# 1NC v. Vishnu Grapevine R3

## 1

### Theory

Interp – debaters may not say they get 1ar theory, that it’s the highest layer in the round, the neg may not read theory arguments against the AC, and if they win one layer vote aff, and eval theory after the 1AR

Violation – underview

Standard:

Infinite abuse – means they get to read 1ar theory, and win because I cant get offense on the theory layer and it ends before I can respond because it is after the 1AR

Norm setting o/w in round abuse – a. longevity b. constitutive to theory

Competing intprps on combo shells – don’t let them sidestep abuse

Dtd – k2 deter abuse and it has skewed the entire round

No rvis – a. chills theory b. illogical c. baiting

## Case

### 1NC – AT: Contention

#### Kant negates:

#### 1] Kantian Ethics conclude that intellectual property is a property that ought to be protected

Pozzo 06

POZZO, R. Immanuel Kant sobre propriedade intelectual. Trans/Form/Ação, (São Paulo), v.29(2), 2006, p.11-18. // js69 --- ask me for the pdf!

The peculiarity of **intellectual property** cons**is**ts 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.

#### 2] Piracy – the allowance of another to treat your property as their own is a contradiction of will as it removes your ability to set your own ends as your thought isn’t your own but the allowance of everyone which means thought creation

#### 3] Justification – the AC justifies big corporations stealing the property of a single inventor and using it as their own more efficiently – means that the Aff isn’t universalizable

#### 4] Free Riding – the inherent right to expression also concludes a right to the protection of what was expressed – absent IPR inventors fall victim to free riders

Van Dyke 18

Van Dyke, Raymond. “The Categorical Imperative for Innovation and Patenting - IPWatchdog.com: Patents & Patent Law.” IPWatchdog.com | Patents & Patent Law, 1 Oct. 2018, www.ipwatchdog.com/2018/07/17/categorical-imperative-innovation-patenting/id=99178/. // js69

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 **fruit**s **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. 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 “**consent**ed” 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.

### 1NC – AT: Underview

#### Top-level

#### 1] Spikes that aren’t on top are a voting issue- it means I have to wait for the 1ac to finish to formulate a strategy since I don’t know what your going to read which moots 6 min of prep

#### 3] Under views are a voting issue—one small theory analytic can take out huge chunks of the 1nc which kills substantive clash

#### 4] New 2NR Responses- A] none of the spikes have a clear implication in the 1ac B] It’s key to robustly contest their norm

#### 5] Negating is harder so auto reject aff fairness claims- they have a 2ar judge psychology advantage and have infinite prep before round

#### 6] RVI’s on each spike- otherwise they can read the most absurd paradigm issues for 6 min and are never held accountable

#### 7] Reject spikes within spikes—infinitely abusive and we can never respond – infinitely regressive

#### Permissibility and presumption negate

#### 1] Obligations- the resolution indicates the affirmative has to prove an obligation, and permissibility would deny the existence of an obligation

#### 2] Falsity- Statements are more often false than true because proving one part of the statement false disproves the entire statement. Presuming all statements are true creates contradictions which would be ethically bankrupt.

#### 3] Trichotomy Triple- there is a trichotomy between obligation, prohibition and permissibility; proving one disproves the other two because they are three intertwined moral terms which coexist within each other. Outweighs because it interacts with each term or moral obligation.

#### 4] Proactivity- ought implies proactive justification since we don’t take actions unless we have a reason to take the action.