# 1NC

## 1

#### Interpretation: Affirmatives must defend a change from the status quo. To clarify, you must defend the desirability of an action that reduces intellectual property protections for medicines. You don’t need to defend a specific actor, just that the action occurs.

#### Violation: Their 1ac plan text is “just stating the current state of affairs is unethical.” Which critiques the status quo without prescribing an action. I’ll pre-empt the I meet – the first part of the advocacy is dependent on them roleplaying the state, OR they shift their advocacy from defending the status quo to defending state action which is 1] shifty – a reason to drop them since they delink out of neg ground and is also what settlers do to get land 2] lying which is an independent reason to drop them for ethicality 3] solvency deficit since it uses the state

#### Standards:

#### 1] Ground – any disad, case turns, kritik links, and process counterplans are reliant all on the aff changing something from the status quo – even NCs would just be non-unique since you defend the status quo – ground outweighs –

#### A] Testing – if we can’t test the aff, we don’t know the truth value of it

#### B] Dogmatism – they isolate their strategy to their aff and precludes discussion – impossible to implement or improve on it

#### C] Critical education – Every discussion of an liberation strategy assumes an level playing field with the ability to contribute to the discussion

#### 2] Circumvention – the 1ac taking a stance about the topic while claiming representations come first does literally nothing – no aff action or any semblance of the change proves our norm massively outweighs aff solvency on proximity and duration.

#### Competing interps – Reasonability invites arbitrary judge intervention and a race to the bottom– it also collapses since brightlines operate on an offense-defense paradigm

#### No RVIs – A – Going all in on theory kills substance education which outweighs on timeframe B - Discourages checking real abuse which outweighs on norm-setting C – Encourages theory baiting – outweighs because if the shell is frivolous, they can beat it quickly

#### DTD to deter future abuse and it doesn’t make sense to drop their advocacy

#### Fairness first:

#### 1] It’s a constitutive process of debate since debate is a game with a winner and loser, speech times, and flipping 30 min before the round – Constitutive Rules means any DA to our interpretation are inevitable and terminally non-unique

#### 2] Self Defeating- All the 1ar's arguments assume that the judge will evaluate them fairly which concedes it's authority – actively hack against them

#### 3] Misses the boat – Their impact turns shows a misapplication of fairness not a reason why the very structure of it is bad.

## 2

#### CP: The member nations of the World Trade Organization ought to –

#### ---create a new form of Sui Generis patent applications as per Vezina 20

#### ---Grant this form of patent to Indigenous peoples

#### ---Exclude non Indigenous groups from applying for Sui Generis patents and reduce intellectual property protections for medicines for non Indigenous groups

#### Sui generis moral rights framework emphasizing guardianship over ownership and are the only way to stop the appropriate that comes with public knowledge – answers the reforms fail ev bc it bars settlers from using knowledge which isn’t sharing – also solves K of IPR used by Indigenous groups bc it uses a new fw

Vézina 20 “Ensuring Respect for Indigenous Cultures A Moral Rights Approach” Brigitte Vézina [fellow at the Canadian think tank Centre for International Governance Innovation. She holds a bachelor’s degree in law from the Université de Montréal and a master’s in law from Georgetown University], Centre for International Governance Innovation Papers No. 243 — May 2020, <https://www.cigionline.org/static/documents/documents/vezina-paper_1.pdf> SM

