

March 30, 2021

The Honorable Katherine C. Tai  
U.S. Trade Representative  
Office of the U.S. Trade Representative  
600 17th St. N.W.  
Washington, D.C. 20508

Dear Ambassador Tai:

The American Intellectual Property Law Association (AIPLA), Intellectual Property Owners Association (IPO), the Licensing Executives Society (USA and Canada), Inc. (LES USA-Canada), and the New York Intellectual Property Law Association (NYIPLA) are writing to express our support for the United States' opposition to the TRIPS waiver proposal being discussed at the World Trade Organization (WTO).

Our organizations strongly support equitable, widespread, and successful distribution of vaccines, medicines, diagnostics, personal protective equipment, and other measures necessary to meet the challenges of COVID-19. The intellectual property rights (IP) relied on by our members and their clients have fueled the innovation that has allowed us to combat COVID-19 and continues to do so. IP rights have enabled innovators to collaborate and devote the necessary resources, technical knowledge, and know-how required to counter the pandemic. And, likewise, that system will continue to fuel the next generation of solutions.

The TRIPS waiver proposal would waive a variety of IP rights related “to prevention, containment or treatment” of COVID-19. The proposal being discussed at the WTO incorrectly portrays IP as a barrier to rapid innovation, R&D collaboration, and ample manufacturing of COVID-19 technologies. This has not been the experience of our members and their clients and, on the contrary, IP protection enhances these developments. We have seen first-hand that IP has facilitated the sharing of technical information with appropriate protections, enabled an unprecedented amount of innovation, and facilitated collaboration between unlikely innovators and partners. Companies and researchers have worked together to produce vaccines and needed respirators. They have cooperated to provide technology to facilitate contract tracing, improve testing and create potential treatments for COVID-19.

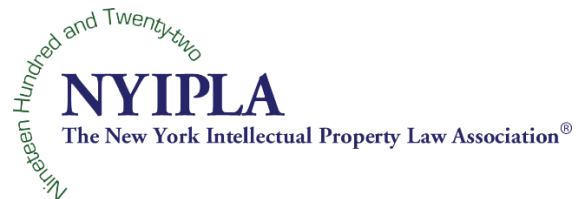
We know of no data to suggest that patents and other IP rights are hindering vaccine development or delivery. The manufacturing of COVID vaccines is a complicated process. Poor quality vaccines being produced by underqualified manufacturers could have extreme negative consequences. We support the continued efforts of vaccine manufacturers to identify, and engage with, new potential partners in order to create even more manufacturing capacity that can increase the availability of, and access to, high-quality vaccines.

The TRIPS waiver proposal would not just impact vaccines, but would also impact IP rights related to testing, treatments, and personal protective equipment, among other things. We are not aware of any examples where IP has been used to limit access to COVID-related technology – rather innovator companies have partnered and shared IP to create tools to address this pandemic.

Collectively, we have asked our innovative industries to find solutions and create the tools we need to battle COVID-19. As we continue to tackle the crisis, should the proposed TRIPS waiver be implemented, it would have an immediate chilling effect on their continued research and collaboration needed to overcome, for example, new variants of the virus, to create vaccines for children, and to develop better delivery mechanisms. Without an IP framework in place mitigating risk and providing confidence to investors, the private sector, and other organizations, we believe this proposal will chill and not assist efforts.

We urge the U.S. to continue its opposition to the TRIPS waiver proposal. We would welcome any further dialogue or opportunity to provide additional information.

Sincerely,



cc: Honorable Patrick Leahy  
Honorable Thom Tillis  
Honorable Hank Johnson  
Honorable Darrell Issa  
Honorable Drew Hirshfeld, Performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO  
Honorable Shira Perlmutter, Register of Copyrights and Director, U.S. Copyright Office