## AC

### Overview

#### [1] The role of the ballot is to vote for the debater who best proves the truth or falsity of the Resolution; the aff must prove it true and the neg must prove it false.

**Prefer: [A] Text: Five dictionaries[[1]](#footnote-1) define to negate as to deny the truth of and affirm[[2]](#footnote-2) as to prove true which means the sole judge obligation is to vote on the resolution’s truth or falsity. This outweighs on common usage – it is abundantly clear that our roles are verified. Any other role of the ballot enforces an external norm on debate, but only truth testing is intrinsic to the process of debate i.e. proving statements true or false through argumentation. Constitutivism outweighs because you don’t have the jurisdiction not to truth test –** **a practice only makes sense based on its intrinsic rules. Jurisdiction is also an independent voter and a meta constraint since every argument you make concedes the authority of the judge fulfilling their jurisdiction to vote aff if they affirm better and neg the contrary – otherwise they could just hack against or for you which means it also controls the internal link to fairness since that’s definitionally unfair. [B] Logic: Any counter role of the ballot collapses to truth testing because every property assumes truth of the property i.e. if I say, “I am awake” it is the same as “it is true that I am awake” which means they are also a question of truth claims because it’s inherent. It also means their ROB warrants aren’t mutually exclusive with mine. First, what the neg reads doesn’t prove the resolution false, but challenges an assumption of it. Secondly, statements which make assumptions like the resolution should be read as a tacit conditional which is an if p then q statement. Thirdly, for all conditionals, if the antecedent is false, then the conditional as a whole is true. If the aff is winning, they get the ballot is a tacit ballot conditional which means denying the premise proves the conclusion that I should get the ballot. [C] Inclusion: Any offense can function under truth testing whereas your specific role of the ballot excludes all strategies but yours. This is bad for inclusive debates because people without every technical skill or comprehensive debate knowledge are shut out of your scholarship which turns your ROB- truth testing solves because you can do what you’re good at and so can I. This is also better for education because me engaging in a debate I know nothing about doesn’t help anyone. o/w since it is a real-world implication in round rather than a thought experiment that doesn’t do anything [D] Isomorphism: ROBs that aren’t phrased as binaries maximize leeway for interpretation as to who is winning offense. Scalar framing mechanisms necessitate that the judge has to intervene to see who is closest at solving a problem. Truth testing solves since it’s solely a question of if something is true or false, there isn’t a closest estimate**

#### [2] AFF theory is no RVI, Drop the debater, competing interps, under an interp that aff theory is legit regardless of voters a) infinite abuse since otherwise it would be impossible to check NC abuse b) it would justify the aff never getting to read theory which is a reciprocity issue c) Time crunched 1ar means it becomes impossible to justify paradigm issues and win the shell and this comes first because time skew. And, reject theory and Ks on spikes since it would be a contradiction since they indict each other, but prefer mine since they are lexically prior. AFF fairness issues come prior to NC arguments a) The 1ar can’t engage on multiple layers if there is a skew since the speech is already time-crunched b) Sets up an invincible 2n since there are a million of unfair things you can collapse to to win every round. Inclusion first is the fallacy of origin – don’t apply it. Fairness is a voter debate is a competitive activity wins/losses prove that requires fairness for objective evaluation. Education – the only portable thing from debate and the goal of the activity.

#### [3] Affirming is harder – all theory arguments have an implicit aff flex standard because of huge side bias – outweighs neg fairness arguments unless they prove how it uniquely outweighs the disparity since it’s structural.

Shah 19 Sachin “A STATISTICAL ANALYSIS OF SIDE-BIAS ON THE 2019 JANUARY-FEBRUARY LINCOLN-DOUGLAS DEBATE TOPIC” NSD, 15 February 2019. <http://nsdupdate.com/2019/a-statistical-analysis-of-side-bias-on-the-2019-january-february-lincoln-douglas-debate-topic/> SJCP//JG

To further quantify the side-bias, the proportion of negative wins when the affirmative was favored (p1) can be compared with the proportion of affirmative wins when the negative is favored (p2). Ideally the difference between the proportions would be 0; however, p1 = 34.84% while p2 = 28.77, a staggering 6.07% difference. Now the question is whether this difference is statistically significant. In order to determine the answer, a two-proportion z-test was used. The null hypothesis is p1 – p2 = 0 , because that means both sides are able to overcome the debating level skew equally. The alternative hypothesis is then p1 – p2 > 0, meaning the negative is able to overcome the skew more than the affirmative is able, demonstrating a side-bias. This two-proportion z-test rejected the null hypothesis in favor of the alternative (p-value < 0.0001). There is sufficient evidence that the negative is able to overcome the skew more often than the affirmative can. This implies there is a less than 0.01% chance that there is no side-bias because it demonstrates the higher proportion of negative wins when the affirmative is favored is significant. In short, the negative has a greater ability to win difficult rounds than the affirmative does, which indicates there exists a skew in the negative’s favor. This analysis is statistically rigorous and relevant in several aspects: (A) The p-value is less than the alpha. (B) The data is on the current January-February topic, meaning it’s relevant to rounds these months [2]. (C) The data represents a diversity of debating and judging styles across the country. (D) This analysis accounts for disparities in debating skill level. (E) Type I error was reduced by choosing a small alpha level. The combination of these points validates this analysis. As a final note, it is also interesting to look at the trend over multiple topics. In the rounds from 93 TOC bid distributing tournaments (2017 – 2019 YTD), the negative won 52.99% of ballots (p-value < 0.0001) and 54.63% of upset rounds (p-value < 0.0001). This suggests the bias might be structural, and not topic specific, as this data spans six different topics. Therefore, this analysis confirms that affirming is in fact harder again on the 2019 January-February topic [3]. So don’t lose the flip!