Features of a Sui Generis Moral Rights-type Framework Subject Matter and Beneficiaries TCEs that maintain a current and significant relationship with the Indigenous peoples who hold them would be protected. As long as a community, as a whole and by virtue of its own internal cultural rules, identifies with a specific form of expression and can establish a particular relationship with it, it can claim protection over it. As Susy Frankel points out, the key rationale in favour of protecting TCEs is the guardianship relationship, from which proportionate moral rights flow.155 Guardianship is to be contrasted with ownership, which is the concept buttressing most IP law systems, with the notable exception of moral rights. To wit, the Waitangi Tribunal did not recommend that TCEs be treated as owned, lest that would amount to building a legal wall around TCEs and end up choking culture.156 At any rate, cultural boundaries are porous and fluid, and it follows that blending, intermixing, hybridization or even “contamination” of cultures can be promoted.157 Obviously, cultures are seldom unique to a people. TCEs might be shared among different Indigenous groups that all identify and hold a guardianship relationship with them. In such cases, procedures should be in place to facilitate cooperation and settlement of disputes. What is more, no people are monolithic, a reality that is rendered in one illustrative phrase: “The Sámi people are one, but multiple.”158 Some communities might have distinct TCEs that have been part of their culture for a long time, with little or no outside influence. Others might have experienced contact with other cultures and incorporated various elements over the generations that have substantially modified previous iterations. For example, in the case of Mixe huipil at stake in the Isabel Marant case, some were quick to point out that the embroideries had, in the upshot of the Spanish conquest, incorporated European elements.159 Hence, when considering a relationship between a TCE and its holder, one should not exact uniqueness or exclusiveness, but embrace the fact that a group can identify with TCEs that are dynamic and kaleidoscopic, all the while remaining authentic. Beneficiaries of protection should be TCE holding Indigenous communities as a whole, such that moral rights would be afforded to the entire community as group rights. Recognition of beneficiaries as well as determination of the authority to exercise the rights would have to be done from within the community, by way of application of customary law160 or be captured under the legal constructs of trusts, associations, or other legal entities holding the rights.161 Indigenous communities need to have the autonomy to exercise control over and make their own decisions regarding the management of their moral rights in their TCEs.162 Scope of Protection At first glance, it is difficult to reconcile the notion of personhood, the cornerstone of moral rights, with the pluralistic conception of a community, by definition made up of several persons with their own individual personalities. In response, some scholars have wrought the concept of “peoplehood” to encapsulate the personality of a people in its entirety and provide a justification for granting a personality right to a group.163 As mentioned, TCEs often encompass cultural elements that are integral to Indigenous peoples’ sense of identity, that bear the distinct mark of their holders and, indeed, that reflect their peoplehood. Moral rights can therefore fulfill the duty, arising out of human rights law, to protect the identity of Indigenous peoples.164 Forasmuch as TCEs are collectively and communally held, so too must the moral rights of Indigenous peoples be communal.165 In fact, even conventional moral rights are not purely individualistic, and there has been a recognition of a “socially-informed view of the author” and “the social gestation of authorship... the social womb from which authors brought forth their works.”166 This strand of moral rights theory might be more congruent to accepting a group right for a community than the classic individual theory underpinning moral rights.167 Moral rights would only regulate the relationship between the community and the outside world; use in a traditional and customary context would not be affected. Just as moral rights vest automatically in the author (without any need for registration or any other form of assertion), so too would sui generis moral rights vest in the community. Communal moral rights would include, at a minimum, the right of attribution, including false attribution (to ensure proper recognition of the community as the source and to prevent others from falsely claiming a guardianship over a TCE) and integrity (to protect TCEs against inappropriate, derogatory, or culturally insensitive use). It could be considered to also include the rights of disclosure (to make, where desired, TCEs known to the world and to retain the power to keep TCEs out of “public” reach, for example, in the case of sacred or secret TCEs) and withdrawal (to allow TCE holders to remove from circulation the TCEs that they no longer wish to make publicly available). In most national laws, moral rights are inalienable or non-transferable. In other words, they cannot be divested from the author — they cannot be assigned, licensed or given away. As mentioned, if an author transfers all their economic rights to a third party, the author retains their moral rights in the work.168 As such, sui generis moral rights in TCEs would be independent from any economic rights that might arise and be held and exercised separately, regardless of who might hold these economic rights (in cases, for example, where communities would commercialize their TCEs and grant licences) or who might have physical ownership of a TCE (such as a cultural institution). However, in some jurisdictions, such as Canada, the United States and the United Kingdom (but not Australia and France), moral rights can be waived, irreversibly, in whole or in part, explicitly, by contract, at the discretion of the author. In order to ensure flexible protection to TCEs, it could be envisaged that sui generis moral rights be made waivable. When applying the right of integrity, the determination of what is offensive should not be narrowly prescribed but based on the facts at hand. Assessment should be done both subjectively, from the point of view of the community that claims violation, and objectively, by the court, within the framework of guidelines to be developed legislatively or through case law, as informed by Indigenous customary laws, practices and protocols. Reliance on particular facts may be difficult to reconcile with the need for certainty and predictability, but flexibility trumps these concerns, as no use should be considered offensive per se.

#### Reforming IPR is key to affirming native sovereignty. Solves the aff because it shifts away from western conceptions of property, but the perm fails since we think IPR is good – takes out all their epistemology deficits since the counterplan changes our epistemology

Younging 10 “Intergovernmental Committee On Intellectual Property And Genetic Resources Traditional Knowledge And Folklore” Seventeenth Session Geneva, December 6-10, 2010 Wipo Indigenous Panel On The Role Of The Public Domain Concept: Experiences In The Fields Of Genetic Resources, Traditional Knowledge And Traditional Cultural Expressions: Experiences From Canada Document prepared by Mr. Gregory Younging [Creative Rights Alliance, Kelowna, Canada, Opaskwayak Cree Nation-Canada] <https://www.wipo.int/edocs/mdocs/tk/en/wipo_grtkf_ic_17/wipo_grtkf_ic_17_inf_5_a.pdf> SM

