, are not the sovereign princes of futurity” (95).

Like Edelman, Muñoz admits that the world as it stands is “not enough” (2009, 96), not able to offer adequate resources for subjective flourishing. But in his view, the way to deal with the world’s insufficiency and messiness is not to reject the future wholesale but rather to reconfigure its parameters. This, Muñoz asserts, can only be done by resurrecting “various principles of hope that are, by their very nature, relational” (94). As he elaborates, relationality may not always be “pretty,” “but the option of simply opting out of it, or describing it as something that has never been available to us, is imaginable only if one can frame queerness as a singular abstraction that can be subtracted and isolated from a larger social matrix” (94).

#### No link: strong innovation incentives.

So 20 [Anthony; Professor of the practice in International Health and the founding director of the Innovation+Design Enabling Access (IDEA) Initiative; “WTO TRIPS Waiver for COVID-19 Vaccines,” John Hopkins; 5/10/21; <https://www.jhsph.edu/covid-19/articles/wto-trips-waiver-for-covid-19-vaccines.html>] Justin

Another question raised by opponents of the waiver is: Have companies been able to make a strong return on their investment? The answer appears to be yes. In a market almost entirely created by public sector purchase of vaccines for a pandemic, Pfizer brought in $3.5 billion in COVID-19 vaccine revenues in the first quarter of this year, with estimated profit margins in the high 20% range, by far its greatest revenue generator. Pfizer’s partner, BioNTech, received upfront public financing, both from the German government and the European Investment Bank, while Pfizer itself has secured 6 billion dollars thus far from the U.S. government in guaranteed purchases of its COVID-19 vaccine. So even if the TRIPS waiver were to enable other vaccine producers to meet the huge unmet demand, it is hard to argue that the public sector has not already provided multibillion-dollar incentives to bring forward needed innovation.

## AC Covid

#### Only the plan can solve covid access – inequalities heighten the risk of mutations and uneven development.

Kumar 21 [Rajeesh; Associate Fellow at the Institute, currently working on a project titled “Emerging Powers and the Future of Global Governance: India and International Institutions.” He has PhD in International Organization from Jawaharlal Nehru University, New Delhi. Prior to joining MP-IDSA in 2016, he taught at JamiaMilliaIslamia, New Delhi (2010-11& 2015-16) and University of Calicut, Kerala (2007-08). His areas of research interest are International Organizations, India and Multilateralism, Global Governance, and International Humanitarian Law. He is the co-editor of two books;Eurozone Crisis and the Future of Europe: Political Economy of Further Integration and Governance (London: Palgrave Macmillan, 2014); and Islam, Islamist Movements and Democracy in the Middle East: Challenges, Opportunities and Responses (Delhi: Global Vision Publishing, 2013); “WTO TRIPS Waiver and COVID-19 Vaccine Equity,” IDSA Issue Briefs; <https://idsa.in/issuebrief/wto-trips-waiver-covid-vaccine-rkumar-120721>] Justin

According to Duke Global Health Innovation Center, which monitors COVID-19 vaccine purchases, rich nations representing just 14 per cent of the world population have bought up to 53 per cent of the most promising vaccines so far. As of 4 July 2021, the high-income countries (HICs) purchased more than half (6.16 billion) vaccine doses sold globally. At the same time, the low-income countries (LICs) received only 0.3 per cent of the vaccines produced. The low and middle-income countries (LMICs), which account for 81 per cent of the global adult population, purchased 33 per cent, and COVAX (COVID-19 Vaccines Global Access) has received 13 per cent.10 Many HICs bought enough doses to vaccinate their populations several times over. For instance, Canada procured 10.45 doses per person, while the UK, EU and the US procured 8.18, 6.89, and 4.60 doses per inhabitant, respectively.11 Consequently, there is a significant disparity between HICs and LICs in vaccine administration as well. As of 8 July 2021, 3.32 billion vaccine doses had been administered globally.12 Nonetheless, only one per cent of people in LICs have been given at least one dose. While in HICs almost one in four people have received the vaccine, in LICs, it is one in more than 500. The World Health Organization (WHO) notes that about 90 per cent of African countries will miss the September target to vaccinate at least 10 per cent of their populations as a third wave looms on the continent.13 South Africa, the most affected African country, for instance, has vaccinated less than two per cent of its population of about 59 million. This is in contrast with the US where almost 47.5 per cent of the population of more than 330 million has been fully vaccinated. In Sub-Saharan Africa, vaccine rollout remains the slowest in the world. According to the International Monetary Fund (IMF), at current rates, by the end of 2021, a massive global inequity will continue to exist, with Africa still experiencing meagre vaccination rates while other parts of the world move much closer to complete vaccination.14 This vaccine inequity is not only morally indefensible but also clinically counter-productive. If this situation prevails, LICs could be waiting until 2025 for vaccinating half of their people. Allowing most of the world’s population to go unvaccinated will also spawn new virus mutations, more contagious viruses leading to a steep rise in COVID-19 cases. Such a scenario could cause twice as many deaths as against distributing them globally, on a priority basis. Preventing this humanitarian catastrophe requires removing all barriers to the production and distribution of vaccines. TRIPS is one such barrier that prevents vaccine production in LMICs and hence its equitable distribution. TRIPS: Barrier to Equitable Health Care Access The opponents of the waiver proposal argue that IPR are not a significant barrier to equitable access to health care, and existing TRIPS flexibilities are sufficient to address the COVID-19 pandemic. However, history suggests the contrary. For instance, when South Africa passed the Medicines and Related Substances Act of 1997 to address the HIV/AIDS public health crisis, nearly 40 of world’s largest and influential pharma companies took the South African government to court over the violation of TRIPS. The Act, which invoked the compulsory licensing provision, allowed South Africa to produce affordable generic drugs.15 The Big Pharma also lobbied developed countries, particularly the US, to put bilateral trade sanctions against South Africa.16 Similarly, when Indian company Cipla decided to provide generic antiretrovirals (ARVs) to the African market at a lower cost, Big Pharma retaliated through patent litigations in Indian and international trade courts and branded Indian drug companies as thieves.17 Another instance was when Swiss company Roche initiated patent infringement proceedings against Cipla’s decision to launch a generic version of cancer drug, “erlotinib”. Though the Delhi High Court initially dismissed Roche's appeal by citing “public interest” and “affordability of medicines,” the continued to pressure the generic pharma companies over IPR. 18 Likewise, Pfizer’s aggressive patenting strategy prevented South Korea in developing pneumonia vaccines for children.19 A recent document by Médecins Sans Frontières (MSF), or Doctors Without Borders, highlights various instances of how IP hinders manufacturing and supply of diagnostics, medical equipment, treatments and vaccines during the COVID-19 pandemic. For instance, during the peak of the COVID-19 first wave in Europe, Roche rejected a request from the Netherlands to release the recipe of key chemical reagents needed to increase the production of diagnostic kits. Another example was patent holders threatening producers of 3D printing ventilators with patent infringement lawsuits in Italy.20 The MSF also found that patents pose a severe threat to access to affordable versions of newer vaccines.21 The opponents of the TRIPS waiver also argue that IP is the incentive for innovation and if it is undermined, future innovation will suffer. However, most of the COVID-19 medical innovations, particularly vaccines, are developed with public financing assistance. Governments spent billions of dollars for COVID-19 vaccine research. Notably, out of $6.1 billion in investment tracked up to July 2021, 98.12 per cent was public funding.22 The US and Germany are the largest investors in vaccine R&D with $2.2 billion and $1.5 billion funding. Private companies received 94.6 per cent of this funding; Moderna received the highest $956.3 million and Janssen $910.6 million. Moreover, governments also invested $50.9 billion for advance purchase agreements (APAs) as an incentive for vaccine development. A recent IMF working paper also notes that public research institutions were a key driver of the COVID-19 R&D effort—accounting for 70 per cent of all COVID-19 clinical trials globally.23 The argument is that vaccines are developed with the support of substantial public financing, hence there is a public right to the scientific achievements. Moreover, private companies reaped billions in profits from COVID-19 vaccines. One could argue that since the US, Germany and other HICs are spending money, their citizens are entitled to get vaccines first, hence vaccine nationalism is morally defensible. Nonetheless, it is not the case. The TRIPS Agreement includes several provisions which mandates promotion of technology transfer from developed countries to LDCs. For instance, Article 7 states that "the protection and enforcement of IP rights should contribute to the promotion of technological innovation and the transfer and dissemination of technology, to the mutual advantage of producers and users of technical knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations."24 Similarly, Article 66.2 also mandates the developed countries to transfer technologies to LDCs to enable them to create a sound and viable technological base. The LMICs opened their markets and amended domestic patent laws favouring developing countries’ products against this promise of technology transfer. Another argument against the proposed TRIPS waiver is that a waiver would not increase the manufacturing of COVID-19 vaccines. Indeed, one of the significant factors contributing to vaccine inequity is the lack of manufacturing capacity in the global south. Further, a TRIPS waiver will not automatically translate into improved manufacturing capacity. However, a waiver would be the first but essential step to increase manufacturing capacity worldwide. For instance, to export COVID-19 vaccine-related products, countries need to ensure that there are no IP restrictions at both ends – exporting and importing. The market for vaccine materials includes consumables, single-use reactors bags, filters, culture media, and vaccine ingredients. Export blockages on raw materials, equipment and finished products harm the overall output of the vaccine supply chain. If there is no TRIPS restriction, more governments and companies will invest in repurposing their facilities. Similarly, the arguments such as that no other manufacturers can carry out the complex manufacturing process of COVID-19 vaccines and generic manufacturing as that would jeopardise quality, have also been proven wrong in the past. For instance, in the early 1990s, when Indian company Shantha Biotechnics approached a Western firm for a technology transfer of Hepatitis B vaccine, the firm responded that “India cannot afford such high technology vaccines… And even if you can afford to buy the technology, your scientists cannot understand recombinant technology in the least.”25 Later, Shantha Biotechnics developed its own vaccine at $1 per dose, and the UNICEF (United Nations Children’s Emergency Fund) mass inoculation programme uses this vaccine against Hepatitis B. In 2009, Shantha sold over 120 million doses of vaccines globally. India also produces high-quality generic drugs for HIV/AIDS and cancer treatment and markets them across the globe. Now, a couple of Indian companies are in the last stage of producing mRNA (Messenger RNA) vaccines.26 Similarly, Bangladesh and Indonesia claimed that they could manufacture millions of COVID-19 vaccine doses a year if pharmaceutical companies share the know-how.27 Recently, Vietnam also said that the country could satisfy COVID-19 vaccine production requirements once it obtains vaccine patents.28 Countries like the United Arab Emirates (UAE), Turkey, Cuba, Brazil, Argentina and South Korea have the capacity to produce high-quality vaccines but lack technologies and know-how. However, Africa, Egypt, Morocco, Senegal, South Africa and Tunisia have limited manufacturing capacities, which could also produce COVID-19 vaccines after repurposing. Moreover, COVID-19 vaccine IPR runs across the entire value chain – vaccine development, production, use, etc. A mere patent waiver may not be enough to address the issues related to its production and distribution. What is more important here is to share the technical know-how and information such as trade secrets. Therefore, the existing TRIPS flexibilities, such as compulsory and voluntary licensing, are insufficient to address this crisis. Further, compulsory licensing and the domestic legal procedures it requires is cumbersome and not expedient in a public health crisis like the COVID-19 pandemic. India’s Role in Ensuring Vaccine Equity India's response to COVID-19 at the global level was primarily two-fold. First, its proactive engagements in the regional and international platforms. Second, its policies and programmes to provide therapeutics and vaccines to the world. Since the beginning of the COVID-19 pandemic, India has been advocating international cooperation and policy coordination in fighting it. For instance, in April 2020, India co-sponsored a UN resolution that called for fair and equitable access to essential medical supplies and future vaccines to COVID-19. Later, in October 2020, India also put pressure on developed countries with a joint WTO proposal for TRIPS waiver. India’s Vaccine Maitri initiative also aims vaccine equity. As of 29 May 2021, India has supplied 663.698 lakh doses of COVID-19 vaccines to 95 countries. It includes 107.15 lakh doses as a gift to more than 45 countries, 357.92 lakh doses by commercial sales, and 198.628 lakh doses to the COVAX facility.29 The COVAX initiative aims to ensure rapid and equitable access to COVID-19 vaccines for all countries, regardless of their income level. India has decided to supply 10 million doses of the vaccine to Africa and one million to the UN health workers under the COVAX facility. India has also removed the IPR of Covaxin that would help platforms like C-TAP once WHO and developed countries’ regulatory bodies approve the vaccine. If agreed, the waiver would benefit India in many ways. First, more vaccines will help the country to control the pandemic and its recurring waves. Second, it will be a boost to India's pharma industry, particularly the generic medicine industry. According to the Biotechnology Innovation Organization, 834 unique active compounds are involved in the current R&D of COVID-19 therapeutics, vaccines, and diagnostics. It means that thousands of new patents are awaited, and that will hinder India's ability to produce COVID-19 related medical products. Only through a waiver, this challenge can be addressed. Similarly, scientists note that mRNA is the future of vaccine technology. However, manufacturing mRNA vaccines involves complex processes and procedures. Only a very few Indian manufacturers have access to this technology; however, that too is limited. Once Indian companies have access to mRNA technology, it will help country’s generic medicine industry and boost India’s economy. Therefore, even if the WTO agrees on a waiver for a period shorter than proposed, India should accept it. In addition, mRNA vaccines can be produced in lesser time compared to the traditional vaccines. While traditional vaccines’ production takes four to five months, mRNA needs only six to eight weeks. Access to this technology will be vital for India in expediting the fight against COVID-19 and future pandemics. Finally, a waiver may strengthen India's diplomatic soft power. At present, what hinders India's Vaccine Maitri initiative is the scarcity of vaccines at home. On the other hand, China is increasing its standing in Africa, South America and the Pacific through vaccine diplomacy. The WHO approval of the Chinese vaccines and lack of access to vaccines by most developing countries, opens up huge space for China to do its vaccine diplomacy. Here, India should convince its Quad partners, particularly Australia and Japan, who oppose the waiver that vaccine production in developing countries through TRIPS waiver will enable the grouping to deliver its pledged billion doses of COVID-19 vaccine in the Indo-Pacific region. In short, the proposed waiver, if agreed, will help India in addressing the public health crisis by producing more vaccines and distributing them at home; economically, by boosting its generic pharmaceutical industry, and diplomatically, providing vaccines to the developing and least-developed countries. Therefore, India should use all available means and methods, from trade-offs to pressurising, to make the waiver happen.

