

# Maintaining Patent Protections for COVID-19 Vaccines

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**Abstract**— *The rush to get the world's population vaccinated has led to efforts to temporarily waive patent protections so as to allow more nations to produce COVID-19 vaccines. Given the alternative methods of providing vaccines to needy population, patent waivers are not necessary.*

**Keywords**— *COVID-19 vaccines, patent waivers, intellectual property.*

## I. INTRODUCTION

COVID-19 and recently discovered highly transmissible variants continue to spread among the world's population as some nations encounter third waves of infection (The Economist, July 3-9, 2021). The continuing spread of the variants leads to fears of further mutation thereby complicating international efforts to get the pandemic under control.

Vaccines have been developed in several nations with differing degrees of efficacy. Public health officials argue that vaccination offers the best chance to control the spread of the disease, but international efforts to increase vaccination rates appear to have encountered two forms of resistance: the reluctance of some people in developed countries to get vaccinated and the difficulty of getting adequate supplies of efficacious vaccines to people in developing nations.

## II. PATENT WAIVERS

Certain aspects of the COVID-19 battle now appear to have moved from a clinical and public health realm to a diplomatic and political realm. The discussion as to how best get vaccines to developing nations experiencing increasing COVID-19 infection rates and limited vaccine availability goes far beyond the logistics of distribution.

One radical proposal to enhance vaccine production is the temporary waiver of patent protection granted to existing vaccines. This World Health Organization (WHO) proposal is currently making its way through the organization's governance structure. "Such a policy would waive the IP (intellectual property) rights of vaccine makers to potentially enable companies in developing countries and others to manufacture their own versions of COVID-19 vaccines." (Wall Street Journal, May 6, 2021). The US government has indicated its support of the WHO proposal.

The waiver of patent protections for COVID-19 vaccines would seem to be an extreme measure that is unnecessary in the world-wide effort to increase vaccine availability to the developing world. The patents granted by governments are intended to afford intellectual property protections to the organization that develop the vaccines. As commonly understood, those patent protections are intended to give the

patent holders exclusive rights to control the production of the patented vaccines. Some would argue that the government cannot waive intellectual property protection, only the owners of the patent can do that (Wall Street Journal, May 7, 2021).

But waiving the patent protection will not increase vaccine availability in the short term. Additional time would be needed to set up complex production facilities for vaccine manufacture (Wall Street Journal, May 6, 2021). Production staff would need specialized training for work in newly authorized production facilities and the addition of new production facilities would enhance competition for the purchase of certain agents needed for vaccine production thereby depriving patent holders of their ability to meet existing orders for vaccines.

## III. CONCLUSION

Assuming that patent protection waivers are intended to increase the supply of COVID-19 vaccines to developing nations, there are other means of providing the vaccines in a more directed manner and on a most likely quicker timeline. This means taking advantage of existing supplies and international programs. Three promising steps for enhancing vaccine distribution to developing nations are:

1. Make greater use of Covax, an international facility co-lead by the Coalition for Epidemic Preparedness Innovations (CEPI) and the World Health Organization (WHO) "to accelerate the development and manufacture of COVID-19 vaccines, and to guarantee fair and equitable access for every country in the world" (WHO). Several larger developed nations have committed to the Covax effort and some are shipping additional quantities to countries in Central America, Asia and Africa (Wall Street Journal, June 10, 2021).
2. Share vaccines from developed nations that are experiencing "vaccine hesitancy." Many larger nations, including the US, are finding significant segments of their populations who are refusing to take available vaccine doses. Some observers believe this hesitancy is fueling the spread of COVID-19 variants including the rapidly spreading Delta variant. Such efforts would have to be closely monitored to maintain a delicate balance between vaccines that can be shared with other nations and



quantities reserved for those who overcome their hesitancy and eventually choose to be vaccinated.

3. Vaccine patent holders could work with manufacturers in other nations to “fill and finish” vaccine production by shipping vaccines in bulk to facilities in other nations to put into vials and ship where needed (Wall Street Journal, May 10, 2021). This form of tech transfer could lead to more efficient packaging and distribution to populations in need.

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