#### [4] The Negative may not contest the Aff Framework – Concession is key to check neg time skew and ability to layer the debate by forcing the debate to one layer where I can weigh–else negs can spread out affs and collapse to the layer I undercover. This controls the internal link to all education args because no clash occurs when negs can just extend dropped layers to win. Concession is best for phil ed and topic lit if it’s Kant – cross apply the third point of the TJFs section. And, statistics[[3]](#footnote-3) prove that the neg is at significant advantage, meaning generic responses to timeskew aren’t responsive. Timeskew is the strongest link into fairness because it’s the only objective measure we have coming into the round. Any theoretical response to this shell is a defensive counter-interp at best because it merely justifies the neg can contest both layers.

#### [5] The neg may not read utilitarianism or any consequentialist ethical theory as a standard – a) resolvability: 1] Induction fails—induction assumes that things will always happen the same way in the future as they have in the past. But this begs the question of how we know what happened in the past will happen in the future. Thus, induction is logically fallacious. 2] Moral cluelessness—consequences are wholly unknowable and any action can lead to a domino effect that has unpredictable bad consequences in the end which means it can’t guide action 3] Infinite consequences—any harm stretches on into the infinite future and makes it impossible to compare harms—results in calculative regress—you have you calculate how much time to spend calculating and so on—destroys decision-making 4] Aggregation fails—happiness is only happy for you, but not for me, so you can’t compare across people—also can’t compare 10 headaches to a migraine to the value of friendship b) psychological violence: util and other consequentialist theories justify atrocities such as slavery if it benefits a marginal majority or for hypothetical benefits that might not even materialize

#### [6] The neg must only defend the converse of the resolution – The res is a stasis point for both sides so if you do anything other than defending the converse there is no way to plan the 1N strategy. That is supercharged in the context of today’s debate in which it is a very widespread practice for the aff to tell the negative debater what aff they are going to read while the aff goes into the round in the dark. Key to fairness because negative will be at an inherent advantage before the round begins.

### Framing

#### The meta-ethic is practical reason:

#### [1] Regress – any other justification for ethics can have its authority infinitely questioned, but reason is a self-justifying source of authority which solves. Asking why use reasons intrinsically asks for a reason to use reason which concedes reason’s authority.

#### [2] Collapses – other sources of ethical authority presume a logical system of justification to make them coherent, which means reason functions as a side constraint on other theories and they presuppose the authority of reason.

#### [3] Action Theory - any action can be divided into infinite states of affairs—only intent can unify our action into intended means and ends.

#### That generates an obligation to follow only universalizable laws. Only universal law can be constitutive of agency because it applies to all agents in all instances. A maxim is universalizable if it can be known by all reasoners and applied to all reasoners without causing a contradiction.

#### Thus the standard is consistency with principles of equal and outer freedom

#### [1] Universal reason grants agents the right to freedom because acting on a maxim to coerce produces a conceptual contradiction.

Engstrom [Stephen Engstrom, (Professor of Philosophy @ the University of Pittsburgh) "Universal Legislation as the Form of Practical Knowledge" http://www.academia.edu/4512762/Universal\_Legislation\_As\_the\_Form\_of\_Practical\_Knowledge, DOA:5-5-2018 // WWBW]

Given the preceding considerations, it’s a straightforward matter to see how **a maxim of action that assaults the freedom of others** with a view to furthering one’s own ends results in a contradiction when we attempt to will it as a universal law in accordance with the foregoing account of the formula of universal law. Such a maxim **would lie in a practical judgment that deems it good on the whole to act to limit others’ outer freedom**, and hence their self-sufficiency, their capacity to realize their ends, **where doing so augments, or extends, one’s own outer freedom** and so also one’s own self-sufficiency.  Now on the interpretation we’ve been entertaining, applying the formula of universal law involves considering whether it’s possible for every person—every subject capable of practical judgment—to share the practical judgment asserting the goodness of every person’s acting according to the maxim in question. Thus in the present case the application of the formula involves considering whether it’s possible for every person to deem good every person’s acting to limit others’ freedom, where practicable, with a view to augmenting their own freedom. Since here **all persons are** on the one hand **deeming good both the limitation of others’ freedom and the extension of their own freedom, while** on the other hand, insofar as they agree with the similar judgments of others, **also deeming good the limitation of their own freedom and the extension of others’ freedom, they are all deeming good both the extension and the limitation of both their own and others’ freedom. These judgments are inconsistent** insofar as the extension of a person’s outer freedom is incompatible with the limitation of that same freedom.

#### [2] Inescapability – the exercise of practical rationality requires that one regards practical rationality as intrinsically good – that justifies a right to freedom.

