

Research Report

COMMITTEE : WIPO

ISSUE : *In what ways can intellectual property be used efficiently in order to lessen health hazards linked to the COVID-19 pandemic?*

CHAIRS : Sofie HULSEBOSCH & Leta JAGOE

In what ways can intellectual property be used efficiently in order to lessen health hazards linked to the covid-19 pandemic?

KEY WORDS

World Intellectual Property Organisation (WIPO): a self-funding organization of the United Nations focused on international intellectual property, policy and information systems to maximize cooperation, global innovation and accessibility in this area.

Intellectual property (IP): according to [WIPO](#), intellectual property refers to “the creation of the mind, such as inventions, literary and artistic works, designs, as well as symbols, names and images used in commerce.” IP is protected by the law via patents, copyrights and trademarks, and enables inventors and creators to earn recognition and financial benefit for their contribution.

Health hazard: potential danger which affects physical and/or mental health. Health hazards linked to the Covid-19 pandemic include mainly lung, heart and brain damage, but also depression, anxiety and chronic stress disorders.

Patent: the Cambridge dictionary defines a patent as: “the official legal right to make or sell an invention for a particular number of years.” A patent owner can stop people from commercialising or exploiting their invention if they do not give consent.

Licensing agreement: during a licensing agreement, the rights to any kind of IP (copyright, patents, trademarks...) are temporarily granted.

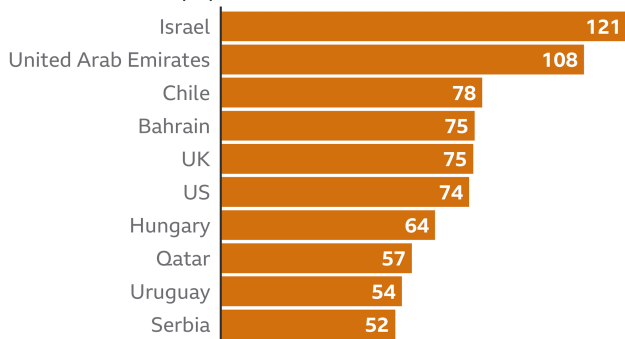
TRIPS (*Trade Related Aspect of Intellectual Property Rights*): this multilateral agreement sets the ground rules concerning Intellectual Property Rights (IPRs) and their protection. It helps solve IP disputes by finding a balance between IP and public need.

OVERVIEW

The COVID-19 pandemic has devastated the global population. To address health hazards, additional sanitary measures have been imposed. In this pandemic we must prioritize public health to combat health hazards. To ease governmental responses, we need efficient data, readily available medical equipment and medical technologies. IP protections can restrict the accessibility to these necessities. The difficulty of the relationship between accessibility and IP protection is that it is different from the public's interest and not made to be read or used by the public. It also gives ownership to someone which makes it hard to publish it. We must therefore find a balance between ownership rights and the greater good. Keeping in mind that everyone has a part to play in this pandemic, WIPO is doing their part to improve intellectual property policies to help the world in these difficult times.

Total vaccine doses per 100 people

Countries with a population of at least one million



Note: Total vaccinations refers to the number of doses given, not necessarily the number of people vaccinated

Source: Our World In Data, 12:00 BST on 4 May



Vaccine patents:

Patents protecting the COVID-19 vaccines have been a constant source of controversy, as they present certain advantages but can also be a hindrance.

They essentially grant inventors ownership of their invention. Some say patents are necessary to reward creators and incentivise innovation. However, exclusive rights to these inventions can create a public access issue. As Stewart Brand once said “On one hand, information wants to be expensive, because it is so valuable. The right information in the right place just changes your life. On the other hand, information

wants to be free, because the cost of getting it out is getting lower and lower all the time. So you have these two fighting against each other.” We are currently facing a similar issue regarding IP and vaccines: finding the right balance between protecting and implementing innovations is not an easy task, but an essential one. As the global media chief of UNICEF, Najwa Mekki, has rightfully observed: “The pandemic has shown us that in our interdependent world, no one is safe until everyone is safe.”.

Considering the urgent need for global vaccination, the idea of patents on COVID-19 vaccines being waived is being heavily debated. These measures would be introduced by utilising the current TRIPS agreement. One of the main details of the TRIPS agreement that would be relaxed for this to happen would be to allow compulsory licencing. This allows an individual to make a patented product without the permission of the patent owner. This is interesting for many governments because that would mean they can produce the vaccines independently. If the patent were to be waived, it would be for a determined amount of time and then be re-discussed at the end of the agreement if need be.

From the point of view of vaccine developers the waiver would not be an effective solution. Steve Bates OBE Chief Executive of the Bioindustry Association illustrates this point: “Just handing

countries' governments a recipe book without the ingredients, safeguards, infrastructure and sizable workforce with the high skills needed to deliver safe and effective vaccines will not speedily deliver help to all those that need it." The vaccine companies and experts say the brand new technologies used in these vaccines (such as vaccines of the mRNA type) require new and expensive technology and facilities. Funding these modern technologies would become difficult and industries like the pharmaceutical industry could potentially suffer from lack of competition since this method would then be funded by governments which lessens the success of these industries.

Alternatively, those in favor of the patents being waived rationalise what some call a 'breach of IP' in order to favor access of protected products to the public. Temporarily suspending patents could help vaccination rates to surpass the speed of mutation of the virus by allowing us to increase production and dispensing speeds. Not to mention, some vaccines were partly developed using public funding. This was a problem for poorer countries such as South Africa since they already had trouble paying for the vaccines themselves due to accessibility issues. Governments purchase vaccines in large quantities that also secure the revenue of vaccine companies which should ease some of the uncertainty relating to their profits. Public funding has also led members of the general public, tax payers, to think they are owed a vaccine because of their financial involvement in its development.