Under the IPR system, knowledge and creative ideas that are not “protected” are in the Public Domain (i.e. accessible by the public). Generally, Indigenous peoples have not used IPRs to protect their knowledge; and so TK is often treated as if it is in the Public Domain – without regard for Customary Laws. Another key problem for TK is that the IPR system’s concept of the Public Domain is based on the premise that the author/creator deserves recognition and compensation for his/her work because it is the product of his/her genius; but that all of society must eventually be able to benefit from that genius. Therefore, according to this aspect of IPR theory, all knowledge and creative ideas must eventually enter the Public Domain. Under IPR theory, this is the reasoning behind the time period limitations associated with copyright, patents and trademarks. The precept that all Intellectual Property, including TK, is intended to eventually enter the Public Domain is a problem for Indigenous peoples because Customary Law dictates that certain aspects of TK are not intended for external access and use in any form. As a response to this, there have been circumstances where indigenous people have argued that some knowledge should be withdrawn from circulation and that for specific kinds of knowledge, protection should be granted in perpetuity. 29 Examples of this include, sacred ceremonial masks, songs and dances, various forms of shamanic art, sacred stories, prayers, songs, ceremonies, art objects with strong spiritual significance such as scrolls, petroglyphs, and decorated staffs, rattles, blankets, medicine bundles and clothing adornments, and various sacred symbols, designs, crests, medicines and motifs. However, the present reality is that TK is, or will be, in the Public Domain (i.e., the IPR system overrides Customary Law.) Certain aspects of TK should not enter the public domain (as deemed under Customary Law) and should remain protected as such into perpetuity, which could be expressed as a form of “Indigenous private domain.” (Younging 2007). Indigenous peoples’ historical exclusion from the broad category of ‘public’ feeds part of the differences in objectives. Indigenous peoples also present different perceptions of knowledge, the cultural and political contexts from which knowledge emerges, and the availability, or perceived benefits of the availability, of all kinds of cultural knowledge. 30 Copyright Case Study: The Cameron Case In 1985 the Euro-Canadian author Anne Cameron began publishing a series of children’s books though Harbour Publications based on Westcoast Indigenous traditional stories. These books include: The Raven, Raven and Snipe, Keeper of the River, How the Loon Lost Her Voice, Orca’s Song, Raven Returns the Water, Spider Woman, Lazy Boy and Raven Goes Berrypicking. Cameron had been told the traditional stories by Indigenous storytellers and/or had been present at occasions where the stories were recited. The original printing of the books granted Anne Cameron sole authorship, copyright and royalty beneficiary, and gave no credit to the Indigenous origins of the stories. As the discourse around Indigenous cultural appropriation emerged in the 1990s, Cameron’s books came under severe Indigenous criticism; not only on the grounds of cultural appropriation, but the Indigenous TK holders asserted that some of the stories and aspects of the stories were incorrect. This led to a major confrontation with Indigenous women authors at a women writer’s conference in Montreal in 1990. At the end of the confrontation Cameron agreed not to publish any more Indigenous stories in the series: however, she did not keep her word and the books continued to be reprinted and new books in the series continued to be published (Armstrong and Maracle1992). Some minor concessions have been made in subsequent reprints of books in the series and new additions. Reprints of the books that were produced after around 1993/94 contained the disclaimer: “When I was growing up on Vancouver Island I met a woman who was a storyteller. She shared many stories with me and later gave me permission to share them with others… the woman’s name was Klopimum.” However, Cameron continued to maintain sole author credit, copyright and royalties payments. In a further concession, the 1998 new addition to the series T’aal: the One Who Takes Bad Children is co-authored by Anne Cameron and the Indigenous Elder/storyteller Sue Pielle who also shares copyright and royalties. Patent Case Study: The Igloolik Case An example of the failure of the Patent Act In Canada to respond to Inuit designs is the Igloolik Floe Edge Boat Case.31 A floe edge boat is a traditional Inuit boat used to retrieve seals shot at the floe edge (the edge of the ice floe), to set fishing nets in summer, to protect possessions on sled when travelling by snowmobile or wet spring ice, and to store hunting or fishing equipment. In the late 1980’s the Canadian government sponsored the Eastern Arctic Scientific Research Center to initiate a project to develop a floe edge boat that combined the traditional design with modern materials and technologies. In 1988 the Igloolik Business Association (IBA) sought to obtain a patent for the boats. The IBA thought that manufactured boats using the floe edge design would have great potential in the outdoor recreation market. To assist the IBA with its patent application the agency, the Canadian Patents and Developments Limited (CPDL) initiated a pre-project patent search that found patents were already held by a non-Inuit company for boats with similar structures. The CPDL letter to the IBA concluded that it was difficult for the CPDL to inventively distinguish the design from previous patents and, therefore, the IBA patent would not be granted. The option of challenging the pre-existing patent was considered by the