Wood 07 [Allen W. Wood, (Stanford University, California) "Kantian Ethics" Cambridge University Press, 2007, https://www.cambridge.org/core/books/kantian-ethics/769B8CD9FCC74DB6870189AE1645FAC8, DOA:8-12-2020 // WWBW]

Kant holds that **the most basic act through which people exercise their practical rationality is that of setting an end** (G 4:437). To set an end is, analytically, to subject yourself to the hypothetical imperative that you should take the necessary means to the end you have set (G 4:417). This is the claim that you rationally ought to do something whether or not you are at the moment inclined to do it. It represents the action of applying that means as good (G 4:414) – in the sense of “good” that Kant explicates as: what is required by reason independently of inclination (G 4:413). Kant correctly infers that **any being which sets itself ends is committed to regarding its end as good in this sense, and also to regarding the goodness of its end as what also makes application of the means good – that is, rationally required independently of any inclination to apply it.** The act of setting an end, therefore, must be taken as committing you to represent some other act (the act of applying the means) as good. In doing all this, however, **the rational being must also necessarily regard its own rational capacities as authoritative for what is good in general.** For it treats these capacities as capable of determining which ends are good, and at the same time as grounding the goodness of the means taken toward those good ends. But **to regard one’s capacities in this way is also to take a certain attitude toward oneself as the being that has and exercises those capacities.** It is to esteem oneself – and also to esteem the correct exercise of one’s rational capacities in determining what is good both as an end and as a means to it. One’s other capacities, such as those needed to perform the action that is good as a means, are also regarded as good as means. But **that capacity through which we can represent the very idea of something as good both as end and as means is not represented merely as the object of a contingent inclination, nor is it represented as good only as a means. It must be esteemed as unconditionally good, as an end in itself.** To find this value in oneself is not at all the same as thinking of oneself as a good person. Even those who misuse their rational capacities are committed to esteeming themselves as possessing rational nature. It also does not imply that a more intelligent person (in that sense, more “rational”) is “better” than a less intelligent one. The self-esteem involved in setting an end applies to any being capable of setting an end at all, irrespective of the cleverness or even the morality of the end setting. Kant’s argument supports the conclusion, to which he adheres with admirable consistency throughout his writings, that all rational beings, clever or stupid, even good or evil, have equal (absolute) worth as ends in themselves. For Kantian ethics **the rational nature in every person is an end in itself whether the person is morally good or bad.**

#### [3] Value theory – the existence of extrinsic goodness requires unconditional human worth.

Korsgaard 83 (Christine M., “Two Distinctions in Goodness,” The Philosophical Review Vol. 92, No. 2 (Apr., 1983), pp. 169-195, JSTOR) OS

The argument shows how Kant's idea of justification works. It can be read as a kind of regress upon the conditions, starting from an important assumption. The assumption is that when a rational being makes a choice or undertakes an action, he or she supposes the object to be good, and its pursuit to be justified. At least, if there is a categorical imperative there must be objectively good ends, for then there are necessary actions and so necessary ends (G 45-46/427-428 and Doctrine of Virtue 43-44/384-385). In order for there to be any objectively good ends, however, there must be something that is unconditionally good and so can serve as a sufficient condition of their goodness. Kant considers what this might be: it cannot be an object of inclination, for those have only a conditional worth, "for if the inclinations and the needs founded on them did not exist, their object would be without worth" (G 46/428). It cannot be the inclinations themselves because a rational being would rather be free from them. Nor can it be external things, which serve only as means. So, Kant asserts, the unconditionally valuable thing must be "humanity" or "rational nature," which he defines as "the power set to an end" (G 56/437 and DV 51/392). Kant explains that regarding your existence as a rational being as an end in itself is a "subjective principle of human action." By this I understand him to mean that we must regard ourselves as capable of conferring value upon the objects of our choice, the ends that we set, because we must regard our ends as good. But since "every other rational being thinks of his existence by the same rational ground which holds also for myself' (G 47/429), we must regard others as capable of conferring value by reason of their rational choices and so also as ends in themselves. Treating another as an end in itself thus involves making that person's ends as far as possible your own (G 49/430). The ends that are chosen by any rational being, possessed of the humanity or rational nature that is fully realized in a good will, take on the status of objective goods. They are not intrinsically valuable, but they are objectively valuable in the sense that every rational being has a reason to promote or realize them. For this reason it is our duty to promote the happiness of others-the ends that they choose-and, in general, to make the highest good our end.

#### Impact calculus –

#### 1] Ethics are based on intent, but the state does not have intentions and cannot know the intentions of other agents. Instead, the state acts a procedural mechanism to punish those who violate rights claims. Those rights are derived from the structure of intent.

#### 2] The state does not have the authority to act to preempt future rights violations, because consequences of action are contingent and cannot be derived from the structure of the maxim on which one acts. Thus, the state does not have the jurisdiction to take them into account.

#### This means if their theory doesn’t provide an account of how the state functions they have no offence on the framing debate.

#### Prefer additionally –

#### [1] Performativity - Truth claims can only be proven by argumentation which contains the axiomatic assumption that freedom is good.

