# Loyola R5 – 1NC v Dulles TY

## 1

#### Permissibility and presumption negate – a. the resolution indicates the affirmative has to prove an obligation, and permissibility would deny the existence of an obligation b. Statements are more often false than true because any part can be false so negate because the aff is probably false

#### The aff burden is to prove that the resolutional statement is logical, and the reciprocal neg burden is to prove that the resolutional statement is illogical.

#### Prefer:

#### 1. Text – Oxford Dictionary defines ought as “used to indicate something that is probable.”

[https://en.oxforddictionaries.com/definition/ought //](https://en.oxforddictionaries.com/definition/ought%20//)Massa

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

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

#### 2. Debatability – a) my interp means debates focus on empirics about squo trends rather than irresolvable abstract principles that’ve been argued for years b) Moral oughts cannot guide action.

**Gray,** Grey, JW. "The Is/Ought Gap: How Do We Get "Ought" from "Is?"" *Ethical Realism*. N.p., 19 July 2011. Web. 28 Oct. 2015. //Massa

**The is/ought gap is a problem in moral philosophy where what is the case and what ought to be the case seem quite different, and it presents itself as the following question** to David Hume: **How do we *know* what morally ought to be the case from what is the case?** Hume posed the question in A Treatise of Human Nature Book III Part I Section I: In **every system of morality**, which I have hitherto met with, I have always remark’d that the author proceeds for some time in the ordinary way of reasoning, and establishes the being of a God, or makes observations concerning human affairs, when of a sudden I am surpriz’d to find, that instead of the usual copulations of propositions, is and is not, I meet with no proposition that is not connected with an ought, or an ought not. This change **is imperceptible**; but is, however, of the last consequence. **For as this ought**, or ought not, **expresses some new relation** or affirmation, ‘tis necessary that it shou’d be observ’d and explain’d; and at the same time that a reason shou’d be given, **for what seems altogether inconceivable**, how this new relation can be a deduction from others, which are entirely different from it. It is here that Hume points out that **philosophers argue about** various **nonmoral facts, then somehow conclude what ought to be the case** (or what people ought to do) **based on** those facts (about **what is the case**). **For example, we might find out that arsenic is poisonous and conclude that we ought not consume it. But we need to know how nonmoral facts can lead to moral conclusions. These two things seem unrelated. The is/ought gap [isn’t]** doesn’t seem like **a problem for nonmoral oughts**—what we ought to do to accomplish our goals, fulfill our desires, or maintain our commitments. For example, we could say, “If you want to be healthy, you ought not consume arsenic.” However, it might be morally wrong to consume arsenic. If it is, we have some more explaining to do.

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

#### [1] Inherency – either a) the aff is non-inherent and you vote neg on presumption or b) it is and it isn’t logically going to happen.

## 2

### 1NC – FW

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

#### Ethics must begin a priori:

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

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

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

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

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

### 1NC – Offense

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

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

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

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

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

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

#### 3] The aff encourages free riding- that treats people as ­means to an end and takes advantage of their efforts which violates the principle of humanity

**Van Dyke 2** Raymond Van Dyke, 7-17-2018, "The Categorical Imperative for Innovation and Patenting," IPWatchdog, <https://www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/> SJ//DA recut SJKS

Also, **allowing the free taking of ideas, content and valuable data, i.e., the fruits of individual intellectual endeavor**, would disrupt capitalism in a radical way. **The resulting more secretive approach in support of the above free-riding Statement** would be akin to a Communist environment **where the State owned everything and the citizen owned nothing, i.e., the people “consented” to this. It is, accordingly, manifestly clear that no reasonable and supportable Categorical Imperative can be made for the unwarranted theft of property, whether tangible or intangible,** apart from legitimate exigencies.

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

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

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

## 3

Interp – cant say nge interps are counter interps, accept aff interps, and assume aff meats neg theory

[1] infinite abuse

[2] norming

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

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

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

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

## UV

No adv

### Allow new 2NR responses to aff spikes:

#### [a] Aff spikes aren’t complete arguments until the 1AR. There is no violation until the 1ar and the voter is often expanded on.

#### [b] Key to clash because otherwise the aff will have lots of blippy spikes and just extend the dropped ones in the 1ar for an automatic ballot which makes the 1N impossible

### Give the neg an RVI on 1ar and 1ac theory

#### To clarify this includes your spikes which should also mean if I win an offensive reason to reject one of your spikes it triggers an RVI.

#### [1] Not having an RVI incentivizes you to read a bunch of blippy underdeveloped spikes in the 1AC as well as a short 1ar shell solely as a time suck scewing my strategy. Strat skew key to equal access to the ballot.

#### [2] Infinite abuse: absent an RVI, the aff can read game over arguments like evaluate the theory debate after the 1ar putting the NC in a doublebind: either I answer them and waste time or concede them and auto lose.

#### [3] Under competing interps we should create the best norms for debate. RVIS encourage debaters to actually test issues, including the spikes you are trying to defend as good norms.

#### [4] Ableism: Having an RVI on spikes is key to ensure that you don’t use them in an exclusionary manner, such as hiding them inside other spikes, which shuts people with flowing disabilities outside of debate. – justifies new 2nr responses

#### [5] Forcing them to go for their interp ensures debaters wont just spam spikes, but instead only preempt genuine abuse, which means A) we spend more rounds on substance and B) people read shorter underviews and more substance.

#### [6] I have already invested a large amount of the 1NC on theory instead of substance, and not having an RVI allows them to completely ignore this flow of the debate and dump on case, making negating impossible.

### Reject spikes not at the top of the case

#### [1] I don’t know what I have to do until after I formulate a strategy which means I will always violate.

#### [2] I can spend more time thinking about a substantive strategy – you concede substantive engagement when you read paradigm issues.

1ar theory

[1] contextual

[2] time skew solved

[3] 2nr skew

Meta-ethic

[1] no – auto win or atrocious

[2] were better for phil ed

Counter interp – if I read a meta-ethic

We get 2nr I meets – 1nc is too short and 1ar recontextualization is worse

Neg interps arent counter interps

Don’t accept aff interps

Mo reactivity advangatege

## FW

Kant controls IL

Ideal theory is good

Moral pluralism – worse ethics, bad

Empirics – unreliable, isought fallacy

All reasons to vote neg

Indeixclas is a voting issue

Accesisibility – teach them lesson

Condo logic is a voting issue

Principle of explosion is false – misunderstands the linguistic effect that parts of phasess have

Dogmatism false – misunderstands

7 – we have more truth

Boninis – informed decision

Over thinking -

## Case

[4] They reduce free flow of information – no one will share information if it can be stolen – patents are net better bc they make info accessible but preclude your ablity to profit – that encourages future innovation