IBA, however, it was decided that it would not likely be successful due to the high financial cost and risk involved in litigation. Trademark Case: The Snumeymux Case As most Indigenous communities are far behind in terms of establishing businesses most trademarking of TK involves a non-Indigenous corporation trademarking an Indigenous symbol, design or name. Again, many cases could have been examined in this section but only two have been chosen: one case involving the Snumeymux Band trade marking petroglyphs through the Canadian Patent Office, and one involving an international corporation’s patent licence being the subject of an intense international Indigenous lobbying effort. The Snumeymux people have several ancient petroglyphs located off their reserve lands near False Narrows on Gabriola Island, BC. In the early 1990s non-Indigenous residents of Gabriola Island began using some of the petroglyph images in coffee shops and various other business logos. In the mid-1990s the Island’s music festival named itself after what had become the local name of the most well known petroglyph image, the dancing man. The Dancing Man Music Festival then adopted the image of the dancing man as the festival logo and used it on brochures, posters, advertisements and T-shirts. The Snuneymux Band first made unsuccessful appeals to the festival, buisnesses and the Gabriola community to stop using the petroglyph symbols. In 1998 the Snuneymux Band hired Murry Brown as legal counsel to seek protection of the petroglyphs (Manson-2003). At a 1998 meeting with Brown, Snuneymux Elders and community members on the matter, The Dancing Man Festival and Gabriola business’ and community representatives were still defiant that they had a right to use the images from the petroglyphs (Brown-2003). On the advice of Murry Brown, The Snuneymux Band filed for a Section 91(n) Public Authority Trademark for eight petroglyphs and was awarded the trademark in October of 1998 (Brown2003). The trademark protects the petrogylphs from “all uses” by non-Snuneymux people and, therefore the Dancing Man Festival and Gabriola Island business and community representatives were forced to stop using images derived from the petroglyphs. In the Snuneymux case the petroglyphs were trademarked for “defensive” purposes. The Snuneymux case represents an innovative use of the IPR system that negotiated within the systems limitations and found a way to make it work to protect TK. Case Studies Summary The case studies have shown that serious conflicts exist between the IPR and TK systems and lead to the conclusion that it constitutes a major problem which Indigenous peoples must work out with the modern states they are within and the international community. In contrast to Eurocentric thought, almost all Indigenous thought asserts that property is a sacred ecological order and manifestations of that order should not be treated as commodities.32 It is clear that there are pressing problems in the regulation of TK. It is also clear that IPR system and other Eurocentric concepts do not offer a solution to some of the problems. There have been cases of Indigenous people using the IPR system to protect their TK. However, the reality is that there are many more cases of non-Indigenous people using the IPR system to take ownership over TK using copyright, trademark, patents and the Public Domain. In many such cases this had created a ridiculous situation whereby Indigenous peoples cannot legally access their own knowledge. A study undertaken on behalf of the Intellectual Property Policy Directorate (IPPD) of Industry Canada and the Canadian Working Group on Article 8(j) concluded: “There is little in the cases found to suggest that the IP system has adapted very much to the unique aspects of Indigenous knowledge or heritage. Rather, Indigenous peoples have been required to conform to the legislation that was designed for other contexts and purposes, namely western practices and circumstances. At the same time, there is little evidence that these changes have been promoted within the system, i.e., from failed efforts to use it that have been challenged” (IPPD-2002). Such conclusions, along with other conclusions being drawn in other countries and international forums, and the case study examples discussed, appear to support the argument that new systems of protection need to be developed. Sui Generis models based on and/or incorporating Customary Laws have been proposed and developed in many countries and are being discussed in the WIPO IGC. Gnaritas Nullius (Nobody’s Knowledge) Just as Indigenous territories were declared as Terra Nullius in the colonization process, so too has TK been treated as Gnaritas Nullius (Nobody’s Knowledge) by the IPR system and consequently flowed into the public domain along with Western knowledge. This has occurred despite widespread Indigenous claims of ownership and breech of Customary Law. The problem is that advocates for the public domain seem to see knowledge as the same concept across cultures, and impose the liberal ideals of freedom and equality to Indigenous peoples knowledge systems. Not all knowledge has the same role and significance within diverse epistemologies, nor do diverse worldviews all necessarily incorporate a principle that knowledge can be universally accessed. Neither can all knowledge fit into a Western paradigms and legal regimes. A central dimension of Indigenous knowledge systems is that knowledge is shared according to developed rules and expectations for behavior within frameworks that have been developed and practiced over centuries and millennium. Arguments for a public domain of Indigenous knowledge again reduces the capacity for Indigenous control and decision making (Anderson 2010) and can not be reasonably made outside the problematic frameworks of the colonization of TK and Gnaritas Nullius.