Kinsella 11[Stephan Kinsella, (Stephan Kinsella is an attorney in Houston, director of the Center for the Study of Innovative Freedom, and editor of Libertarian Papers.) "Argumentation Ethics and Liberty: A Concise Guide" Mises Institute, 5-27-2011, https://mises.org/library/argumentation-ethics-and-liberty-concise-guide, DOA:5-4-2020]

In setting the stage, Hoppe first observes that the standard natural-rights argument is lacking: It has been a common quarrel with the natural rights position, even on the part of sympathetic readers, that the concept of human nature is far "too diffuse and varied to provide a determinate set of contents of natural law." Furthermore, its description of rationality is equally ambiguous in that it does not seem to distinguish between the role of reason in establishing empirical laws of nature on the one hand and normative laws of human conduct on the other. ([The Economics and Ethics of Private Property](http://mises.org/resources/860/The-Economics-and-Ethics-of-Private-Property-Studies-in-Political-Economy-and-Philosophy) [EEPP], p. 313; also [A Theory of Socialism and Capitalism](http://mises.org/resources/431/A-Theory-of-Socialism-and-Capitalism) [TSC], p. 156n118) Hoppe's solution is to focus on the nature of argumentation instead of action in general: The praxeological approach solves this problem by recognizing that it is not the wider concept of human nature but the narrower one of propositional exchanges and argumentation which must serve as the starting point in deriving an ethic. ([EEPP](http://mises.org/resources/860/The-Economics-and-Ethics-of-Private-Property-Studies-in-Political-Economy-and-Philosophy), p. 345) Here he draws on the work of his PhD advisor, the famous European philosopher [Jürgen Habermas](http://en.wikipedia.org/wiki/J%C3%BCrgen_Habermas), and fellow German philosopher [Karl-Otto Apel](http://en.wikipedia.org/wiki/Karl-Otto_Apel), who had developed a theory of "discourse ethics" or "argumentation ethics." As Hoppe explains this basic approach, any truth claim, the claim connected with any proposition that it is true, objective or valid (all terms used synonymously here), is and must be raised and settled in the course of an argumentation. Since it cannot be disputed that this is so (one cannot communicate and argue that one cannot communicate and argue), and since it must be assumed that everyone knows what it means to claim something to be true (one cannot deny this statement without claiming its negation to be true), this very fact has been aptly called "the a priori of communication and argumentation." ([EEPP](http://mises.org/resources/860/The-Economics-and-Ethics-of-Private-Property-Studies-in-Political-Economy-and-Philosophy), p. 314) That is, there are certain norms presupposed by the very activity of arguing. Apel and Habermas go on to argue that the ethics presupposed as legitimate by discourse as such justify the standard set of soft-socialist policies. But Hoppe, while recognizing the value of the basic approach, rejected their application of this theory and socialist conclusions. Instead, Hoppe took what was valuable in the Apel-Habermas approach and melded it with Misesian-Rothbardian insights to provide a praxeological-discourse-ethics twist on the standard natural-law defense of rights.In essence, Hoppe's view is that argumentation, or discourse, is by its nature a conflict-free way of interacting, which requires individual control of scarce resources. In genuine discourse, the parties try to persuade each other by the force of their argument, not by actual force: Argumentation is a conflict-free way of interacting. Not in the sense that there is always agreement on the things said, but in the sense that as long as argumentation is in progress it is always possible to agree at least on the fact that there is disagreement about the validity of what has been said. And this is to say nothing else than that a mutual recognition of each person's exclusive control over his [their] own body must be presupposed as long as there is argumentation (note again, that it is impossible to deny this and claim this denial to be true without implicitly having to admit its truth). (TSC, p. 158) Thus, self-ownership is presupposed by argumentation. Hoppe then shows that argumentation also presupposes the right to own homesteaded scarce resources as well. The basic idea here is that the body is "the prototype of a scarce good for the use of which property rights, i.e., rights of exclusive ownership, somehow have to be established, in order to avoid clashes" (TSC, p. 19). As Hoppe explains, The compatibility of this principle with that of nonaggression can be demonstrated by means of an argumentum a contrario. First, it should be noted that if no one had the right to acquire and control anything except his [their] own body, then we would all cease to exist and the problem of the justification of normative statements simply would not exist. The existence of this problem is only possible because we are alive, and our existence is due to the fact that we do not, indeed cannot, accept a norm outlawing property in other scarce goods next and in addition to that of one's physical body. Hence, the right to acquire such goods must be assumed to exist. (TSC, p. 161).

#### [2] Frameworks are an evaluative filter that determines what offence is legitimate and it’s a topicality interpretation of the word “ought” – thus all framing must be theoretically justified. Prefer mine –

#### Ought is defined as consistency with the categorical imperative.

Durand 01 Kevin K. J. Durand, Assistant Professor of Philosophy at Henderson State University. *The Logic of Morality: Georg Henrik von Wright, Immanuel Kant, and the “Ought/Can” Inference.* Academic Forum, 2000-2001,http://www.hsu.edu/academicforum/2000-2001/2000-1AFThe%20Logic%20of%20Morality.pdf