#### Yes scale-up for covid.

Erfani et al 21 [Parsa; Lawrence Gostin; Vanessa Kerry; Parsa Erfani is a Fogarty Global Health Scholar at Harvard Medical School and the University of Global Health Equity. Lawrence Gostin is a professor at Georgetown University Law Center, director of the school’s O’Neill Institute for National and Global Health Law, and director of the World Health Organization Center on National and Global Health Law. Vanessa Kerry is a critical care physician at Massachusetts General Hospital, director of the Program for Global Public Policy at Harvard Medical School, and CEO of Seed Global Health, a nonprofit that trains health workers in countries with critical shortages; “Beyond a symbolic gesture: What’s needed to turn the IP waiver into Covid-19 vaccines,” STAT; 5/19/21; <https://www.statnews.com/2021/05/19/beyond-a-symbolic-gesture-whats-needed-to-turn-the-ip-waiver-into-covid-19-vaccines/>] Justin \*\*BRACKETS IN ORIGINAL

Currently many idle suppliers can’t begin vaccine production until they upgrade and repurpose existing manufacturing capacity for new technology. Opponents often argue that this step is the true barrier to rapid scale-up. One high-profile detractor, BIO President and CEO Michelle McMurry-Heath, argues that “handing [needy countries] the blueprint to construct a kitchen that — in optimal conditions — can take a year to build will not help us stop the emergence of dangerous new Covid variants.”

This argument ignores two core truths: In many cases, manufacturing capacity needs only repurposing which can take mere months. And Covid-19, at the current global response and vaccination rates, will be a threat for years.

Both truths suggest that we pass the blueprint and build the kitchen.

Facilitating structures to transfer technology and capacity are already in place. The WHO launched the mRNA technology transfer hub model last month to provide manufacturers in low- and middle-income countries with the financial, training, and logistical support needed to scale up vaccine manufacturing capacity. Scores of manufacturers in these countries have already expressed interest. This initiative, however, requires recipient manufacturers to acquire the IP necessary for mRNA technologies— which is currently missing.

#### Independently strategic patenting harms innovation incentives during pandemics – encourages reproduction of generics and decrease breakthroughs.

Gurgula 20 [Olga; Lecturer in Intellectual Property Law at Brunel Law School, Brunel University London. She is also a Visiting Fellow at the Oxford Martin Programme on Affordable Medicines, University of Oxford; “Strategic Patenting by Pharmaceutical Companies – Should Competition Law Intervene?” Springer Link; 10/28/20; <https://link.springer.com/article/10.1007/s40319-020-00985-0#Sec4>] Justin