## 3

#### Pharma innovation high now – monetary incentive is the biggest factor.

**Swagel 21** Phillip L. Swagel, Director of the Congressional budget office 4-xx-2021, "Research and Development in the Pharmaceutical Industry," Congressional Budget Office, <https://www.cbo.goc/publication/57126#_idTextAnchor020> SJ//DA

**Every year, the U.S. pharmaceutical industry develops a variety of new drugs that provide valuable medical benefits. Many of those drugs are expensive and contribute to rising health care costs for the private sector and the federal government. Policymakers have considered policies that would lower drug prices and reduce federal drug expenditures. Such policies would probably reduce the industry’s incentive to develop new drugs.** In this report, the Congressional Budget Office assesses trends in spending for drug research and development (R&D) and the introduction of new drugs. CBO also examines factors that determine how much drug companies spend on R&D: expected global revenues from a new drug; cost to develop a new drug; and federal policies that affect the demand for drug therapies, the supply of new drugs, or both. What Are Recent Trends in Pharmaceutical R&D and New Drug Approvals? T**he pharmaceutical industry devoted $83 billion to R&D expenditures in 2019. Those expenditures covered a variety of activities, including discovering and testing new drugs, developing incremental innovations such as product extensions, and clinical testing for safety-monitoring or marketing purposes. That amount is about 10 times what the industry spent per year in the 1980s, after adjusting for the effects of inflation.** The share of revenues that drug companies devote to R&D has also grown: **On average, pharmaceutical companies spent about one-quarter of their revenues (net of expenses and buyer rebates) on R&D expenses** in 2019, which is **almost twice as large a share of revenues as they spent in 2000.** That revenue share is larger than that for other knowledge-based industries, such as semiconductors, technology hardware, and software. The number of new drugs approved each year has also grown over the past decade. On averace, the Food and Drug Administration (FDA) approved 38 new drugs per year from 2010 through 2019 (with a peak of 59 in 2018), which is 60 percent more than the yearly average over the previous decade. **Many of the drugs that have been approved in recent years are “specialty drugs.” Specialty drugs generally treat chronic, complex, or rare conditions, and they may also require special handling or monitoring of patients**. Many specialty drugs are biologics (large-molecule drugs based on living cell lines), **which are costly to develop, hard to imitate, and frequently have high prices.** Previously, most drugs were small-molecule drugs based on chemical compounds. Even while they were under patent, those drugs had lower prices than recent specialty drugs have. Information about the kinds of drugs in current clinical trials indicates that much of the industry’s innovative activity is focused on specialty drugs that would provide new cancer therapies and treatments for nervous-system disorders, such as Alzheimer’s disease and Parkinson’s disease. **What Factors Influence Spending for R&D?** Drug companies’ R&D spending decisions depend on three main factors: Anticipated lifetime global revenues from a new drug, **Expected costs to develop a new drug**, and Policies and programs that influence the supply of and demand for prescription drugs. Various considerations inform companies’ expectations about a drug’s revenue stream, including the anticipated prices it could command in different markets around the world and the expected global sales volume at those prices (given the number of people who might use the drug). The prices and sales volumes of existing drugs provide information about consumers’ and insurance plans’ willingness to pay for drug treatments. Importantly, when drug companies set the prices of a new drug, they do so to maximize future revenues net of manufacturing and distribution costs. A drug’s sunk R&D costs—that is, the costs already incurred in developing that drug—do not influence its price. **Developing new drugs is a costly and uncertain process, and many potential drugs never make it to market. Only about 12 percent of drugs entering clinical trials are ultimately approved for introduction by the FDA. In recent studies, estimates of the average R&D cost per new drug range from less than $1 billion to more than $2 billion per drug**. Those estimates include the costs of both laboratory research and clinical trials of successful new drugs as well as expenditures on drugs that do not make it past the laboratory-development stage, that enter clinical trials but fail in those trials or are withdrawn by the drugmaker for business reasons, or that are not approved by the FDA. Those estimates also include the company’s capital costs—the value of other forgone investments—incurred during the R&D process. Such costs can make up a substantial share of the average total cost of developing a new drug. The development process often takes a decade or more, and during that time the company does not receive a financial return on its investment in developing that drug. The federal government affects R&D decisions in three ways. First, it increases demand for prescription drugs, which encourages new drug development, by fully or partially subsidizing the purchase of prescription drugs through a variety of federal programs (including Medicare and Medicaid) and by providing tax preferences for employment-based health insurance. Second, the federal government increases the supply of new drugs. It funds basic biomedical research that provides a scientific foundation for the development of new drugs by private industry. Additionally, tax credits—both those available to all types of companies and those available to drug companies for developing treatmentscof uncommon diseases—provide incentives to invest in R&D. Similarly, deductions for R&D investment can be used to reduce tax liabilities immediately rather than over the life of that investment. Finally, the patent system and certain statutory provisions that delay FDA approval of generic drugs provide pharmaceutical companies with a period of market exclusivity, when competition is legally restricted. During that time, they can maintain higher prices on a patented product than they otherwise could, which makes new drugs more profitable and thereby increases drug companies’ incentives to invest in R&D. Third, some federal policies affect the number of new drugs by influencing both demand and supply. For example, federal recommendations for specific vaccines increase the demand for those vaccines and provide an incentive for drug companies to develop new ones. Additionally, federal regulatory policies that influence returns on drug R&D can bring about increases or decreases in both the supply of and demand for new drugs. Trends in R&D Spending and New Drug Development Private spending on pharmaceutical R&D and the approval of new drugs have both increased markedly in recent years, resuming a decades-long trend that was interrupted in 2008 as generic versions of some top-selling drugs became available and as the 2007–2009 recession occurred. **In particular, spending on drug R&D increased by nearly 50 percent between 2015 and 2019.** Many of the drugs approved in recent years are high-priced specialty drugs for relatively small numbers of potential patients. By contrast, the top-selling drugs of the 1990s were lower-cost drugs with large patient populations. R&D Spending R&D spending in the pharmaceutical industry covers a variety of activities, including the following: Invention, or research and discovery of new drugs; Development, or clinical testing, preparation and submission of applications for FDA approval, and design of production processes for new drugs; Incremental innovation, including the development of new dosages and delivery mechanisms for existing drugs and the testing of those drugs for additional indications; Product differentiation, or the clinical testing of a new drug against an existing rival drug to show that the new drug is superior; and Safety monitoring, or clinical trials (conducted after a drug has reached the market) that the FDA may require to detect side effects that may not have been observed in shorter trials when the drug was in development. In real terms**, private investment in drug R&D among member firms of the Pharmaceutical Research and Manufacturers of America (PhRMA), an industry trade association, was about $83 billion in 2019, up from about $5 billion in 1980 and $38 billion in 2000**.1 Although those spending totals do not include spending by many smaller drug companies that do not belong to PhRMA, the trend is broadly representative of R&D spending by the industry as a whole.2 A survey of all U.S. pharmaceutical R&D spending (including that of smaller firms) by the National Science Foundation (NSF) reveals similar trends.3 Although total R&D spending by all drug companies has trended upward, small and large firms generally focus on different R&D activities. **Small companies not in PhRMA devote a greater share of their research to developing and testing new drugs,** many of which are ultimately sold to larger firms (see Box 1). By contrast, a greater portion of the R&D spending of larger drug companies (including those in PhRMA) is devoted to conducting clinical trials, developing incremental “line extension” improvements (such as new dosages or delivery systems, or new combinations of two or more existing drugs), and conducting postapproval testing for safety-monitoring or marketing purposes.