Licence Agreements:

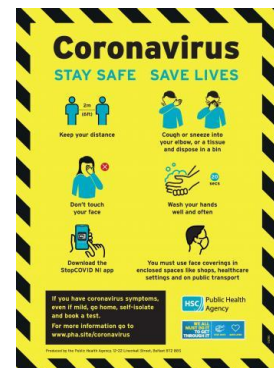
The vaccine patent is not the only licence that has faced problems during this pandemic. This time of crisis has led to several licence agreements to improve health care and scientific research. Notably, IP has made it possible to facilitate access to vast quantities of reliable data. This makes newspapers, research, educational texts and more sources related to COVID-19 more accessible.

Raise awareness:

Source: Public health agency, 21 august 2020

It is important that everybody is aware of the situation and they have access to reliable data. This knowledge is important to better understand measures taken by governments such as quarantine, curfews, mask mandates, vaccines etc. This could also help to encourage private sanitary action like washing your hands or using contact tracing apps. Of course, this could negatively impact authors and or researchers who seek the reward for the use of their property.

Overall those in favour of waiving IP protections think that in these times of necessary cooperation, easing on IP protections is an essential step to overcome the pandemic.



RELEVANT UN TREATIES AND EVENTS

25/05/2021

In autumn 2020, a group of countries, led by India and South Africa, proposed to the World Trade Organisation (WTO) a waiver regarding the COVID-19 vaccines. A [revised proposal](#) was later published in May 2021.

2009- present

In 2009, the World Health Organisation (WHO), the World Trade Organisation (WTO) and WIPO formed an alliance known as the Trilateral Cooperation. As the [Global Challenges Brief on Trilateral Cooperation](#) states : “Improving access to, and promoting innovation in, health technologies are crucial to improving public health.” Each organisation has its role in this partnership:

- WHO uses their vast knowledge about public health (such as medical resources and vaccine policies).
- WTO handles trade policies, these involve various health policies, intergovernmental organizations (IGOs) and nongovernmental organizations (NGOs).
- WIPO supplies the insight on IP. They are here to make sure the true mechanism of the world based on IP is understood and respected.

All three organisations encourage and work on development and innovation. This trilateral cooperation was reinforced during the COVID-19 pandemic to account for the increasingly complex situation.

POSSIBLE SOLUTIONS

To manage health hazards with Intellectual Property regulations, there are many possible solutions. Some are as follow:

Continuing to support science and innovation to discover new and relevant technologies. Not only to create new medicine but also to create better machinery and equipment. Minimizing financial problems would stop some of the delay in production and discoveries which should not be the main holdback of progress.

Extending the accessibility to a vast amount of relevant data since this will efficiently help and might be one of the biggest factors to save many lives. This can be done by digitalising and allowing public access to knowledge. For example WIPO has done this with a great deal of their own information regarding IP.

Pursuing the promotion of awareness, we must continue implementing more informative content to make sure the population understands the present situation and its associated sanitary measures.

Providing free access to important or useful documentation to clarify issues or decisions taken by the governments by easing intellectual property rights.

Modifying the patent law to protect the way a product is made (the technique of mRNA type vaccines) and not the product itself (the vaccine). This way the funding is dedicated to the method of production (which is what costs the most) and not the drug.

Penalising financially-profiting companies that do not follow the capacity-building strategies. This would be done by removing some aspects of their intellectual property rights as

intellectual property rights are not only used to protect the invention but also to manage their production and public access.

Finding ways to encourage governments to persuade drug companies to relax IPRs and patent laws during times of crisis such as an international pandemic.

BIBLIOGRAPHY

https://www.wipo.int/global_innovation_index/en/2020/

<https://www.youtube.com/watch?v=gOakeXRMYYL>

<https://www.youtube.com/watch?v=pYZxqJCno44>

<https://www.youtube.com/watch?v=ts3oP49QmIo>

<https://www.youtube.com/watch?v=SLhGsTuEoik>

<https://www.youtube.com/watch?v=FSxyFpPTPds>

<https://dictionary.cambridge.org/>

<https://www.bbc.com/news/business-57016260>

<https://www.cfr.org/in-brief/debate-over-patent-waiver-covid-19-vaccines-what-know>

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669R1.pdf&Open=True>

https://www.wto.org/english/docs_e/legal_e/27-trips.pdf

<https://www.publichealth.hscni.net/publications/covid-19-coronavirus-stay-safe-save-lives-poster>

https://www.wipo.int/edocs/pubdocs/en/wipo_pub_gc_10.pdf

<https://www.lawteacher.net/acts/trips-agreement-intellectual-property.php>

<https://thehill.com/opinion/healthcare/553368-waiving-patents-isnt-enough-we-need-technology-transfer-to-defeat-covid>

<https://capmh.biomedcentral.com/articles/10.1186/s13034-020-00329-3>

https://www.wipo.int/wipo_magazine/en/2020/02/article_0002.html

<https://www.uoc.edu/portal/en/news/actualitat/2021/125-covid-vaccines-patents.html>

<https://www.bbc.com/news/business-57016260>

<https://www.msf.org/countries-obstructing-covid-19-patent-waiver-must-allow-negotiations>

<https://www.oecd.org/regreform/sectors/2376247.pdf>