

# IS IT TIME TO REVISIT VACCINE PATENT LAWS?





For the past five months it seems everywhere you look the topic of conversation, one way or another, relates to the coronavirus. Of course, it's not every day that a worldwide pandemic hits, kills hundreds of thousands, and effectively shuts down parts of the global economy. Thus, our preoccupation with the topic appears justified.

Of particular interest of late to those within the world of intellectual property (IP) is how the coronavirus is affecting patent laws.

Already in this blog, we've explored . . .

- How governments and other entities are streamlining or even reducing patent requirements in an effort to get potentially lifesaving medications and procedures to market more quickly. ([“COVID-19 & IP Laws: Should Drug Patent Holders Be Concerned?”](#))
- The USPTO's new program to waive fees and expedite the patent filing process for qualified applicants whose product or process is “for use in the prevention and/or treatment of COVID-19.” ([“USPTO Announces New COVID-19 Prioritized Examination Pilot Program”](#))
- How the United Kingdom, Germany, Israel, USA, and other countries have *enacted wartime-like powers* to ensure they have drugs and medications on hand deemed necessary to fight the pandemic, regardless of the IP rights involved. ([“How COVID-19 is Impacting Intellectual Property Laws”](#))

## To say these are extraordinary times would be an understatement.

Now comes a report from [The Week on July 19](#) on how India's Serum Institute is running into roadblocks related to IP as it works to mass-produce a low-cost coronavirus vaccine it hopes to make available to the rest of the world. In the article, Serum Institute CEO Adar Poonawalla blames what he calls “stupid rules and regulations” related to patent and importation rules (especially in the United States) that are impacting production (lowering supply) and driving prices unnecessarily higher. He fears the result will be limited access to immunizations in developing countries, while prices skyrocket in wealthier ones.

In a related [July 19 Politico article](#), Poonawalla said he believes that the “sheer urgency of the virus” and its global reach and threat “should prompt a reassessment of patent and intellectual property laws that limit access to immunizations in the developing world, while simultaneously jacking up their price in wealthier countries.” He also said the issue goes beyond just this potential vaccine for the coronavirus—it includes other vaccines already produced by his company (and others). The supply and prices of all those vaccines are impacted negatively by the same patent laws and regulations as well.

Of course, not everyone agrees with Poonawalla’s take. A spokesperson for PhRMA, the US drugmakers lobby, is quoted in the same Politico article as saying, “Our IP system — including patents — promotes competition and is the foundation for new treatments, vaccines, and cures for patients ... Many of the medicines being tested for COVID-19 exist today because of intellectual property and other incentives that drove their creation and development.” Changing that system, the spokesperson’s statement continued, could negatively impact the pharma industry’s “manufacturing infrastructure, divert resources, and leave patients now and tomorrow worse off.”

## Who’s right?

As with most issues, there are two (or more) sides to every story. Who’s right and what’s best for the outcomes desired by society aren’t necessarily always aligned. As this story continues to develop, rest assured that we at Ludwig APC will keep a close eye on developments, how patent laws may be affected (in general), and on any potential impacts for our clients.

IP and patent laws have always been quite complex, and they are bound to get even more so in the months and years ahead. If you are thinking about, or already involved in, developing a process or product, you would be well advised to explore your intellectual property rights fully. A qualified and experienced IP lawyer can conduct the due diligence necessary to ensure you are not infringed upon and that you do not infringe on the rights of anyone else.

## **Protect Your Product. Your Business. Your Dreams.**

Contact *Eric Ludwig* today for one-hour consultation to discuss whether you need to apply for copyright, patent, and/or trademark protection in the United States.

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