#### Strong IPR is key to innovation – empirics and FDI

Ezell and Cory 19 [Stephen Ezell, BS from School of Foreign Service at Georgetown, VP of global innovation policy at Information Technology and Innovation Foundation. Nigel Cory, MA in public policy from Georgetown, BA in international business from Griffith University, Associate Director of trade policy at Information Technology and Innovation Foundation, former researcher in the Southeast Asia Program at the Center for Strategic and International Studies.] “The Way Forward for Intellectual Property Internationally,” Information Technology and Innovation Foundation, April 25, 2019, <https://itif.org/publications/2019/04/25/way-forward-intellectual-property-internationally> TG

* FDI – foreign direct investment

IPRs Strengthen Innovation Intellectual property rights power innovation. For instance, analyzing the level of intellectual property protections (via the World Economic Forum’s Global Competitiveness reports) and creative outputs (via the Global Innovation Index) shows that countries with stronger IP protection have more creative outputs (in terms of intangible assets and creative goods and services in a nation’s media, printing and publishing, and entertainment industries, including online), even at varying levels of development.46 IPR reforms also introduce strong incentives for domestic innovation. Sherwood, using case studies from 18 developing countries, concluded that poor provision of intellectual property rights deters local innovation and risk-taking.47 In contrast, IPR reform has been associated with increased innovative activity, as measured by domestic patent filings, albeit with some variation across countries and sectors.48 For example, Ryan, in a study of biomedical innovations and patent reform in Brazil, found that patents provided incentives for innovation investments and facilitated the functioning of technology markets.49 Park and Lippoldt also observed that the provision of adequate protection for IPRs can help to stimulate local innovation, in some cases building on the transfer of technologies that provide inputs and spillovers.50 In other words, local innovators are introduced to technologies first through the technology transfer that takes place in an environment wherein protection of IPRs is assured; then, they may build on those ideas to create an evolved product or develop alternate approaches (i.e., to innovate). Related research finds that trade in technology—through channels including imports, foreign direct investment, and technology licensing—improves the quality of developing-country innovation by increasing the pool of ideas and efficiency of innovation by encouraging the division of innovative labor and specialization.51 However, Maskus notes that without protection from potential abuse of their newly developed technologies, foreign enterprises may be less willing to reveal technical information associated with their innovations.52 The protection of patents and trade secrets provides necessary legal assurances for firms wishing to reveal proprietary characteristics of technologies to subsidiaries and licensees via contracts. The relationship between IPR rights and innovation can also be seen in studies of how the introduction of stronger IPR laws, with regard to patents, copyrights, and trademarks, affect R&D activity in an economy. Studies by Varsakelis and by Kanwar and Evenson found that R&D to GDP ratios are positively related to the strength of patent rights, and are conditional on other factors.53 Cavazos Cepeda et al. found a positive influence of IPRs on the level of R&D in an economy, with each 1 percent increase in the level of protection of IPRs in an economy (as measured by improvements to a country’s score in the Patent Rights Index) equating to, on average, a 0.7 percent increase in the domestic level of R&D.54 Likewise, a 1 percent increase in copyright protection was associated with a 3.3 percent increase in domestic R&D. Similarly, when trademark protection increased by 1 percent, there was an associated R&D increase of 1.4 percent. As the authors concluded, “Increases in the protection of the IPRs carried economic benefits in the form of higher inflows of FDI, and increases in the levels of both domestically conducted R&D and service imports as measured by licensing fees.”55 As Jackson summarized, regarding the relationship between IPR reform and both innovation and R&D, and FDI, “In addition to spurring domestic innovation, strong intellectual property rights can increase incentives for foreign direct investment which in turn also leads to economic growth.”56

#### Pharma spills-over – has cascading global impacts that are necessary for human survival.

NAS 8 National Academy of Sciences 12-3-2008 “The Role of the Life Sciences in Transforming America's Future Summary of a Workshop” //Re-cut by Elmer