As the COVID-19 pandemic is sweeping through the world, thousands of people urgently need access to affordable medicines. Based on past experience of treatments for other life-threatening diseases, there is a fear that access to any vaccines and treatment that may be developed in the future will be affected by patents, leading to unaffordably high prices. However, the problem of high drug prices is not new. It had been inflating healthcare budgets and posing a serious risk to the affordability and accessibility of medicines for society well before the pandemic.Footnote3 This problem is further exacerbated by the fact that, despite the alleged surge in investments into pharmaceutical R&D, current statistics indicate that the number of new breakthrough medicines is decreasing.Footnote4 On the other hand, the number of drugs that contain modifications of existing medicines is growing, demonstrating that pharmaceutical companies have been increasingly focusing their research on incremental drug development, rather than on breakthrough innovation.Footnote5 Various reasons for high drug prices and the growing focus on incremental innovation are put forward by pharmaceutical companies, including the complexity of drug discovery and development, as well as the expensive and lengthy regulatory procedures involved.Footnote6 While these reasons play an important role in this regard, some practices by pharmaceutical companies substantially contribute to this problem.Footnote7 In particular, pharmaceutical companies have been increasingly engaging in strategic patenting to delay or even block generic competition.Footnote8 These practices attracted the attention of the European Commission, which discussed them more than a decade ago in its 2009 Pharmaceutical Sector Inquiry Report.Footnote9 The Commission identified a series of patent strategies which it described as aiming “to extend the breadth and duration of [originators’] patent protection”Footnote10 and “to delay or block the market entry of generic medicine”.Footnote11 Such findings have fuelled debates as to whether these strategies may be deemed unlawful and violate EU competition rules, while also being justifiable business practices under patent law. Until today, no agreement has been reached either on the legality of these practices, or on an efficient legal tool to assess them. As a result, despite there being solid evidence that such strategies may block generic competition, allowing originators to maintain artificially high drug prices and preventing patients from accessing cheaper generics, they remain outside the ambit of the Commission’s activities. Instead, the Commission has been focusing on more straightforward patent-related practices, such as reverse payment agreements. This article argues that strategic patenting by pharmaceutical companies requires a long-overdue intervention by competition authorities. It aims to attract their attention to the harmful effects of strategic patenting. Specifically, it will contest the argument traditionally put forward by originator pharmaceutical companies that the intervention of competition law into patenting practices will reduce their incentives to innovate. The paper will argue to the contrary that, along with a more immediate negative effect in the form of high drug prices that is widely explored in the literature,Footnote12 strategic patenting also affects dynamic competition by stifling innovation. Importantly, it will be explained that the assessment of the effect of this practice should focus not only on innovation by originators, but should also take a wider market perspective by assessing its effect on follow-on innovation by generic companies. The latter argument is often overlooked. The paper will outline the current approach to strategic patenting that considers this practice lawful, and will provide arguments for the intervention of competition law. This, in turn, will open the possibility for competition authorities to investigate this practice in order to prevent its harmful effect on innovation and consumer welfare. Moreover, while patent law may provide certain mechanisms to deal with strategic patenting, such as raising the bar for patentability of pharmaceutical follow-on inventions,Footnote13 these tools may not be effective in all cases. Therefore, as will be explained further, competition law may be a more suitable tool to address the negative effects of strategic patenting.Footnote14 The article will be organised as follows. It will first discuss the complex structure of the pharmaceutical industry, focusing on its key players for the purpose of this article: originators and generic companies. It will further explore patenting practices employed by pharmaceutical companies and will define the notion of strategic patenting. The article will then argue that the latter strategy is against the rationale of patent and competition laws, as it stifles competition by impairing incentives to innovate of both originators and generic companies. Finally, it will discuss the current approach to strategic patenting that considers this practice lawful, and will argue that it should be subject to scrutiny under the rules of competition law, to address its negative effects. Pharmaceutical Innovation and Generic Competition in the Pharmaceutical Industry The pharmaceutical industry is unique in its complexity. It is characterised by heavy state regulation and, sometimes, by the competing interests of the pharmaceutical business and society. It also involves multiple actors, including originators,Footnote15 marketing authorisation bodies, generic companies,Footnote16 doctors, pharmacies and patients. Each of them plays their part in the lengthy and complicated process of transforming a chemical compound into an effective and affordable medicine, which is then prescribed, dispensed and consumed. In these complex relationships, the two key players have crucial roles. On the one hand, originators play an important role in developing new and improved medicines for the benefit of society. On the other hand, generic companies benefit society by supplying cheaper equivalents of the originators’ medicines, which leads to the reduction of drug prices and facilitates access to affordable medicines. When the interests of these two players are kept in balance, benefits are maximised for society, which receives innovative and improved medicines, as well as timely access to generic drugs. However, if the balance swings towards one of the players, then society loses out, as there will be insufficient access to either innovative or affordable medicines. Therefore, both pharmaceutical innovation and generic competition must be duly incentivised and protected. Moreover, these two elements of the pharmaceutical industry are constantly interacting and have a profound impact on each other. In particular, pharmaceutical innovation is the backbone of the pharmaceutical industry, in which originators play an important role. The process of drug development is long and complicated, requires significant investments, and bears considerable commercial risks.Footnote17 It is also highly regulated, including, among other things, the requirement for originators to obtain a special authorisation from a designated state authority to market a drug. Such marketing authorisations are granted to the originators only if they can prove that the drug is safe and effective, which typically requires lengthy and expensive clinical trials.Footnote18 In order to protect these significant efforts and investments, pharmaceutical companies rely heavily on the exclusivity granted by intellectual property rights, and in particular, patents.Footnote19 Patents provide a 20-year monopoly right, during which a pharmaceutical company enjoys market exclusivity and can charge a monopoly price for its products. Originators argue that strong patent protection is essential in order to recoup investments, as well as to incentivise them to engage in further innovation.Footnote20 Once such patent protection expires, however, other companies may develop generics of a branded drug, and start competing with the originator for the market. This is called generic competition. Generic drugs are bioequivalent versions of a branded drug that has lost its patent protection.Footnote21 It is estimated that the generic entry typically leads to, on average, an 80 per cent market share loss and a 20–30 per cent reduction of a drug price, with further price decreases with each additional generic entrant, leading, in some instances, to a fall in price of up to 90 per cent.Footnote22 A representative example of the effect of generic competition on the originators’ drug prices is the significant decrease in price and dramatic loss of profits by Eli Lilly. The expiration of a patent protecting its blockbusterFootnote23 antidepressant Prozac in 2001 resulted in a loss of almost 70 per cent of its market and $2.4 billion in annual U.S. sales.Footnote24 This effect of generic competition is beneficial for society, as it reduces the financial pressure on healthcare budgets and increases the accessibility of drugs. Patenting Practices by Pharmaceutical Companies As was mentioned above, generic competition is prevented during the life of a patent protecting an active compound of a drug (a so-called “basic” or “primary” patent).Footnote25 Such a basic patent covers an active ingredient itself and, therefore, provides the strongest protection for the product. Therefore, generic competition normally starts only after the basic patent expires, or if a generic company succeeds in invalidating it. While in the past pharmaceutical companies mainly protected their products with a single patent covering an active compound,Footnote26 they now increasingly seek additional patent protection on various aspects of a drugFootnote27 in order to protect their market position.Footnote28 Such additional patents are often called secondary patents.Footnote29 A pharmaceutical company may want to obtain secondary patents, which protect such aspects of a drug as, for example, its process of manufacture, formulation and/or specific form, etc. Therefore, even after the basic patent protecting an active compound expires, a drug may still be protected by other secondary patents. This may result in the extension of the scope and length of the protection of a product, especially if secondary patents have a later expiration date than a basic patent.Footnote30 This, in particular, may occur if, for example, the process of producing an active compound disclosed in the basic patent is sufficient only for reproducing this compound in a laboratory, but it is unsuitable for producing it on a large commercial scale.Footnote31 If the originator was able to secure a secondary patent that protects such a large scale manufacturing process, it would prevent generics from using this process for producing their generic versions of a drug; otherwise they would risk infringing this secondary patent.Footnote32 However, a unique feature of pharmaceuticals is that an active ingredient can be manufactured using different methods and processes, can exist in different forms or can be used in different formulations. Therefore, when a basic patent on an active ingredient expires, other companies can develop alternative methods of production, forms or formulations of this active compound and start competing with the originator company.Footnote33 While such patenting strategies by originators are lawful in principle, some of them may be problematic. In particular, in anticipation of the loss of patent protection, originators may engage in strategic patenting which artificially prevents generic competition and results in an extension of their market monopoly.Footnote34 Defining Strategic Patenting In its Sector Inquiry Report, the European Commission explained that the drug development process consists of three main stages: (i) the R&D stage, which ends with the launch of a drug on the market; (ii) the period between the launch and the patent expiry; and (iii) the period after the patent expiration, when generics can enter the market.Footnote35 During the second stage, i.e. after the launch of a drug, originators seek to maximise their income from the product in order to recoup their R&D investments and earn profits before the commencement of generic competition.Footnote36 It is also during this stage that pharmaceutical companies seek to prolong their market exclusivity. In recent years, pharmaceutical companies have been increasingly relying on the strategic use of the patent system to combat the pressure of generic competition. Such practices are often called “life cycle management” by originators and proponents of the practice. For example, as Burdon and Sloper explained, “[a] key element of any life cycle management strategy … is to extend patent protection beyond the basic patent term for as long as possible, by filing secondary patents which are effective to keep generics off the market”.Footnote37 However, critics have characterised the practice as “evergreening”,Footnote38 as it essentially evergreens the patent protection and the exclusivity of a product.Footnote39 For instance, Bansal et al. explain that evergreening “refers to different ways wherein patent owners take undue advantage of the law and associated regulatory processes to extend their IP monopoly, particularly over highly lucrative ‘blockbuster’ drugs, by filing disguised/artful patents on an already patent-protected invention shortly before expiry of the ‘parent’ patent”.Footnote40 During its investigation into the pharmaceutical industry, the European Commission found that the number of patents granted and pending applications significantly increases with the value of a drug, i.e. “blockbuster medicines can even be protected by up to nearly 100 INNFootnote41-specific EPO patented bundles and applications …, which in one particular case led to 1,300 patents and applications across all the EU Member States”.Footnote42 The Commission also found that the ratio of primary to secondary patents is 1:7, where the latter “mostly concern formulations, processes and non-formulation products…, such as salts, polymorphic forms, particles, solvates and hydrates”.Footnote43 As a result, the Commission concluded that the practice of “maximising patent coverage in such a way is the creation of a web of patents”, which affects the generics’ ability to “develop a generic version of the medicine in form of a salt, crystalline or amorphous form”, because it “would inevitably infringe a patent (for example, a patent for the relevant salt, crystalline or amorphous form of the medicine)”.Footnote44 Each of such patents would typically have a later expiration date, which effectively extends a period of market exclusivity beyond the expiration of a basic patent.Footnote45 In addition, most of these patents that protect such follow-on modifications are so-called “sleeping” patents, i.e. patents which a company has no intention of commercialising.Footnote46 Moreover, such modifications may provide little or no therapeutic benefits to the patient compared to the original drug.Footnote47 Nevertheless, such patents allow originators to secure the most efficient, broadest and longest possible protection for their successful products.Footnote48 The denser the web of secondary patents, the more difficult it is for generics to develop their generic equivalents, even if they know that only a few patents of a large portfolio would, in fact, be valid and infringed by their products.Footnote49 Despite such knowledge, it is impossible to be certain before introducing a generic whether this will be the case and, thus, whether the generic company will be subject to injunctions preventing the sale of their generic products.Footnote50 Such practice, therefore, provides an appreciable competitive advantage for originators by creating a significant legal and commercial uncertainty for generics in relation to the possibility of their market entry.Footnote51 This paper