

PANEL 9**DO WE REALLY NEED INTELLECTUAL PROPERTY RIGHTS?
CONSIDERATIONS FROM POLITICAL PHILOSOPHY, POLITICAL ECONOMY
AND TECHNOLOGICAL CHANGE**

Alex Rosenberg
Duke University, USA

Abstract: In “On the priority of Intellectual Property Rights, Especially in Biotechnology,” [Rosenberg, 2004] I provided an argument that purported to show that property rights in good ideas are rights that, even from a purely consequentialist perspective, were untrumpable side constraints, in Nozick’s [1974] term. I considered the argument interesting in large part owing to general view that consequentialist considerations are not generally capable of entrenching rights of any kind. The argument was taken up by some libertarians and those interested in protecting private property of other kinds as untrumpable. Since that time I have come completely to reconsider the question of whether we even need such rights, let alone whether we should make them untrumpable. The considerations leading me to this conclusion are expounded in this paper. I begin with a review of my original argument and some other considerations favoring intellectual property rights, particularly patents. I go on to counter-arguments and conclude by exploring whether we should consider an alternative regime of no property rights in good ideas that is based on the norms of pure science combined with a recognition of the radical changes in information technology that have taken place over the last generation.