Fostering Industries to Counter Global Problems The life sciences have applications in areas that range far beyond human health. Life-science based approaches could **contribute to advances in** many industries, from energy production and pollution remediation, to clean manufacturing and the production of new biologically inspired materials. In fact, biological systems could provide the basis for new products, services and industries that we cannot yet imagine. Microbes are already producing biofuels and could, through further research, provide a major component of future energy supplies. Marine and terrestrial organisms extract carbon dioxide from the atmosphere, which suggests that biological systems could be used to help manage climate change. Study of the complex systems encountered in biology is decade, it is really just the beginning.” Advances in the underlying science of plant and animal breeding have been just as dramatic as the advances in genetic can put down a band of fertilizer, come back six months later, and plant seeds exactly on that row, reducing the need for fertilizer, pesticides, and other agricultural inputs. Fraley said that the global agricultural system needs to adopt the goal of doubling the current yield of **crops while reducing key inputs like pesticides, fertilizers, and water** by one third. “It is more important than putting a man on the moon,” he said. Doubling agricultural yields would “change the world.” Another billion people will join the middle class over the next decade just in India and China as economies continue to grow. And all people need and deserve secure access to food supplies. Continued progress will require both basic and applied research, The evolution of life “put earth under new management,” Collins said. Understanding the future state of the planet will require understanding the biological systems that have shaped the planet. Many of these biological systems are found in the oceans, which cover 70 percent of the earth’s surface and have a crucial impact on weather, climate, and the composition of the atmosphere. In the past decade, new tools have become available to explore the microbial processes that drive the **chemistry of the oceans**, observed David Kingsbury, Chief Program Officer for Science at the Gordon and Betty Moore Foundation. These technologies have revealed that a large proportion of the planet’s genetic diversity resides in the oceans. In addition, many organisms in the oceans readily exchange genes, creating evolutionary forces that can have global effects. The oceans are currently under great stress, Kingsbury pointed out. Nutrient runoff from agriculture is helping to create huge and expanding “dead zones” where oxygen levels are too low to sustain life. Toxic algal blooms are occurring with higher frequency in areas where they have not been seen in the past. Exploitation of ocean resources is disrupting ecological balances that have formed over many millions of years. Human-induced changes in the chemistry of the atmosphere are changing the chemistry of the oceans, with potentially catastrophic consequences. “If we are not careful, we are not going to have a sustainable planet to live on,” said Kingsbury. Only by understanding the basic biological processes at work in the oceans can humans live sustainably on earth.

## Case

### 1NC – Top Level

#### Reasonability on 1AR shells – 1AR theory is very aff-biased because the 2AR gets to line-by-line every 2NR standard with new answers that never get responded to which flips infinite abuse

#### Voting on permissibility and presumption is extremely racist since those actions are permissible

#### ROB is to vote better debater – role of the judge is to sign that ballot. Anything else is self-serving arbitrary and vagueness is good – allows us to test different modes of engagement.

Christopher A. Bracey 6, Associate Professor of Law, Associate Professor of African & African American Studies, Washington University in St. Louis, September, Southern California Law Review, 79 S. Cal. L. Rev. 1231, p. 1318

Second, reducing conversation on race matters to an ideological contest allows opponents to elide inquiry into whether the results of a particular preference policy are desirable. Policy positions masquerading as principled ideological stances create the impression that a racial policy is not simply a choice among available alternatives, but the embodiment of some higher moral principle. Thus, the "principle" becomes an end in itself, without reference to outcomes. Consider the prevailing view of colorblindness in constitutional discourse. Colorblindness has come to be understood as the embodiment of what is morally just, independent of its actual effect upon the lives of racial minorities. This explains Justice Thomas's belief in the "moral and constitutional equivalence" between Jim Crow laws and race preferences, and his tragic assertion that "Government cannot make us equal [but] can only recognize, respect, and protect us as equal before the law." [281](http://web.lexis-nexis.com/universe/document?_m=cd9713b340d60abd42c2b34c36d8ef95&_docnum=9&wchp=dGLbVzz-zSkVA&_md5=9645fa92f5740655bdc1c9ae7c82b328) For Thomas, there is no meaningful difference between laws designed to entrench racial subordination and those designed to alleviate conditions of oppression. Critics may point out that colorblindness in practice has the effect of entrenching existing racial disparities in health, wealth, and society. But in framing the debate in purely ideological terms, opponents are able to avoid the contentious issue of outcomes and make viability determinations based exclusively on whether racially progressive measures exude fidelity to the ideological principle of colorblindness. Meaningful policy debate is replaced by ideological exchange, which further exacerbates hostilities and deepens the cycle of resentment.

#### 1] Don’t let them weigh the sum total of their impact – they only get to weigh the impact of the affirmative – filter the debate through solvency – there’s no impact to their aff if they do nothing

#### 2] No 1AR Impact Turns, Independent Voters, or Perfcons – a] Resolvability: Either you auto accept all responses to 2NR standards and they auto win since I can't respond, or you intervene to give 2AR credence b] No infinite abuse: 1NC is 7 minutes and 1AC spikes check a c] Hurts engagement in strategies since you would just spam blip storms d] 7-6 time 2-1 speech skew

#### 3] No performative or methodological offense, only offense from the plan—reject it cuz it explodes predictable limits, spiking out of neg ground making any discussion qualitatively worse. Reps don’t shape reality – justifying a policy in 2 ways is still the same policy – leads to endless abstraction

#### 4] Focus on large scale catastrophes is good and they outweigh – appeals to social costs, moral rules, and securitization play into cognitive biases and flawed risk calculus – 2020 is living proof

Weber 20 (ELKE U. WEBER is Gerhard R. Andlinger Professor in Energy and the Environment and Professor of Psychology and Public Affairs at Princeton University.), November-December 2020 Issue, "Heads in the Sand," Foreign Affairs, <https://www.foreignaffairs.com/articles/2020-10-13/heads-sand> mvp