argues that such a strategic use of the patent system by pharmaceutical companies is against the shared goal of patent and competition laws of facilitating innovation for the benefit of society. As will be explained further, in addition to a more immediate negative effect in the form of high drug prices, strategic patenting may also impair innovation by reducing originators’ incentives to innovate, and affecting generics’ ability to develop alternative generic products. Strategic patenting, therefore, may enable originators to avoid competitive pressures by preventing generic competition without a need to engage in genuine innovation. Strategic Patenting Contradicts the Rationale of the Patent System and Competition Law In the competitive markets, the success of a company is based on its business performance.Footnote52 In order to compete on performance by “offering better quality and a wider choice of new and improved goods and services”Footnote53 firms must innovate. Realising the importance of protecting innovation, which is considered to be the main driver of economic growth,Footnote54 states have put in place various mechanisms to ensure a suitable environment for its advancement. These include granting the property rights to the results of innovation in the form of patents, as well as implementing competition law rules to stimulate dynamic competition.Footnote55 Specifically, one of the main justifications for the patent system is the encouragement of innovationFootnote56 that serves as an engine for economic growth and development.Footnote57 The patent system pursues this aim by offering the patent owners a period of exclusive rights as a reward for their innovative efforts and an incentive to engage in further innovation.Footnote58 Therefore, intellectual property rules, and patents in particular, are seen as an essential element of undistorted competition on the internal market.Footnote59 These exclusive rights are considered to be a necessary incentive to invest in R&D and innovation, particularly in such sectors as pharmaceuticals, where the R&D costs are high, but the costs of copying the R&D results are marginal.Footnote60 At the same time, the “innovation theory”, embodied in the EU competition law rules and policy, is designed to stimulate innovation by fostering competition on the markets.Footnote61 The competition law rules keep markets innovative by maintaining effective competition through preventing the foreclosure of markets and maintaining access to them.Footnote62 The rationale is that firms react to pressures of competition by continuously seeking to innovate.Footnote63 Therefore, patent and competition laws complement each other, as on the one hand, existing competition creates pressures on firms, forcing them to innovate, the so-called “stick”, while on the other hand, patent law provides a “carrot” in the form of the exclusive right, thus inducing innovators to innovate.Footnote64 These two bodies of laws are seen as “complementary efforts to promote an efficient marketplace and long-run, dynamic competition through innovation”.Footnote65 As the European Commission noted “both intellectual property rights and competition are necessary to promote innovation and ensure a competitive exploitation thereof”.Footnote66 These two bodies of laws, therefore, have the same fundamental goal of enhancing innovation for the benefit of consumer welfare. Importantly, patent and competition laws are designed to stimulate not only innovation of “pioneer” innovators, but they are also aimed at facilitating follow-on innovation.Footnote67 Patent law contains provisions that require inventors to disclose information about their inventions, as well as providing exceptions such as experimental use and compulsory licensing, which allow third parties to access the inventions still under patent protection.Footnote68 Therefore, along with pioneer innovators, the rationale of incentives to innovate in patent law also applies to follow-on innovators, balancing the interests of these two types of inventors.Footnote69 Similarly, competition law aims at stimulating all types of innovation, including follow-on innovation. On the other hand, EU competition law proscribes practices that reduce incentives to innovate both for “pioneer” and follow-on innovators. This is enshrined in Art. 102(b) TFEU, which prohibits abuses that consist of, inter alia, limiting technological development. For example, in AstraZeneca the General Court considered that the company’s practice of misusing the patent system had the potential of reducing its incentives to innovate and was anticompetitive.Footnote70 In MagillFootnote71 and Microsoft,Footnote72 the courts found that the IP rights owners abused their dominant positions by blocking innovation of their potential competitors. More recently, several decisions by the European Commission also emphasised the importance of protecting innovation. In January 2018, the Commission fined QualcommFootnote73 €997 million for abusing its market dominance in LTEFootnote74 baseband chipsets.Footnote75 The Commission considered that the exclusivity payments that Qualcomm paid to Apple denied rivals the possibility to compete on the merits, and deprived European consumers of genuine choice and innovation.Footnote76 Furthermore, in July 2018, the Commission found in Google Android that Google abused its dominant position, and fined the company €4.34 billion for anticompetitive restrictions it had imposed on mobile device manufacturers and network operators to strengthen its dominant position in general internet search.Footnote77 The Commission considered that Google’s restrictive practices denied other companies the chance to compete on the merits and innovate.Footnote78 Finally, in 2017 the Commission issued its decision, in which it took the view that Amazon abused its dominant positions on the markets for the retail distribution of e-books by inserting the so-called “parity clauses” in the agreements with its e-book suppliers.Footnote79 It concluded that these clauses had the potential of reducing the incentives to innovate both by e-book suppliers and retailers.Footnote80 These decisions demonstrate that the European Commission recognises the fundamental importance of protecting innovation. They confirm that strategies that are capable of stifling innovation and reducing the incentives to innovate may constitute an abuse of dominance under Art. 102 TFEU. It is argued in this article that, along with the practices condemned by the Commission in the decisions discussed above, strategic patenting can also harm innovation by impairing incentives to innovate of both originators and generic companies, and therefore should raise competition law concerns. Strategic Patenting Impairs Originators’ Incentives to Innovate While originator companies typically argue that the competition law intervention into their patenting practices will reduce their incentives to innovate,Footnote81 this article asserts that strategic patenting itself reduces originators’ incentives. Thus, in a properly functioning system, when a patent protecting a product is close to expiration the originator would be encouraged to innovate further in order to introduce a new product on the market and maintain its competitive position. However, by engaging in strategic patenting, the originator’s incentive to innovate diminishes as it enjoys its monopoly position by merely procuring numerous secondary patents that shield its current product from generic competition. Therefore, when companies engage in such strategic patenting, they are merely protecting themselves from the competitive pressures that competition law aims to establish. Maintaining that this practice is lawful, originators argue that strong patent protection is essential for recouping their investments, as well as for incentivising them to engage in further innovation.Footnote82 Such a position may find some support in the arguments put forward by Joseph Schumpeter and his followers, who claimed that since monopoly increases the reward of the innovator, monopolists are more prone to innovation.Footnote83 However, as Lowe noted:Footnote84 the empirical evidence of the past few decades has worked against Schumpeter and in favor of Kenneth Arrow, who contends that in favoring monopolies Schumpeter underestimated the incentives for innovation that competition can offer. Monopolists tend to want to keep their monopolies by resorting to any measures that can keep new entrants out. Firms under competitive pressure from actual or potential competition, on the other hand, are less complacent and know that inventing a new product is their best strategy for maintaining and increasing their market share. In the same vein, the Commission emphasises the importance of competition for the incentives to innovate, stating that: “[r]ivalry between undertakings is an essential driver of economic efficiency, including dynamic efficiencies in the form of innovation. In its absence the dominant undertaking will lack adequate incentives to continue to create and pass on efficiency gains.”Footnote85 Evidence from the pharmaceutical industry confirms that strategic patenting reduces incentives to engage in genuine and meritorious innovation. In many cases, strategically accumulated secondary patents are of marginal quality and are typically the result of routine research activities.Footnote86 For example, in Perindopril the European Commission revealed that most of the secondary patents, procured as part of the originator company’s anti-generic strategy, were seen by the company as “blocking” or “paper”, some of which it considered involved “zero inventive step”Footnote87 and a purely editorial task.Footnote88 Moreover, these follow-on pharmaceutical inventions are specifically timed around the expiration of the basic patent and can be developed on demand.Footnote89 In AstraZeneca the Commission noted that the company designed to “[f]ile a patent-cloud of mixtures, uses, formulations, new indications, and chemistry” in relation to its blockbuster product omeprazole to slow down generic entry at a specifically defined time, close to the expiration of the basic patent.Footnote90 The main aim of these patents is to increase uncertainty for generic companies as to the possibility of their market entry.Footnote91 Therefore, while many of these secondary patents may be trivial and potentially invalid, the originator pursues them to protect its current successful product from generic competition.Footnote92 Even if a company continues to engage in innovation in parallel to pursuing strategic patenting, it still protects itself from the pressures of competition, which would have forced the company to innovate faster and would thus provide consumers with better products and/or access to cheaper generic versions earlier. As Ullrich argues:Footnote93 A slowdown in the transition of the new medicines from the protected status of a proprietary medicine to the status of generic products manufactured and distributed in open competition does not simply mean a loss of static efficiency, namely a loss of consumer well-being due to a slowdown in the reduction of process. Rather, such a slowdown also involves the risk of a loss of dynamic efficiency in that it extends the duration of a monopoly rent situation, thus reducing the pressure to innovate more quickly. Following the rationale of the General Court’s statement in AstraZeneca, the practice of the originator that extends its market monopoly by relying on the patent system “potentially reduces the incentive to engage in innovation, since it enables the company in a dominant position to maintain its exclusivity beyond the period envisaged by the legislator”.Footnote94 Such practices, according to the Court, act “contrary to the public interest”.Footnote95 Therefore, the practice of strategic patenting that protects originators’ monopolies from competitive pressures and significantly reduces their incentives to engage in genuine innovation is contrary to the rationale of the patent system, has a significant negative effect on competition and should raise competition law concerns. Strategic Patenting Impairs Follow-on Innovation of Generic Companies Strategic patenting also has a chilling effect on follow-on innovation by generic competitors in the form of developing alternative versions of an off-patent compound. As was discussed earlier, the expiry of a basic patent that protects an active compound facilitates generic competition. This is because even if the product is still protected by process, specific form or formulation patents, generic companies may develop alternative ways of producing or formulating the product and start competing with the originator. In the absence of strategically accumulated patents by the originator, generic companies are typically open to innovating to launch alternative generic products as soon as the basic patent expires. However, by pursuing strategic patenting, originators may discourage generics from engaging in follow-on innovation because of the uncertainty about the patent protection and a fear of infringing on one of the numerous patents.Footnote96 In its Sector Inquiry Report, the Commission cited the following quote from one of the originators: The entire point of the patenting strategy adopted by many originators is to remove legal certainty. The strategy is to file as many patents as possible on all areas of the drug and create a “minefield” for the generics to navigate. All generics know that very few patents in that larger group will be valid and infringed by the product they propose to make, but it is impossible to be certain prior to launch that your product will not infringe and you will not be the subject of an interim injunction.Footnote97 Therefore, as a result of creating an impenetrable ring of patent protection by the originator,Footnote98 generic competitors may be prevented from developing alternative generic versions of an off-patent compound. One of the examples revealed by the Commission during its Pharmaceutical Sector Inquiry was the filing by an originator company of “more than 30 patent families translating into several hundreds of patents in the Member States in relation to one product”, many of which were filed after the introduction of the product.Footnote99 This affected the intentions of several generic companies that planned to develop and bring their generic versions of the original product to the market.Footnote100 As a result, in addition to the already high barriers to entry into the pharmaceutical market due to patents that protect an existing product and the need to obtain a marketing authorisation, strategic patenting raises these entry barriers further, making it very difficult for generic companies to overcome them. This strategy, therefore, “may without further enforcement action by originator companies, … delay generic entry until the patent situation is clearer or even discourage more risk-sensitive generic companies from entering altogether”.Footnote101 Consequently, the fact that actual or potential competitors of originators would not be able to develop alternative generic products means that no one could enter the market and challenge originators’ monopoly positions. This results in a weakening of competition in the relevant market and a strengthening of the originator’s already dominant position. As Maggiolino put it, “patent accumulation … may work as a pre-emptive entry-deterrence strategy to protect monopoly power and … lower consumer welfare by allowing dominant firms to keep on charging over-competitive prices”.Footnote102 Therefore, when an array of accumulated secondary patents “blocks monopolists’ rivals from producing follow-on innovations, this strategy prevents the whole society from enjoying … these further innovations”.Footnote103 While practices that facilitate innovation are encouraged by competition law, practices that are aimed at blocking follow-on innovation by competitors should raise competition law concerns.

