

# WTO IP WAIVER WOULD UNDERMINE COVID INNOVATION

GLOBAL INNOVATION POLICY CENTER | U.S. CHAMBER OF COMMERCE

VIEW ONLINE

**We're all in this together.** Coronavirus won't be defeated anywhere until it's defeated everywhere. In record time, intellectual property (IP) delivered the solutions needed to defeat the pandemic.

However, a misguided proposal under consideration at the World Trade Organization (WTO) would jeopardize progress.

## WHAT'S HAPPENING?

- The World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) Agreement was signed in 1995, sets minimum multilateral standards for the protection of IP. The TRIPS Council provides a forum in which WTO Members can consult on intellectual property matters, and carries out the specific responsibilities for the TRIPS Agreement.
- On October 2, 2020, South Africa and India [proposed a waiver](#) of IP rights for all technologies related to combating COVID-19, including patents, copyrights, designs and trade secrets, "in relation to prevention, containment or treatment of COVID-19". The proposal continues to be discussed at the WTO.
- The recent announcement from the Office of the U.S. Trade Representative to support discussions of a potential waiver to intellectual property rights is a troubling development. Undermining intellectual property rights for complex, hard to manufacture, vaccines would jeopardize fragile supply chains and not accelerate global production.

## WHY IS THIS PROPOSAL SELF-DEFEATING?

A TRIPS waiver for vaccines would do nothing to help – and could in fact hurt – the effort to produce billions of vaccine doses and get them in arms. Supply of these high-tech products is ramping up quickly, with about 10 billion doses projected to be produced by the end of 2021 -- we shouldn't distract attention away from that all-important goal.



1. **IP is not a barrier to vaccine access.** It already enabled the creation of three vaccines, in record-breaking time, that have received FDA authorization. IP is also safely facilitating international partnerships (275+ to date) to share technology and information more easily with trusted partners across borders.



2. **An IP waiver could lead to untested and unregulated copycats.** Some nations are looking to manufacture sophisticated vaccines without permission, exacerbating the shortage of the critical materials (raw materials, tubing, vials etc.) and increasing vaccine hesitancy due to the development of unsafe products and medicines.



**3. The proposal jeopardizes U.S. manufacturing & jobs.** Allowing other countries to take and commercialize American-made technologies conflicts with President Biden’s goal to build up American infrastructure and create manufacturing jobs. In the U.S. alone, biopharmaceutical companies support 4 million jobs across all 50 states, with many more across innovation ecosystems in labs, finance, and SMEs.



**4. Waiving IP undermines America’s leadership in the life sciences.** We should not be forfeiting IP to countries looking to undermine America’s global leadership in biomedical technology and innovation. IP protections enabled decades of R&D by biopharmaceutical research companies, allowing them to move quickly and effectively against COVID-19.



**5. Business welcomes the Biden Administration’s support for the global vaccine program, COVAX.** This type of program can have a significant positive, practical impact on global rollout of vaccines and therapies without disrupting the incredible IP-enabled progress that has been made to date to defeat the pandemic. Its effects will be even more effective as trade barriers are removed and all countries allow vaccines to be exported internationally.

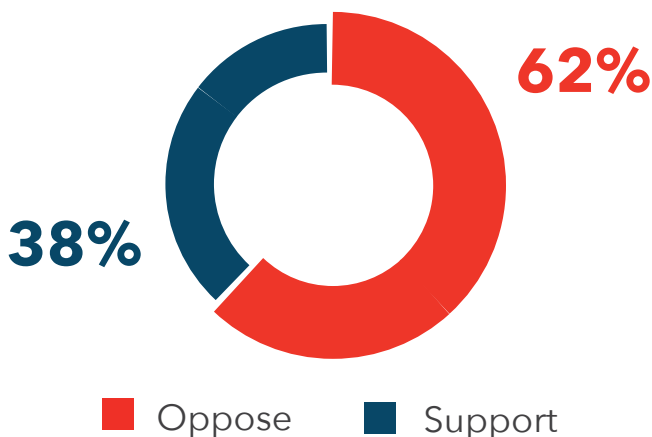
## GOOD TO KNOW:

Today 57% of all new medicines globally come from the United States with its world-class IP ecosystem, and private companies in the life sciences community make up more than 80% of the investment in the research and development of those new drugs.

The U.S. biopharmaceutical industry directly and indirectly supports over 4 million American jobs.