This passage also serves to clarify Kant’s assertion that the moral law depends on the will. Clearly, it is not a will wholly distinct from experience; rather it is prior to experience and makes experience of the moral law possible. The Kantian ideal here is the will of a perfectly rational will. According to Schneewind, **Kant understands ought to express** the following relationship: “**whatever a perfectly rational will necessarily would do is what we imperfectly rational agents ought to do.”** [18] Indeed, this is the very standard that K ant establishes as the benchmark in the Groundwork : “A will whose maxims necessarily accord with the laws of autonomy is a holy , or absolutely good, will. The dependence of a will not absolutely good on the principle of autonomy (that is, moral necessitat ion) is obligation . ... The objective necessity to act from obligation is called duty .” [19] Thus, Kant is committed to the view that if an act a ought to be done it is bec ause the perfectly rational will necessarily would do a . Indeed, as Schneewind points out, “true moral necessity ... would make an act necessary regardless of what the agent wants.” [ 20] So, for Kant then, ought is connected directly to the alethic notion of necessity and that relationship can be formalized in the following way: (1) O( a ) ® A( a ) where O represents the obligation operator, and A represents the perfectly ra tional (or ideal) will. 4. **The definition of the ought or obligation operator is still incomplete without a discussion of the Categorical Imperative.** Since we do not possess the perfectly rational will, the notion is that **one should “act only according to that maxim through which you can at the same time will that it should become universal law.”** [21] This form of the Categorical Imperative is the one Kant takes to be primitive. Kant takes this to be a formal principle governing willing because in this formulation the Imperative is devoid of content, with one notable exception. The reference to the universal law seems to capture the notion of connection to necessity discussed earli er. **Contradictions at this foundational level then will guide the agent away from the action that forms the content of her maxim because that content contradicts the moral law**. Kant allows for no contradiction of duty to be considered right actions. He writes in discussing the concept of Duty, “I pass over here all actions which are obviously known to be contrary to duty, even though they may be useful for this or that purpose. For with them there is no question at all as to whether they might have happened from duty, since they go so far as to contradict it.” [22] **With this connection to necessity in mind, it follows for Kant that for someone to will that a maxim become universal law is to be able to will that the maxim be necessary for the perfectly rational will.**

#### Prefer my interpretation:

#### [a] Research Burdens—questions of universalizability do not require evidence dumps or statistics to access offense because they don’t have to do with empirics—only analytics are necessary to access offense. That outweighs to accessibility—other frameworks are structurally inaccessible to small school debaters since they’ll never have as much evidence or big enough back files to win card wars.

#### [b] Strategic thinking—Kantian offense can be derived purely from reasoning, which allows more innovation from debaters and better in-round strategic thinking—debaters aren’t totally reliant on their coach’s prep. That outweighs since its portable—thinking on your feet is applicable in every profession.

#### [c] Philosophical education—my interpretation allows contestation of the role of the state under the categorical imperative—people have argued that Kant justifies anything from libertarianism to socialism.

### Advocacy

#### Thus I affirm resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

#### I’ll defend the resolution as a general principle, further specification in the doc. This means potential negative implications of reducing protections for certain drugs doesn’t link as that’s merely a hypothetical instance of an object protected by IP medicine laws. Counterplans and PICs affirm because they do not disprove the general thesis of my advocacy. [To resolve](https://www.google.com/search?q=to+resolve&oq=to+resolve&aqs=chrome..69i57j0l5.150610j1j7&sourceid=chrome&ie=UTF-8) means settle or find a solution to (a problem, dispute, or contentious matter). Since it is in the past tense, the resolution is already the solution so you vote aff since it is already true (definition is hyper linked)

All hyper linked and from Merriam Webster unless otherwise noted -

“Member” is defined as: [part of a whole](https://www.merriam-webster.com/dictionary/member)

“Nations” [is defined as: a community of people composed of one or more nationalities and possessing a more or less defined territory and government](https://www.merriam-webster.com/dictionary/nations)

“Of” is defined as: [used as a function word to indicate origin or derivation](https://www.merriam-webster.com/dictionary/of)

“The” is defined as: [used as a function word before a singular noun to indicate that the noun is to be understood generically](https://www.merriam-webster.com/dictionary/the)

“World Trade Organization” is: [An international body founded in 1995 to promote international trade and economic development by reducing tariffs and other restrictions.](https://www.lexico.com/en/definition/world_trade_organization) (Lexico, a dictionary provided by Oxford)

“To” is defined as: [used to indicate that the following verb is in the infinitive form](https://www.merriam-webster.com/dictionary/to)

“Reduce” is defined as: [to diminish in size, amount, extent, or number](https://www.merriam-webster.com/dictionary/reduce)

“Intellectual Property” is defined as: [A work or invention that is the result of creativity, such as a manuscript or a design, to which one has rights and for which one may apply for a patent, copyright, trademark, etc.](https://www.lexico.com/en/definition/intellectual_property) (Lexico, a dictionary provided by Oxford)

“Protections” is defined as: [The act of protecting : the state of being protected](https://www.merriam-webster.com/dictionary/protection#legalDictionary) (Merriam Webster Legal Dictionary)

“For” is defined as: [used as a function word to indicate the object or recipient of a perception, desire, or activity](https://www.merriam-webster.com/dictionary/for)

“Medicines” is defined as: [a substance or preparation used in treating disease](https://www.merriam-webster.com/dictionary/medicines)

### Offence

#### There is a distinction between personal rights and property rights – property rights govern material objects that can be appropriated and stolen, however personal rights concern intangible concepts such as ideas and speeches. Thus it is a contradiction to attribute property rights to ideas as an idea can be accessible by all without resource constraints. And even the most stringent property rights allow for copying and modification of a legitimate purchase as a function of the new owner’s property rights so it’s a freedom violation to restrict doing so. And intellectual property rights actively suppress the freedom of speech, which is necessary for agents to actualize their wills.