#### That escalates security threats – extinction.

---AT: Cooperation Thesis

RECNA et al. 21 [Research Center for Nuclear Weapon Abolition; Nagasaki, Japan; “Pandemic Futures and Nuclear Weapon Risks: The Nagasaki 75th Anniversary pandemic-nuclear nexus scenarios final report,” Journal for Peace and Nuclear Disarmament; 5/28/21; <https://www.tandfonline.com/doi/full/10.1080/25751654.2021.1890867>] Justin

The Challenge: Multiple Existential Threats The relationship between pandemics and war is as long as human history. Past pandemics have set the scene for wars by weakening societies, undermining resilience, and exacerbating civil and inter-state conflict. Other disease outbreaks have erupted during wars, in part due to the appalling public health and battlefield conditions resulting from war, in turn sowing the seeds for new conflicts. In the post-Cold War era, pandemics have spread with unprecedented speed due to increased mobility created by globalization, especially between urbanized areas. Although there are positive signs that scientific advances and rapid innovation can help us manage pandemics, it is likely that deadly infectious viruses will be a challenge for years to come. The COVID-19 is the most demonic pandemic threat in modern history. It has erupted at a juncture of other existential global threats, most importantly, accelerating climate change and resurgent nuclear threat-making. The most important issue, therefore, is how the coronavirus (and future pandemics) will increase or decrease the risks associated with these twin threats, climate change effects, and the next use of nuclear weapons in war.5 Today, the nine nuclear weapons arsenals not only can annihilate hundreds of cities, but also cause nuclear winter and mass starvation of a billion or more people, if not the entire human species. Concurrently, climate change is enveloping the planet with more frequent and intense storms, accelerating sea level rise, and advancing rapid ecological change, expressed in unprecedented forest fires across the world. Already stretched to a breaking point in many countries, the current pandemic may overcome resilience to the point of near or actual collapse of social, economic, and political order. In this extraordinary moment, it is timely to reflect on the existence and possible uses of weapons of mass destruction under pandemic conditions – most importantly, nuclear weapons, but also chemical and biological weapons. Moments of extreme crisis and vulnerability can prompt aggressive and counterintuitive actions that in turn may destabilize already precariously balanced threat systems, underpinned by conventional and nuclear weapons, as well as the threat of weaponized chemical and biological technologies. Consequently, the risk of the use of weapons of mass destruction (WMD), especially nuclear weapons, increases at such times, possibly sharply. The COVID-19 pandemic is clearly driving massive, rapid, and unpredictable changes that will redefine every aspect of the human condition, including WMD – just as the world wars of the first half of the 20th century led to a revolution in international affairs and entirely new ways of organizing societies, economies, and international relations, in part based on nuclear weapons and their threatened use. In a world reshaped by pandemics, nuclear weapons – as well as correlated non-nuclear WMD, nuclear alliances, “deterrence” doctrines, operational and declaratory policies, nuclear extended deterrence, organizational practices, and the **existential risks** posed by retaining these capabilities – are all up for redefinition. A pandemic has potential to destabilize a nuclear-prone conflict by incapacitating the supreme nuclear commander or commanders who have to issue nuclear strike orders, creating uncertainty as to who is in charge, how to handle nuclear mistakes (such as errors, accidents, technological failures, and entanglement with conventional operations gone awry), and opening a brief opportunity for a first strike at a time when the COVID-infected state may not be able to retaliate efficiently – or at all – due to leadership confusion. In some nuclear-laden conflicts, a state might use a pandemic as a cover for political or military provocations in the belief that the adversary is distracted and partly disabled by the pandemic, increasing the risk of war in a nuclear-prone conflict. At the same time, a pandemic may lead nuclear armed states to increase the isolation and sanctions against a nuclear adversary, making it even harder to stop the spread of the disease, in turn creating a pandemic reservoir and transmission risk back to the nuclear armed state or its allies. In principle, the common threat of the pandemic might induce nuclear-armed states to reduce the tension in a nuclear-prone conflict and thereby the risk of nuclear war. It may cause nuclear adversaries or their umbrella states to seek to resolve conflicts in a cooperative and collaborative manner by creating habits of communication, engagement, and mutual learning that come into play in the nuclear-military sphere. For example, militaries may cooperate to control pandemic transmission, including by working together against criminal-terrorist non-state actors that are trafficking people or by joining forces to ensure that a new pathogen is not developed as a bioweapon. To date, however, the COVID-19 pandemic has increased the isolation of some nuclear-armed states and provided a textbook case of the failure of states to cooperate to overcome the pandemic. Borders have slammed shut, trade shut down, and budgets blown out, creating enormous pressure to focus on immediate domestic priorities. Foreign policies have become markedly more nationalistic. Dependence on nuclear weapons may increase as states seek to buttress a global re-spatialization6 of all dimensions of human interaction at all levels to manage pandemics. The effect of nuclear threats on leaders may make it less likely – or even impossible – to achieve the kind of concert at a global level needed to respond to and administer an effective vaccine, making it harder and even impossible to revert to pre-pandemic international relations. The result is that some states may proliferate their own nuclear weapons, further reinforcing the spiral of conflicts contained by nuclear threat, with cascading effects on the risk of nuclear war.