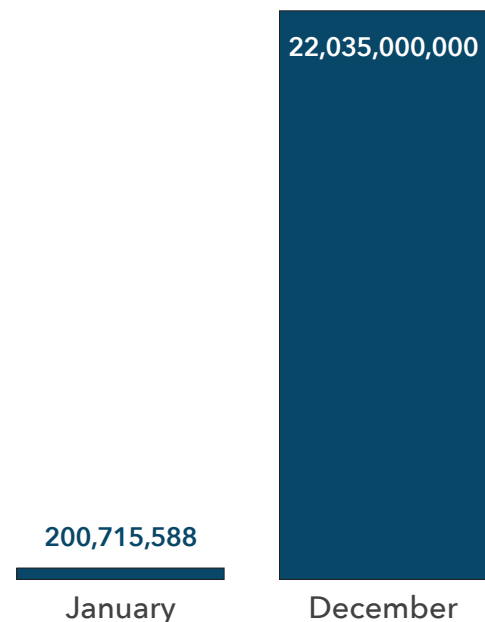
### AMERICANS SOLIDLY OPPOSE FORCING U.S. COMPANIES TO SURRENDER THEIR INTELLECTUAL PROPERTY

*Do you support or oppose making U.S. Companies give away technology that could make future vaccines and treatments to countries like China, for free?*



Source: Teneo, survey conducted April 23-25, 2021 to 1,000 registered voters, ±3.1%

### 22+ BILLION DOSES TARGETED BY VACCINE MAKERS BY YEAR’S END



Source: Airfinity, May 2021

# SCIENTISTS, ACADEMICS, ADVOCATES AND POLITICAL LEADERS SKEPTICAL OF WAIVING IP RIGHTS

## **WASHINGTON POST EDITORIAL BOARD**, May 4, 2021

*"The goal is noble, but the demand [for an IP waiver] is more slogan than solution ... patents on vaccines are not the central bottleneck, and even if turned over to other nations, would not quickly result in more shots. This is because vaccine manufacturing is exacting and time-consuming. Look at the production difficulties encountered by Emergent BioSolutions, a vaccine manufacturer in Baltimore, where 15 million doses were contaminated. That was caught before the shots were distributed, but one can imagine the horrific consequences of a failure to maintain quality control elsewhere in the world."*

## **WALL STREET JOURNAL EDITORIAL BOARD**, May 6, 2021

*"Busting patents also won't speed up production, since it would take months for these countries to set up new facilities. Competition will increase for scarce ingredients, and less efficient manufacturers with little expertise would make it harder for licensed partners to produce vaccines [...] China's current crop of vaccines are far less effective than those in the West, but soon Beijing might be able to purvey Pfizer knock-offs. The U.S. has spent years deploring China's theft of American IP, and now the Biden Administration may voluntarily let China reap profits from decades of American innovation."*

## **BLOOMBERG EDITORIAL BOARD**, May 12, 2021

*"The U.S. decision to support a temporary waiver of intellectual-property protections for Covid-19 vaccines won't end debate on the issue, much less end the pandemic. Reaching a formal agreement could take months and even then may not accelerate vaccine production; opposition from countries such as Germany could yet doom any compromise."*

## **SEN. CHRIS COONS (D-DE)**, CSIS: April 22, 2021

*"The collaboration that's happened in the midst of this pandemic I think points to the ways in which IP has actually not been a barrier, but a facilitator of critical, cutting-edge innovation [...] I don't think that waiving IP rights will suddenly enable other countries to ramp up the manufacturing of complex vaccines."*

## **BILL GATES**, Sky News: April 25, 2021

*"There are only so many vaccine manufacturers in the world [...] people are very careful about the safety of vaccines [...] The thing that is holding us back is not IP. There is no idle factory with regulatory approval that makes magically safe vaccines [...] we have all the rights from the vaccine companies and the work is going at full speed"*

**ADAR POONAWALLA, CEO SERUM INSTITUTE OF INDIA, February 14, 2021**

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*"There are enough manufacturers, it just takes time to scale up. And by the way, I have been blown away by the cooperation between the public and private sectors in the last year, in developing these vaccines."*

**JAYASHREE WATAL, GEORGETOWN LAW PROFESSOR & FORMER WTO IP COUNSELOR, April 22, 2021**

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*"These [vaccines] are complex to make so just waiving IP and patents isn't going to help [...] you can only get trade secrets and knowhow with the cooperation of the originator companies, and they don't have the bandwidth to do this in every part of the world ... the only immediate solution is for rich countries to donate or sell their surplus vaccine to COVAX or other countries."*

**SAPAN KUMAR, LAW FOUNDATION PROFESSOR OF LAW AT THE UNIVERSITY OF HOUSTON LAW CENTER, May 9, 2021**

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*"It is also unclear whether a waiver of IP rights will make a difference [...] Furthermore, as others have pointed out, IP rights are only a piece of what is needed to produce vaccines. There is currently a global shortage of raw materials and proper manufacturing facilities."*

**DAVID KAPPOS, FORMER U.S. PATENT AND TRADEMARK OFFICE FOR PRESIDENT OBAMA, April 22, 2021**

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*"This is technology that's every bit as critical as munitions and encryption codes [...] It's a platform technology that can be used to make all manner of treatments going forward, including vaccines."*

**CLETE WILLEMS, FORMER SPECIAL ASSISTANT TO THE PRESIDENT FOR INTERNATIONAL TRADE, INVESTMENT, AND DEVELOPMENT, April 22, 2021**

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*"The notion that we would then turn around and go to the World Trade Organization and basically endorse a policy of DARPA-funded technology transfer to China is just inconceivable. You're basically aiding and abetting China's 'Made in China 2025' plans for technological dominance."*



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