

June 4, 2021

The Honorable Katherine C. Tai  
United States Trade Representative  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508

**RE: Opposition to COVID-19 Vaccine Intellectual Property Waiver Proposed at the World Trade Organization Trade Related Aspects of Intellectual Property Rights (TRIPS) Council**

Dear Ambassador Tai,

Drug discovery is at the core of the world's success in making extraordinary progress in reducing mortality from lethal diseases, and alleviating pain and suffering from chronic conditions. Nothing illustrates this better than the remarkable success against COVID-19 that has been principally the product of several well-established pharmaceutical companies (BioNTech/Pfizer, Johnson and Johnson, AstraZeneca, Novavax) and a comparatively smaller and newer company (Moderna). These companies delivered viable solutions to an unprecedented global challenge in record time.

On behalf of the patients we represent who are fighting cancer, HIV, and other serious chronic conditions, we urge you to not move forward with waiving intellectual property rights for COVID-19 vaccines at the World Trade Organization Trade Related Aspects of Intellectual Property Rights (TRIPS) Council. We are concerned for the long-term degradation of the innovation ecosystem in the United States, and the resultant harm to our patients—and all patients—that would result from establishing this precedent. Instead, we urge the United States government to seek alternative paths to ensure that vaccines are made more readily available to the rest of the world.

**1) Intellectual Property Protections are not the Cause of COVID-19 Vaccination Delays:** While we strongly support the Administration's ongoing efforts to increase access to COVID-19 vaccines throughout the world, there is no indication that the proposed waiver would alleviate the technical and logistical challenges that are slowing worldwide vaccine access. Intellectual property protections are not the cause of these delays and discarding them now is thus not the solution.

*Indeed, discarding intellectual property protections now will make extraordinary achievements, such as the COVID-19 vaccines, less likely in the future.*

**2) Intellectual Property Protections are the Cause of America’s Drug Development Success and Leadership, including the COVID-19 Vaccines:** Through our work with patients, we can proudly state that we see, on an almost daily basis, how much patients in the United States benefit from America’s world leadership in pharmaceutical discoveries. The innovations and unprecedented access to medicines in America is due in large part to the strong, reliable intellectual property policy environment that enables and incentivizes investment in the expertise and R&D infrastructure required to develop new medicines. Ultimately, all patients around the world benefit from this success.

*The development of the COVID-19 vaccines also illustrates this point: the rapid development of the vaccines was the culmination of years of research, expertise, and investment—including investment in numerous failures—that allowed the successful companies to come up with a variety of different vaccines in response to this new global challenge.*

**3) This Drug Development Success and Leadership is Made Possible by the Risk Takers in the Private Sector:** In our work as patient advocates, we are constantly monitoring new approvals and clinical trials to help patients stay abreast of every option available to them as they battle late-stage cancers, HIV, and other diseases. A great contribution to research and innovation is undoubtedly made by the governmental and academic sectors. The evidence is overwhelming, however, that the bulk of the funding to successfully bring new drugs to market comes from the private sector.

*It is the companies and investors who fund the risky enterprise of navigating a drug through the approval process who face the potential of huge losses when a drug—like most drugs—fails to be approved.*

**4) Now, Failure is Penalized. In the Future, Success Will Be:** Removing patent protections on vaccines is merely the first step to undermining America’s system of patent protections on medicines—and very likely, on other aspects of intellectual property as well. This action would, to reiterate the point above, have almost no impact on vaccinating the rest of the world against COVID-19, but it would have a devastating impact on the research and development of new drugs.

*Just as no one could have predicted which companies would be successful against COVID-19, no one can predict who will produce the next breakthroughs on cancer, HIV, Alzheimer’s, diabetes, and every other disease—including the next pandemic.*

*What can be predicted with near certainty is that investment in new drugs will dry up when there is no reward. Who will fund risky new drugs—which is to say any new drug—when the penalty for failure is huge losses, and the penalty for success is confiscation of the intellectual property that produced that success?*

Innovation impacts the daily reality of patients living with chronic disease. We have seen countless lives improved, lengthened, and saved by new breakthrough treatments. Many times, a new drug or trial became available just in time. We urge you to support and protect the research and development environment that makes these outcomes possible by standing with patients and rejecting the proposed IP waiver.

Thank you for your time and consideration of this critical issue.

Respectfully submitted,

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*The **HIV+Hepatitis Policy Institute** promotes quality and affordable healthcare for people living with or at risk of HIV, hepatitis, and other serious and chronic health conditions.*

***ICAN, International Cancer Advocacy Network** is a 501(c)(3) tax-exempt charitable organization (EIN 86-0818253) that has served over 14,500 Stage IV metastatic cancer patients across the United States and in 54 countries since 1996.*

cc: The Honorable Ronald A. Klain, Assistant to the President and Chief of Staff