### 1AC – Plan

#### Plan text: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines during COVID-19 – to clarify we will defend reducing trademarks and patents for medicines during COVID-19.

#### Enforcement through limited IP waivers solve – patent term extensions are normal means and solves innovation and scale-up.

Young and Potts-Szeliga 21 [Roberta; Counsel in Seyfarth’s Litigation department and Intellectual Property and Patent Litigation practice groups in Los Angeles; Jamaica Potts-Szeliga; Partner in Seyfarth’s Litigation department and Intellectual Property and Patent Litigation practice groups in Washington, DC. She also provides advice on FDA regulatory issues and is part of the firm’s Health Care, Life Sciences, and Pharmaceuticals team; “A Third Option: Limited IP Waiver Could Solve Our Pandemic Vaccine Problems,” IP Watch Dog; 7/21/21; <https://www.ipwatchdog.com/2021/07/21/third-option-limited-ip-waiver-solve-pandemic-vaccine-problems/id=135732/>] Justin

Limited Waiver Approach

This article suggests a third option, between voluntary vaccine donation and the full IP waiver proposal, that may offer a way forward. The third proposed solution is incentivized limited IP waivers that could encourage (or require) private companies to engage in licensing agreements with nations to share some, but not all, of the knowledge and designs covering the COVID-19 vaccines to the developing world. The limited IP waivers could cover the minimum necessary portions of the technology to produce basic COVID-19 vaccines. The waivers could be limited in time to the duration of the pandemic, or another term agreed to by the WTO. The term could also be defined as ending when widespread vaccination and immunity goals are achieved. The incentive for pharmaceutical companies to support such limited IP waivers could be provided in the form of patent term extensions for the technology covered by the limited IP waivers.

Extensions of patent term are already known and widely used. In the U.S., patent term adjustments are automatically added on to the patent lifespan to account for any delays by the USPTO in the patent prosecution process. In some cases, these mechanisms may extend the patent term for years. Patent term extensions also are available for regulatory delays (35 U.S.C. § 156). In particular, patents covering, inter alia, drug products approved by the United States Food & Drug Administration may be eligible for up to five years of additional patent term to give back time required to complete the regulatory review process. Both patent term adjustments and patent term extensions arise from activities beyond the control of the pharmaceutical companies. A pandemic patent term extension fashioned after such known extensions could be made used to compensate for the current pressing global health needs.

This third proposal may be achievable at the WTO. Hurdles remain and it could be months or years before the WTO reaches an agreement on any waiver of IP protections, and years before countries build factories, gather materials, and gain the expertise to produce the vaccines. A steep hurdle is that mRNA is a new technology, with no machines or experts for hire. Nonetheless, the third solution offers hope to find a middle ground that may begin to be implemented before the end of the current pandemic and be in place for the future.

The patent term extension could be provided for countries with patent offices and could be adapted based on laws and conditions in each country. Pandemic-related patent term extensions could be given for a period of time that the compulsory license is in force. With current pandemic projections of six months to two years for sufficient distribution, providing a patent term extension is reasonable and in line with the time period of many patent term extensions. Given that most pharmaceutical patents are prosecuted in multiple countries, this provides an incentive to participate in a limited waiver program.

Let’s Not Repeat Past Mistakes

It’s been a century since the last pandemic devastated the globe and the only certainty is that this will not be the last pandemic. Solutions created today lay a foundation for mitigation of the next pandemic. It’s been said that those who refuse to learn from history are doomed to repeat it, a thought too painful to contemplate with a pandemic. The industrial nations of the world have technology that others are literally dying to obtain—a high price to pay. Incentivized limited IP waivers may offer a compromise to bridge the gap between maintaining IP rights (and thus relying on charity alone) and arbitrary compulsory licensing that could deter the technological investment to create life-saving solutions in the future.

### Framing

#### The standard is maximizing expected wellbeing.

#### 1] Actor spec—governments must use util because they don’t have intentions and are constantly dealing with tradeoffs—outweighs since different agents have different obligations—takes out calc indicts since they are empirically denied.

#### 2] Death outweighs—

#### A] Agents can’t act if they fear for their bodily security—my framework constrains every NC and K

#### B] It’s the worst form of evil:

Paterson 3 – Department of Philosophy, Providence College, Rhode Island (Craig, “A Life Not Worth Living?”, Studies in Christian Ethics.

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81  In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### 4] Extinction outweighs

MacAskill 14 [William, Oxford Philosopher and youngest tenured philosopher in the world, Normative Uncertainty, 2014]

The human race might go extinct from a number of causes: asteroids, supervolcanoes, runaway climate change, pandemics, nuclear war, and the development and use of dangerous new technologies such as synthetic biology, all pose risks (even if very small) to the continued survival of the human race.184 And different moral views give opposing answers to question of whether this would be a good or a bad thing. It might seem obvious that human extinction would be a very bad thing, both because of the loss of potential future lives, and because of the loss of the scientific and artistic progress that we would make in the future. But the issue is at least unclear. The continuation of the human race would be a mixed bag: inevitably, it would involve both upsides and downsides. And if one regards it as much more important to avoid bad things happening than to promote good things happening then one could plausibly regard human extinction as a good thing.For example, one might regard the prevention of bads as being in general more important that the promotion of goods, as defended historically by G. E. Moore,185 and more recently by Thomas Hurka.186 One could weight the prevention of suffering as being much more important that the promotion of happiness. Or one could weight the prevention of objective bads, such as war and genocide, as being much more important than the promotion of objective goods, such as scientific and artistic progress. If the human race continues its future will inevitably involve suffering as well as happiness, and objective bads as well as objective goods. So, if one weights the bads sufficiently heavily against the goods, or if one is sufficiently pessimistic about humanity’s ability to achieve good outcomes, then one will regard human extinction as a good thing.187 However, even if we believe in a moral view according to which human extinction would be a good thing, we still have strong reason to prevent near-term human extinction. To see this, we must note three points. First, we should note that the extinction of the human race is an extremely high stakes moral issue. Humanity could be around for a very long time: if humans survive as long as the median mammal species, we will last another two million years. On this estimate, the number of humans in existence in the The future, given that we don’t go extinct any time soon, would be 2×10^14. So if it is good to bring new people into existence, then it’s very good to prevent human extinction. Second, human extinction is by its nature an irreversible scenario. If we continue to exist, then we always have the option of letting ourselves go extinct in the future (or, perhaps more realistically, of considerably reducing population size). But if we go extinct, then we can’t magically bring ourselves back into existence at a later date. Third, we should expect ourselves to progress, morally, over the next few centuries, as we have progressed in the past. So we should expect that in a few centuries’ time we will have better evidence about how to evaluate human extinction than we currently have. Given these three factors, it would be better to prevent the near-term extinction of the human race, even if we thought that the extinction of the human race would actually be a very good thing. To make this concrete, I’ll give the following simple but illustrative model. Suppose that we have 0.8 credence that it is a bad thing to produce new people, and 0.2 certain that it’s a good thing to produce new people; and the degree to which it is good to produce new people, if it is good, is the same as the degree to which it is bad to produce new people, if it is bad. That is, I’m supposing, for simplicity, that we know that one new life has one unit of value; we just don’t know whether that unit is positive or negative. And let’s use our estimate of 2×10^14 people who would exist in the future, if we avoid near-term human extinction. Given our stipulated credences, the expected benefit of letting the human race go extinct now would be (.8-.2)×(2×10^14) = 1.2×(10^14). Suppose that, if we let the human race continue and did research for 300 years, we would know for certain whether or not additional people are of positive or negative value. If so, then with the credences above we should think it 80% likely that we will find out that it is a bad thing to produce new people, and 20% likely that we will find out that it’s a good thing to produce new people. So there’s an 80% chance of a loss of 3×(10^10) (because of the delay of letting the human race go extinct), the expected value of which is 2.4×(10^10). But there’s also a 20% chance of a gain of 2×(10^14), the expected value of which is 4×(10^13). That is, in expected value terms, the cost of waiting for a few hundred years is vanishingly small compared with the benefit of keeping one’s options open while one gains new information.

### Underview

#### 1] 1AR theory is legit – anything else means infinite abuse – drop the debater, competing interps – 1AR are too short to make up for the time trade-off- no RVIs on 1ar theory or 2n theory-the 2n can uplayer for 6 minutes and easily beat any theory 2ar-also key to check back against infinite abuse-

#### 2] Reasonability on 1NC theory with the brightline of link and impact turn ground – there are infinite bidirectional interps that I can never meet – the four minute 1AR doesn’t have enough time to line by line every argument, make offense, and go for substance.