Pievatolo 10 Pievatolo, Maria. “Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?” *Freedom, Ownership and Copyright: Why Does Kant Reject the Concept of Intellectual Property?*, 7 Feb. 2010, bfp.sp.unipi.it/chiara/lm/kantpisa1.html. WWEY, altered for glang

In the Metaphysik der Sitten, we can find a clear distinction between ius reale and ius personale. The ius reale or ius in re is a right on things. 14 The ius personale is defined as the «possession of another's choice [Willkür], in the sense of my capacity to determine it by my own choice to a certain deed». 15 In other words, it is a right entitling someone to obtain acts from other persons. As moral subjectivity involves freedom, personal rights cannot be established without the concerned persons' consent. According to Kant, the ius reale cannot be applied to ideas, or, better, to thoughts, because they can be conceived by everyone at the same time, without depriving their authors. Surprising as it may seem, the ius reale protects the freedom to copy, if it is taken seriously. If a thing has been purchased in a legal transaction and the purchasers copy it by their own means, they are simply working on their legitimate private property. For the very principle of private property, it is not fair to restrain the ways in which its legitimate purchaser may use it. For this reason, no ius reale can be opposed to the reprinter. If we see the book as a material thing, whoever buys it has the right to reproduce it: after all, it is his book. Furthermore, in Kant's opinion, we cannot derive any affirmative personal obligation from a ius reale: 16 a ius personale on someone cannot be claimed by simply purchasing some related things without obtaining his or her expressed consent. Kant, by conceiving the book as an action, adopts a strategy based on the ius personale only. By using such a strategy, he concludes that the unauthorized printer has to be compared to an unauthorized spokesperson rather than to a thief. Therefore, it is not necessary to go beyond the Roman law tradition, by inventing a new ius reale on immaterial things. Kant's argument goes as follows: when I speak to a public, I engage a relationship with them. The book may be viewed as a medium through which authors can transmit their speeches to a wider public. In the age of printing, such a medium used to be provided by publishers. Thus publishers can be considered as spokespersons who speak in the name of the authors. But, as such, they need the authors' authorization. 17 Why? Because to speak in the name of another without his authorization is like engaging him in a relationship without his consent. As personal rights, according to Kant, concern relations among free beings, they can arise only from expressed agreements. Hence, the unauthorized printer is like an unauthorized spokesperson, who produces a relation of the author with the public without being entitled to do it. However, the scope of Kant's justification of copyright is very narrow: it applies only to the publishing of texts, it does not touch th so-called derivative works, and it is justified only as far as it helps the public to get the texts. Freedom, ownership and copyright: why does Kant reject the concept of intellectual property? 3 Kant does not recognize works of art as speeches. He calls works of art Werke or opera, i.e. things that are produced, while indicating books as Handlungen or operae, i.e. actions. As the works of art are simply physical objects, we can derive from Kant's assumption that every legitimate purchaser may reproduce them and may donate or sell the copies to others. 18 Every time an object can be treated only as a product, its legitimate owner may do what he wants with it, because of his ius reale, which has to be taken seriously on both sides. Moreover, as the injustice of reprinting books depends on their communication to the public, we can deduce that their reproduction for personal use is not to be forbidden. As regards as the derivative works, Kant states that, if one shortens, augments, retouches or translates the book of another, [they] produces a new speech, although the thoughts can be the same Therefore, such works cannot be seen as Nachdruck and are perfectly lawful. 19 In other words,in a Kantian environment, everyone may become a “wreader” - a reader and writer at the same time - without being hindered by copyright restrictions The goal of the transaction between the author and the publisher is conveying his text to the public. The public has a right to interact with the author, if the latter has chosen to do it. According to Kant, the publisher may neither refuse to publish – or to hand over to another publisher, if he does not want to do it himself – a text of a dead author, nor release mutilated 20 or spurious works, nor print only a limited impression that does not meet the demand. If the publisher does not comply, the public has the right to force him to publish. 21 In a Kantian environment the publisher's rights are justified only when they help authors to reach the public. Copyright should be neither censorship nor monopoly. In the 1785 essay Kant stated that the mandate of an author to a publisher should be exclusive 22 because the publisher becomes willing to publish a book only if he is certain to earn something from it; therefore, he is interested in avoiding competition. But later, in the Metaphysik der Sitten, Kant does not mention the exclusivity requirement at all, perhaps because he has realized that it was based on an empirical contamination, depending on the current state of technology. In Kant's world the press used to be the medium that provided for the widest distribution of ideas. Printing required both specific tools and skills, and specialized and centralized organizations. And as long as the publishers of printed texts provided the only medium to convey speeches to a wide public, Kant was inclined to bow to their interest. However, from a conceptual perspective, there is no reason to deny that an author should be entitled to authorize everyone to distribute his work to everyone else, just like a person may hire more than one spokesperson. Such a practice is now fairly usual on the Internet, when authors choose a Creative Commons License and grant the right to publish their works to everyone, because they are interested in the widest possible spreading of their ideas. In Kant's times such a strategy would hardly be paying because the major publication technology, the press, was not cheap and easy like the digital reproduction of texts, but difficult and expensive. Kant's thesis is based on the technical assumption that publishing requires an intermediation - just as it used to be in the age of print -, which is lawful only it has the author's consent. Where the intermediation is not necessary any longer, where no one is speaking in the name of another, copyright makes no sense. 