

# Virtual fever, the new pandemic?

Have patents cured Covid-19?

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Queen Mary Intellectual Property Research Institute

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**Council for Trade-Related Aspects of  
Intellectual Property Rights**

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**WAIVER FROM CERTAIN PROVISIONS OF THE TRIPS AGREEMENT FOR THE PREVENTION,  
CONTAINMENT AND TREATMENT OF COVID-19**

COMMUNICATION FROM INDIA AND SOUTH AFRICA

1. On 11 March 2020, the World Health Organization (WHO) declared the coronavirus disease 2019 (COVID-19) to be a global pandemic, after having announced a related public health emergency of international concern (PHEIC) on 30 January 2020.
2. The World Trade Organization (WTO) has cautioned that the "Pandemic represents an unprecedented disruption to the global economy and world trade, as production and consumption

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Ambassador Katherine Tai

@AmbassadorTai



These extraordinary times and circumstances call for extraordinary measures.

The US supports the waiver of IP protections on COVID-19 vaccines to help end the pandemic and we'll actively participate in [@WTO](#) negotiations to make that happen.



Office of the United States Trade Representative

**FOR IMMEDIATE RELEASE:**

May 5, 2021

**CONTACT:** [media@ustr.eop.gov](mailto:media@ustr.eop.gov)

**STATEMENT FROM AMBASSADOR KATHERINE TAI ON THE COVID-19 TRIPS WAIVER**

WASHINGTON – United States Trade Representative Katherine Tai today released a statement announcing the Biden-Harris Administration's support for waiving intellectual property protections for COVID-19 vaccines.



Stéphane Bancel, Getty

May 6, 2021 09:46 AM EDT Updated May 7, 01:53 PM | Coronavirus, Manufacturing

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## Moderna CEO brushes off US support for IP waiver, eyes more than \$19B in Covid-19 vaccine sales in 2021

# Arguments for and against an IP waiver

Contested issues and knowledge gaps include:

- Whether existing IP flexibilities, e.g. compulsory licensing, can help to ensure access.
- Whether it is true that all manufacturing facilities that can produce vaccines are already doing so [and] companies are voluntarily licensing their therapies to the developing world.
- Whether supply bottlenecks, rather than IP protections, alone are responsible for the slow roll-out of vaccines in parts of the developing world.
- Whether tacit know-how (as well as patent disclosure) is needed to manufacture mRNA vaccines, and whether the people with that know-how can be taken away from essential vaccine production work in order to train others without negatively impacting on production volumes.
- Whether an IP waiver could force the handover of cutting-edge technology to competitors and cripple our ability to respond to future challenges, i.e. forced technology transfer.



# EU proposes a strong multilateral trade response to the COVID-19 pandemic

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Today, the EU has submitted its proposal seeking the commitment of World Trade Organization (WTO) members for a multilateral trade action plan to expand the production of COVID-19 vaccines and treatments, and ensure universal and fair access. With this proposal to the WTO, divided in two communications, the EU underlines the WTO's central role in the response to the COVID-19 pandemic and urges fellow WTO members to agree on a set of commitments, including on intellectual property rights.

President **von der Leyen** said: *“The EU has actively shown solidarity with the world since the beginning of the pandemic. The European Union authorized exports of around half of the total amount of vaccines*

## WTO Agreement – Article IX(3)

In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths of the Members unless otherwise provided for in this paragraph.



# Academic Open Letter in Support of the TRIPS Intellectual Property Waiver Proposal

POLICY BRIEFING 46 | JULY 2021

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## Opinions

Opinion | 05/07/2021

**Covid-19 and the Role of Intellectual Property**

[Position Statement of the Max Planck Institute for Innovation and Competition of 7 May 2021](#)



Authors of the Position Statement  
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Opinion **Intellectual property**

# US Covid IP waiver U-turn alone will not solve vaccine crisis

Intellectual property can be part of the problem and part of the solution, and greater transparency is required

TIMO MINNSEN

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The Biden administration supports the temporary suspension of intellectual property for Covid-19 vaccines © AFP via Getty Images

Duncan Matthews and Timo Minssen



# Rethinking manufacturing and supply chains

- Greater emphasis on voluntarily licensing agreements
- More participation in technology access pools (inc. C-TAP)
- Greater transparency of Advance Purchase Agreements
- Greater transparency and sharing of regulatory data
- New mechanisms to improve the transfer of tacit know-how
- Better understanding of the limitations of compulsory licensing
- More comparable clinical trial designs
- Increased focus on the role of competition law

# Thank you for listening

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