#### 3] Use comparative worlds – A] topic ed – forces the neg to research the topic instead of low quality rez flaw args – the only benefit to debate is making us better arguers not perfect logicians, B] reciprocity – truth-testing allows the neg to disprove any part of the aff, but the aff has to defend every part, which gives the neg too much ground, C] inclusion – truth testing says rez is only thing that’s relevant which excludes ks – either only the rez matters so we can’t punish slurs, or people should get dropped for making debate unsafe which proves other things matter D] Text

#### Resolved requires policy action

Louisiana State Legislature (<https://www.legis.la.gov/legis/Glossary.aspx>) Ngong

**Resolution**

**A legislative instrument** that generally is **used for** making declarations, **stating policies**, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution **uses the term "resolved".** Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4 and Senate Rules 10.9, 13.5 and 15.1)

#### Graphical user interface, text, application, chat or text message Description automatically generated

#### 4] Interpretation: the debater on the other side of the flip must disclose what the aff would be while the debater doing the flip decides their position.

#### a. Pre round prep- we don’t get pre-round prep if you don’t disclose the aff supercharged by the fact that there are multiple affs on your wiki

#### b. turns critical ed- not disclosing critical theory means we can’t engage in a robust discussion of critical theory killing critical education

#### DTD, CI, No rvis on 1ac theory the neg would get to uplayer for 7 minutes making the 1ar impossible to win the shell

#### 5] COVID materially harms those with disabilities.

MGH 20 [Massachusetts General Hospitals; 12/17/20; “COVID-19's Impact on People with Disabilities,” MGH, <https://www.massgeneral.org/news/coronavirus/Covid-19s-impact-on-people-with-disabilities>] Justin

People living with disabilities have been disproportionately impacted by the COVID-19 pandemic. As this particularly vulnerable segment of the population encompasses a variety of conditions and impairments, those with disabilities have faced many barriers throughout the pandemic. For example, they may be at a potentially higher risk of contracting the virus due to underlying conditions, have difficulty engaging in preventative measures or experience disruptions to health services they normally rely on. As the pandemic progresses, it is critical for both individuals living with disabilities, and those who are their caretakers, to take the necessary steps to protect their health and well-being. Below, Zary Amirhosseini, MEd, disability program manager at Massachusetts General Hospital, discusses the impact of the pandemic on people with disabilities as well as tips for both individuals and caregivers to stay safe. The Unique Challenges During COVID-19 for People With Disabilities Throughout the pandemic, daily life and access to health care has worsened for people with disabilities. "We all have heard the news about the higher death rate for those with developmental disorders and intellectual disabilities, veterans and aging populations who live in group homes or nursing homes," says Amirhosseini. Some of the unique challenges that many individuals with disabilities are facing in the midst of COVID-19 include: Inability to wear masks due to health risks: Some individuals may not be able to wear a standard surgical or procedural mask due to a disability or medical condition. Examples of risky circumstances include when the face mask affects a person’s ability to breathe; exacerbates symptoms related to post-traumatic stress disorder; causes sensory overload, feelings of panic or extreme anxiety; and presents a communication barrier by impeding lip reading. No one is required to wear a face mask or covering in a situation that creates a health risk or is not safe Having to abide by health care visitor policies that exclude support persons: Across the United States at the beginning of the pandemic, there was inconsistency in implementing policies which allowed support persons to accompany patients with disabilities. As a result, many have been denied care or may have experienced adverse impacts of not having their support person with them Inaccessibility through telehealth tools: For those who are blind or visually impaired, telehealth tools may not be compatible with certain programs such as screen readers; for those with cognitive delays, the tools may be difficult to navigate; for those who are deaf or hard of hearing, accessing information through American Sign Language (ASL) interpreters and/or captioning may be unavailable if not arranged in advance Negative consequences resulting from social distancing: While the golden rule during the pandemic has been to limit interaction with others as much as possible, this can be difficult for those who need extra assistance or require a caregiver; for those with physical and sensory disabilities seeking accommodation and for those with mental health conditions struggling in isolation Lack of access to COVID-19 testing and testing sites: Particularly for those who are housebound and/or unable to travel independently, acquiring safe transportation to and from a testing site may be near impossible Keep Pandemic Protocol Top of Mind In order for people living with disabilities to mitigate health risks, following pandemic protocol is critical. Mobility aids such as walkers and wheelchairs and any other type of assistant devices should be disinfected regularly—particularly when used outside the home. Additionally, clean high-touch surfaces, phones and other appliances, and make hand-washing a priority. Individuals with disabilities should also ask caregivers to wash their hands or use hand sanitizer prior to touching or providing assistance. Hiring qualified personal care attendants to assist with activities of daily living may be more challenging during COVID-19. As such, it is important to have a backup plan in place. Identify a support system by creating a contact list of friends/family, local community agencies and health care providers who can provide support in case the individual or their support person becomes ill.

#### 6] Procedural fairness is a voter and outweighs a] it’s an intrinsic good – debate is a game and equity is necessary to sustain the activity, b] probability – debate can’t alter subjectivity, but it can rectify skews, c] internal link turns every impact – a limited debate promotes research and engagement d] All your arguments concede fairness since you assume they will be esvaluated fairly.

#### 7] Psychoanalysis is infinitely regressive, not falsifiable, and too abstract

Gordon 1 – Paul Gordon, accomplished psychotherapist, “Psychoanalysis and Racism: The Politics of Defeat,” RACE & CLASS v. 42 n. 4, 2001, pp. 17-34.

But in the thirty years since Kovel wrote, that attempt to relate mind and society has been fractured by the advent of postmodernism, with its subsumption of the material/historical, of notions of cause and effect, to what is transitory, contingent, free-¯oating, evanescent. Psychoanalysis, by stepping into the vacuum left by the abandonment of all metanarrative, has tended to put mind over society. This is particularly noticeable in the work of the Centre for New Ethnicities Research at the University of East London, which purports to straddle the worlds of the academy and action by developing projects for the local community and within education generally.28 But, in marrying psychoanalysis and postmodernism, on the basis of claiming to be both scholarly and action oriented, it degrades scholarship and undermines action, and ends in discourse analysis a language in which metaphor passes for reality. Cohen's work unavoidably raises the question of the status of psycho- analysis as a social or political theory, as distinct from a clinical one. Can psychoanalysis, in other words, apply to the social world of groups, institutions, nations, states and cultures in the way that it does, or at least may do, to individuals? Certainly there is now a considerable body of literature and a plethora of academic courses, and so on, claim- ing that psychoanalysis is a social theory. And, of course, in popular discourse, it is now a commonplace to hear of nations and societies spoken of in personalised ways. Thus `truth commissions' and the like, which have become so common in the past decade in countries which have undergone turbulent change, are seen as forms of national therapy or catharsis, even if this is far from being their purpose. Nevertheless, the question remains: does it make sense, as Michael Ignatieff puts it, to speak of nations having psyches the way that individuals do? `Can a nation's past make people ill as we know repressed memories sometimes make individuals ill? . . . Can we speak of nations ``working through'' a civil war or an atrocity as we speak of individuals working through a traumatic memory or event?' 47 The problem with the application of psychoanalysis to social institutions is that there can be no testing of the claims made. If someone says, for instance, that nationalism is a form of looking for and seeking to replace the body of the mother one has lost, or that the popular appeal of a particular kind of story echoes the pattern of our earliest relationship to the maternal breast, how can this be proved? The pioneers of psychoanalysis, from Freud onwards, all derived their ideas in the context of their work with individual patients and their ideas can be examined in the everyday laboratory of the therapeutic encounter where the validity of an interpretation, for example, is a matter for dialogue between therapist and patient. Outside of the consulting room, there can be no such verification process, and the further one moves from the individual patient, the less purchase psychoanalytic ideas can have. Outside the therapeutic encounter, anything and everything can be true, psychoanalytically speaking. But if everything is true, then nothing can be false and therefore nothing can be true. An example of Cohen's method is to be found in his 1993 working paper, `Home rules', subtitled `Some re¯ections on racism and nation- alism in everyday life'. Here Cohen talks about taking a `particular line of thought for a walk'. While there is nothing wrong with taking a line of thought for a walk, such an exercise is not necessarily the same as thinking. One of the problems with Cohen's approach is that a kind of free association, mixed with deconstruction, leads not to analysis, not even to psychoanalysis, but to . . . well, just more free association, an endless, indeed one might say pointless, play on words. This approach may well throw up some interesting associations along the way, connections one had never thought of but it is not to be confused with political analysis. In `Home rules', anything and everything to do with `home' can and does ®nd a place here and, as I indicated above, even the popular ®lm Home Alone is pressed into service as a story about `racial' invasion.

#### 8] The world is getting better for folks with disabilities, the ADA and other innovations prove that institutional progress is possible and futurism is good.