23 3. A term of comparison: Fichte's theory of intellectual property In 1793 the Berlinische Monatschrift published a short essay, Proof of the Illegality of Reprinting: A Rationale and a Parable, 24 written by Fichte two years ago. The essay connects originality to intellectual property and advocates the enforcing of the latter by means of criminal sanctions. It is worth mentioning the Freedom, ownership and copyright: why does Kant reject the concept of intellectual property? 4 final parable by means of which Fichte illustrates his thesis, because it contains in itself all our commonplaces on intellectual property. In the time of the Caliph Harun al Rashid, an alchemist used to prepare a beneficial drug and to entrust the commercial side of the business to a merchant who was the sole distributor throughout the land and who earned a goodly profit by his monopoly. Another medicine merchant stole the drug from the monopolist and started to sell it at a cheaper price. The latter brought him before the Caliph. The former pleaded for his case by arguing that his selling the drug for a cheaper price was useful to the sick persons and to the society at large. What was the judgment of the Caliph? «He had the useful man hanged». 25 To be accurate, the medicine merchant of the parable had not copied the drug, but had materially stolen it. Fichte suggested that copying is like stealing. In the 18th century, however, Fichte had to demonstrate the commonplace of today. According to Fichte, we can distinguish two aspects of a book: 1. its physical aspect (das körperliche), i.e. the printed paper 2. its ideational aspect (das geistige) The ideational aspect of a book is in turn divisible into: a. a material aspect, i.e. the ideas the book presents; b. the form of these ideas, i. e. the way in which they are presented. All the aspects of a book, except one, can be appropriated by anybody: we can buy the printed paper and assimilate the ideas it conveys. We cannot, however, appropriate its form, because it is strictly personal. And, according to Fichte, it is self-evident that «we are the rightful owners of a thing, the appropriation of which by another is physically impossible». 26 As the form can be only mine, the author is the proprietor of his text and his authorized publisher is its usufructuary. However sophistical this shift from originality to property may seem, it is not the only seminal element of our commonplaces on copyright contained in Fichte's essay. It is also worth remarking that in the Harun al Rashid parable the alchemist - the author - transfer his rights and disappears from the scene; the most powerful interests are these of a monopolist - the publisher -; only the other medicine merchant - the pirate - pleads for the interests of the public, but his arguments are rejected as criminal; as regards as the Caliph - the government -, he bows to the monopolist's interests without saying a word; and, last but not least, the criminal sanction for piracy - capital punishment - is out of all proportion. The young Fichte believed that his ideas on authors' right were similar to the ones of Kant. 27 However, there are at least three outstanding differences between Kant and Fichte: Fichte bases copyright on the individual originality in the form of expression; 28 Kant does not mention originality at all; 1. Fichte equates copyright with private property; 29 Kant rejects the very possibility of founding the authors' right on a ius reale; 2. Fichte thinks that copyright violators deserve the same harsh punishment of thieves. 30 According to Kant, the unauthorized printer should simply compensate all the damages he caused to the author or to his authorized publisher. 31 3. While Fichte is an intellectual property endorser, Kant is an “enlightened” conservative who supports the Roman law tradition, against the propertization trend. He accepts the copyright principle, according to which Freedom, ownership and copyright: why does Kant reject the concept of intellectual property? 5 authors are entitled to decide how to publish their works. The rights of the publishers, however, are justified only as long as they help authors to reach the public, while the personal use of the texts and the so-called “wreading” should remain free. And, above all, all that can be viewed as a product is, in his opinion, outside the scope of copyright and may be copied without restrictions. What is, in any, the philosophical meaning of Kant's "conservatism"? To answer such a question, we need to link his ideas on authors' right to his general theory of property, as it is explained in the Metaphysics of Morals. 4. What is a thing? In the Metaphysics of Morals, Kant seems to take for granted that the objects of real rights are only corporeal entities or res corporales: «Sache ist ein Ding, was keiner Zurechnung fähig ist. Ein jedes Object der freien Willkür, welches selbst der Freiheit ermangelt, heiß daher Sache (res corporalis)». 32 Theoretically, however, such a negative definition could have been appropriate to incorporeal things as well. According to Kant, the rightful possession of a thing should be distinguished from its sensible possession. Something external would be rightfully mine «only if I may assume that i could be wronged by another's use of a thing even though I am not in possession of it» (AA.06 245:13-16). The rightful possession is an intelligible, not sensible, relation. I can claim that my bicycle is mine only if I am entitled to require that nobody takes it even when I leave it alone in the backyard. Kant's theory of property is very different from Fichte's principle of property as explained in his 1793 essay, according to which we are the rightful owners of a thing, the appropriation of which by another is physically impossible. For this reason, according to Fichte, the originality of the exposition entitles an author to claim a rightful property on his work. Is it really so obvious that originality implies property? Property is a comfortable social convention that allows us to avoid to quarrel all the time over the use of material objects. It is so comfortable just because it is physically possible to appropriate things; we do not need to invoke property when something cannot be separated from someone. I say both that my fingerprints or my writing style