We are living in a time of crisis. From the immediate challenge of the COVID-19 pandemic to the looming existential threat of climate change, the world is grappling with massive global dangers—to say nothing of countless problems within countries, such as inequality, cyberattacks, unemployment, systemic racism, and obesity. In any given crisis, the right response is often clear. Wear a mask and keep away from other people. Burn less fossil fuel. Redistribute income. Protect digital infrastructure. The answers are out there. What’s lacking are governments that can translate them into actual policy. As a result, the crises continue. The death toll from the pandemic skyrockets, and the world makes dangerously slow progress on climate change, and so on. It’s no secret how governments should react in times of crisis. First, they need to be nimble. Nimble means moving quickly, because problems often grow at exponential rates: a contagious virus, for example, or greenhouse gas emissions. That makes early action crucial and procrastination disastrous. Nimble also means adaptive. Policymakers need to continuously adjust their responses to crises as they learn from their own experience and from the work of scientists. Second, governments need to act wisely. That means incorporating the full range of scientific knowledge available about the problem at hand. It means embracing uncertainty, rather than willfully ignoring it. And it means thinking in terms of a long time horizon, rather than merely until the next election. But so often, policymakers are anything but nimble and wise. They are slow, inflexible, uninformed, overconfident, and myopic. Why is everyone doing so badly? Part of the explanation lies in the inherent qualities of crises. Crises typically require navigating between risks. In the COVID-19 pandemic, policymakers want to save lives and jobs. With climate change, they seek a balance between avoiding extreme weather and allowing economic growth. Such tradeoffs are hard as it is, and they are further complicated by the fact that costs and benefits are not evenly distributed among stakeholders, making conflict a seemingly unavoidable part of any policy choice. Vested interests attempt to forestall needed action, using their money to influence decision-makers and the media. To make matters worse, policymakers must pay sustained attention to multiple issues and multiple constituencies over time. They must accept large amounts of uncertainty. Often, then, the easiest response is to stick with the status quo. But that can be a singularly dangerous response to many new hazards. After all, with the pandemic, business as usual would mean no social distancing. With climate change, it would mean continuing to burn fossil fuels. But the explanation for humanity’s woeful response to crises goes beyond politics and incentives. To truly understand the failure to act, one must turn to human psychology. It is there that one can grasp the full impediments to proper decision-making—the cognitive biases, emotional reactions, and suboptimal shortcuts that hold policymakers back—and the tools to overcome them. AVOIDING THE UNCOMFORTABLE People are singularly bad at predicting and preparing for catastrophes. Many of these events are “black swans,” rare and unpredictable occurrences that most people find difficult to imagine, seemingly falling into the realm of science fiction. Others are “gray rhinos,” large and not uncommon threats that are still neglected until they stare you in the face (such as a coronavirus outbreak). Then there are “invisible gorillas,” threats in full view that should be noticed but aren’t—so named for a psychological experiment in which subjects watching a clip of a basketball game were so fixated on the players that they missed a person in a gorilla costume walking through the frame. Even professional forecasters, including security analysts, have a poor track record when it comes to accurately anticipating events. The COVID-19 crisis, in which a dystopic science-fiction narrative came to life and took everyone by surprise, serves as a cautionary tale about humans’ inability to foresee important events. Not only do humans fail to anticipate crises; they also fail to respond rationally to them. At best, people display “bounded rationality,” the idea that instead of carefully considering their options and making perfectly rational decisions that optimize their preferences, humans in the real world act quickly and imperfectly, limited as they are by time and cognitive capacity. Add in the stress generated by crises, and their performance gets even worse. Because humans don’t have enough time, information, or processing power to deliberate rationally, they have evolved easier ways of making decisions. They rely on their emotions, which serve as an early warning system of sorts: alerting people that they are in a positive context that can be explored and exploited or in a negative context where fight or flight is the appropriate response. They also rely on rules. To simplify decision-making, they might follow standard operating procedures or abide by some sort of moral code. They might decide to imitate the action taken by other people whom they trust or admire. They might follow what they perceive to be widespread norms. Out of habit, they might continue to do what they have been doing unless there is overwhelming evidence against it. Not only do humans fail to anticipate crises; they also fail to respond rationally to them. Humans evolved these shortcuts because they require little effort and work well in a broad range of situations. Without access to a real-time map of prey in different hunting grounds, for example, a prehistoric hunter might have resorted to a simple rule of thumb: look for animals where his fellow tribesmen found them yesterday. But in times of crisis, emotions and rules are not always helpful drivers of decision-making. High stakes, uncertainty, tradeoffs, and conflict—all elicit negative emotions, which can impede wise responses. Uncertainty is scary, as it signals an inability to predict what will happen, and what cannot be predicted might be deadly. The vast majority of people are already risk averse under normal circumstances. Under stress, they become even more so, and they retreat to the familiar comfort of the status quo. From gun laws to fossil fuel subsidies, once a piece of legislation is in place, it is hard to dislodge it, even when cost-benefit analysis argues for change.

### Offense

#### Can’t solve – removing patents just makes all applications of TK functionally generics – that GREENLIGHTS corporations to appropriate them and doesn’t do anything to protect knowledge beyond slightly decreasing profit incentives – the plan does nothing to detach TK from capital