Lee Lawrence, Christian Science Monitor, “Possibility unbound: 25 years of progress for those with disability,” ’14, http://www.csmonitor.com/USA/Society/2014/1116/Possibility-unbound-25-years-of-progress-for-those-with-disability

There is no question that, to many with impairments, **the modern world can still prove a daunting and sometimes downright inhospitable place**. **But** nearly **25 years after** President George H.W. Bush signed the Americans with Disabilities Act (**ADA**), **an increasing number in the United States are living** more empowered, less restricted lives.The telecommunications infrastructure and all those man-made **spaces** collectively referred to as “the built environment” – which includes cities, architecture, transportation, even parks – “**are dramatically more accessible** **today than they were in 1990** when they passed the ADA,” says Andrew Imparato, executive director of the Association of University Centers on Disabilities and former president of the American Association of People with Disabilities. **Services**, too, have **expanded**, **from transit systems** offering riders with disabilities free familiarization and safety programs to **specialized guides** at museums **to** a growing number of designers developing **clothing** with a variety of specific needs in mind. **The ADA** – “our crowning achievement,” as Mr. Imparato calls it – **set the country on a** new course. Those who have come of age since 1990 have “grown up in more integrated settings and generally have higher expectations for what is possible for people with disabilities to achieve in work and in life than did the generations that came before them,” Imparato says. **Advances in technology have triggered a** sea change. **Mainstream innovations** such as Siri double as assistive technologies, while robotics, bionics, and 3-D printers have **revolutionized** the **design and manufacture of prostheses**. And mobile phones and tablets have opened an entirely new field: apps. An ever-growing list of applications ranges from **hearing aids** to **maps** for people with low vision to communications methods for children with autism. Looking forward, **experts point to another major factor in advancing quality of life**: **the bubble of aging baby boomers**. Among people under 65, an estimated 8.5 to 14 percent have a disability. **In the over-65** **population, some estimates are** as high as **50 percent.** Just as baby boomers have set trends in everything from spending habits to dating and child rearing, **boomers with disabilities** **are** **not going to scurry off to the margins of society**. **They’re going to** demand **services and products.** Many believe this will benefit society at large. At the Indiana Institute on Disability and Community, Phil Stafford talks about progress “on the cultural front .... I think that those without disabilities have a kind of a taken-for-granted perspective on the world that we are shocked out of when we understand what daily barriers people might encounter.” This might be an announcement some can’t hear, a website others can’t access, or doorknobs yet others can’t grasp. The light goes on, Mr. Stafford says, when people see “someone use their elbow to open a door that has a lever handle. People might say ‘I never thought of that.’ It’s not great world-shaking change, but it’s those minor encounters that **make us aware.”**

#### 9] Disease securitization is uniquely good to mobilize action.

Mastroianni 17 [Brian Mastroianni; Covers science and technology for CBSNews.com; “We are not ready": Experts warn world is unprepared for next Ebola-size outbreak,” 3/16/17; CBS News; <http://www.cbsnews.com/news/study-says-world-underprepared-ebola-level-outbreaks/>] Elmer // Re-Cut Justin

Pandemics as global security threats What happens next time a health crisis threatens to spiral out of control? Moon said an “ideal system” would “see all countries of the world have some basic level of preparedness” when there seems to be a “suspicious pattern of infectious disease.” But it’s not just about medical practices — some experts say governments need to view pandemics as security threats. “The Neglected Dimension of Global Security,” a 2016 report from public health officials published by the National Academy of Medicine, looks at how the wave of large-scale infectious disease outbreaks over the past few decades — not just Ebola, but others like HIV/AIDS and SARS — exposed how economically and politically vulnerable nations are in the face of the ravages of future pandemics. The report finds that a range of factors, from growing population numbers to environmental degradation to increasing economic globalization, have shifted the dynamics of how disease outbreaks can affect countries. “We have not done nearly enough to prevent or prepare for such potential pandemics,” Peter Sands, the commission’s chair, wrote in the preface. “While there are certainly gaps in our scientific defenses, the bigger problem is that leaders at all levels have not been giving these threats anything close to the priority they demand.” Sands called this the “neglected dimension of global security.” This report essentially places global pandemics on the same level of seriousness as a military assault on a country. Since pandemics are generally viewed as “health problems” rather than “security risks,” the study argues that public health departments tend to put outbreak preparedness on the back burner. Rather than building up defenses as one would for a war or a terrorist attack, potential pandemics are relatively ignored. The commission issued 10 recommendations for building more effective public health resources in countries that are particularly prone to being decimated by an Ebola-level pandemic, such as developing universal benchmarks for preparedness that nations have to meet. Economic assistance for at-risk countries is also needed —and the report argues that money spent on preparedness would more than pay for itself. For instance, the study contends that if nations invested $4.5 billion a year to safeguard against the next major outbreak, $60 billion a year in losses from future pandemics could be avoided.

#### 10] Apocalyptic images challenge dominant power structures to create futures of social justice

Jessica Hurley 17, Assistant Professor in the Humanities at the University of Chicago, “Impossible Futures: Fictions of Risk in the Longue Durée”, Duke University Press, https://read.dukeupress.edu/american-literature/article/89/4/761/132823/Impossible-Futures-Fictions-of-Risk-in-the-Longue

If contemporary ecocriticism has a shared premise about environmental risk it is that genre is the key to both perceiving and, possibly, correcting ecological crisis. Frederick Buell’s 2003 From Apocalypse to Way of Life: Environmental Crisis in the American Century has established one of the most central oppositions of this paradigm. As his title suggests, Buell tells the story of a discourse that began in the apocalyptic mode in the 1960s and 70s, when discussions of “the immanent end of nature” most commonly took the form of “prophecy, revelation, climax, and extermination” before turning away from apocalypse when the prophesied ends failed to arrive (112, 78). Buell offers his suggestion for the appropriate literary mode for life lived within a crisis that is both unceasing and inescapable: new voices, “if wise enough….will abandon apocalypse for a sadder realism that looks closely at social and environmental changes in process and recognizes crisis as a place where people dwell” (202-3). In a world of threat, Buell demands a realism that might help us see risks more clearly and aid our survival.¶ Buell’s argument has become a broadly held view in contemporary risk theory and ecocriticism, overlapping fields in the social sciences and humanities that address the foundational question of second modernity: “how do you live when you are at such risk?” (Woodward 2009, 205).1 Such an assertion, however, assumes both that realism is a neutral descriptive practice and that apocalypse is not something that is happening now in places that we might not see, or cannot hear. This essay argues for the continuing importance of apocalyptic narrative forms in representations of environmental risk to disrupt conservative realisms that maintain the status quo. Taking the ecological disaster of nuclear waste as my case study, I examine two fictional treatments of nuclear waste dumps that create different temporal structures within which the colonial history of the United States plays out. The first, a set of Department of Energy documents that use statistical modeling and fictional description to predict a set of realistic futures for the site of the Waste Isolation Pilot Plant in New Mexico (1991), creates a present that is fully knowable and a future that is fully predictable. Such an approach, I suggest, perpetuates the state logics of implausibility that have long undergirded settler colonialism in the United States. In contrast, Leslie Marmon Silko’s contemporaneous novel Almanac of the Dead (1991) uses its apocalyptic form to deconstruct the claims to verisimilitude that undergird state realism, transforming nuclear waste into a prophecy of the end of the United States rather than a means for imagining its continuation. In Almanac of the Dead, the presence of nuclear waste introjects a deep-time perspective into contemporary America, transforming the present into a speculative space where environmental catastrophe produces not only unevenly distributed damage but also revolutionary forms of social justice that insist on a truth that probability modeling cannot contain: that the future will be unimaginably different from the present, while the present, too, might yet be utterly different from the real that we think we know.¶ Nuclear waste is rarely treated in ecocriticism or risk theory, for several reasons: it is too manmade to be ecological; its catastrophes are ongoing, intentionally produced situations rather than sudden disasters; and it does not support the narrative that subtends ecocritical accounts of risk perception in which the nuclear threat gives rise to an awareness of other kinds of threat before reaching the end of its relevance at the end of the Cold War.2 In what follows, I argue that the failure of nuclear waste to fit into the critical frames created by ecocriticism and risk theory to date offers an opportunity to expand those frames and overcome some of their limitations, especially the impulse towards a paranoid, totalizing realism that Peter van Wyck (2005) has described as central to ecocriticism in the risk society. Nuclear waste has durational forms that dwarf the human. It therefore dwells less in the economy of risk as it is currently conceptualized and more in the blown-out realm of deep time. Inhabiting the temporal scale that has recently been christened the Anthropocene, the geological era defined by the impact of human activities on the world’s geology and climate, nuclear waste unsettles any attempt at realist description, unveiling the limits of human imagination at every turn.3 By analyzing risk society through a heuristic of nuclear waste, this essay offers a critique of nuclear colonialism and environmental racism. At the same time, it shows how the apocalyptic mode in deep time allows narratives of environmental harm and danger to move beyond the paranoid logic of risk. In the world of deep time, all that might come to pass will come to pass, sooner or later. The endless maybes of risk become certainties. The impossibilities of our own deaths and the deaths of everything else will come. But so too will other impossibilities: talking macaws and alien visitors; the end of the colonial occupation of North America, perhaps, or a sudden human determination to let the world live. The end of capitalism may yet become more thinkable than the end of the world. Just wait long enough. Stranger things will happen.¶