are "mine" and that my bicycle is "mine". But these two "mine" have a different meaning: the former is the "mine" of attribution; the latter is the "mine" of property. The former can be used to identify someone, and conveys the historical circumstance that something is related exclusively to someone; the latter points only to an accidental relation with an external thing, if we consider it from a physical point of view. It is possible to lie on a historical circumstance, by plagiarizing a text, i.e. by attributing it to a person who did not wrote it. However, properly speaking, no one can "steal" the historical connection between "my" writing style and me: the convention of property is useless, in this case. Besides, if Fichte's principle were the only justification of property right, it would undermine the very concept of it: as it is physically possible to "attribute" my bicycle to another, when I leave it alone in the backyard, everyone would be entitled to take it for himself. As Kant would have said, a legal property right cannot be founded on sensible situations, but only on intelligible relations. Although he defines things as res corporales, Kant determines the rightful possession of a thing as a possession without detentio, by ignoring all its sensible facets. Such a possession - a possession of a thing without holding it - is exerted on an object that is "merely distinct from me", regardless of its position in space and time. Space and time, indeed, are sensible determinations and should be left out of consideration. According to the postulate of practical reason with regard to rights, property is justified by a permissive law of reason: 33 if a rightful possession were not possible, every object would be a res nullius and nobody would be Freedom, ownership and copyright: why does Kant reject the concept of intellectual property? 6 entitled to use it. Kant implicitly denies that a res nullius can be used by everyone at the same time. His tacit assumption suggests that the objects of property, besides being distinct from the subjects, are excludable and rivalrous as well, just like the res corporales. Kant asserts that something external is mine if I would be wronged by being disturbed in my use of it even though I am not in possession of it (AA.6, 249:5-7). If property is a merely intelligible relation with an object that is simply distinct from the subject, we have no reason to deny that such an object might be immaterial as well, just like the objects of intellectual property. Why, then, does Kant refrain from using the very concept of it? According to him, a speech is an action of a person: it belongs to the realm of personal rights. A person who is speaking to the people is engaging a relationship with them; if someone else engages such a relationship in his name, he needs his authorization. The reprinter, as it were, does not play with property: he is only an agent without authority. Speeches, by Kant, cannot be separated from persons: he has seen the unholy promised land of intellectual property without entering it. According to Kant, before the acquired rights, everyone has a moral capacity for putting others under obligation that he calls innate right or internal meum vel tuum (AA.06, 237:24-25). The innate right is only one: freedom as independence from being constrained by another's choice, insofar it can coexist with the freedom of every other in accordance with a universal law. Freedom belongs to every human being by virtue of his humanity: in other words, it has to be assumed before every civil constitution, because it is the very possibility condition of law. Freedom implies innate equality, «that is, independence from being bound by others to more than one can in turn bind them; hence a human being's quality of being his own master (sui iuris), as well as being a human being beyond reproach (iusti) since before he performs any act affecting rights he has done no wrong to anyone, and finally his being authorized to do to others anything that does not in itself diminish what is theirs, so long as they do not want to accept it - such things as merely communicating his thoughts to them.» (AA.06, 237-238) 34 In spite of his intellectual theory of property, 35 Kant does not enter in the realm of intellectual property for a strong systematic reason. Liberty of speech is an important part of the innate right of freedom. It cannot be suppressed without suppressing freedom itself. If the ius reale were applied to speeches, a basic element of freedom would be reduced to an alienable thing, making it easy to mix copyright protection and censorship. 36 Property rights are based on the assumption that its objects are excludable and rivalrous and need to be appropriated by someone to be used. We cannot, however, deal with speeches as they were excludable and rivalrous things that need to be appropriated to be of some use, because excluding people from speeches would be like excluding them from freedom. Therefore, Kant binds speeches to the persons and their actions, and limits the scope of copyright to publishing, or, better, to the publishing of the age of print: the Nachdruck is unjust only when someone reproduces a text without the author's permission and distributes its copies to the public. If someone copies a book for his personal use, or lets others do it, or translates and elaborates a text, there is no copyright violation, just because it is not involved any intrinsic property right, but only the exercise of the innate right of freedom. The boundary of Kant's copyright is the public use of reason, as a key element of a basic right that should be recognized to everyone. Kant does not stick to the Roman Law tradition because of conservatism, but because of Enlightenment.

#### IPP is nonuniversalizable – universalizing the act of restricting the production of a certain medicine terminates in a contradiction because it entails that you restrict your own ability to produce the medicine

1. <http://dictionary.reference.com/browse/negate>, <http://www.merriam-webster.com/dictionary/negate>, <http://www.thefreedictionary.com/negate>, <http://www.vocabulary.com/dictionary/negate>, <http://www.oxforddictionaries.com/definition/english/negate> [↑](#footnote-ref-1)
2. *Dictionary.com – maintain as true, Merriam Webster – to say that something is true, Vocabulary.com – to affirm something is to confirm that it is true, Oxford dictionaries – accept the validity of, Thefreedictionary – assert to be true* [↑](#footnote-ref-2)
3. Fantasy Debate. National Statistics. Fantasydebate.com/ld-national-statistics [↑](#footnote-ref-3)