

# United States Senate

WASHINGTON, DC 20510

June 8, 2022

Ambassador María L. Pagán  
Office of the United States Trade Representatives  
1-3 Avenue de la Paix  
Geneva, Switzerland 1202

Ms. Pagán,

We write today to urge you to fight for the preservation of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. The TRIPS agreement represents a vital element of international trade law, protecting the intellectual property (IP) of United States businesses, individuals, and entrepreneurs. We are deeply concerned that waiving the protections for COVID-19 vaccines will discourage continued research, development, and distribution of medical innovations which may prove necessary to save American lives in the future.

Intellectual property rights provide the grounds for businesses to take risks in turning novel ideas into concrete goods and services; that means fewer goods—not more—will be produced to combat pandemics if WTO-member countries stop enforcing IP protections. We urge you to consider the ramifications of waiving the TRIPS Agreement and ask you to defend the IP protections that have resulted in the majority of COVID-19 remedies that Americans—and millions of others around the globe—have utilized.

We are particularly concerned with the need to protect American IP from China. The Chinese government has consistently attempted to steal American intellectual property; any concession to the demands to waive the TRIPS agreement would effectively aid malicious actors in the theft of American IP.

Although a proposed resolution may exclude China, we are concerned the PRC will fraudulently access the intellectual property of U.S. COVID-19 vaccines despite their exclusion from any WTO agreement and without the consent of the WTO body through another WTO-member country.

If United States companies are to continue developing cutting-edge healthcare technology, then the USTR must protect the property rights of American citizens. Waiving the IP protections of the COVID-19 vaccines will not expedite its production or its global distribution. International trade agreements exist to facilitate trade, not to transfer property. For this reason, we must protect U.S. IP if we are to see the development of a robust international supply chain.

Not only will a TRIPS waiver cast doubt upon the credibility of the USTR and its commitment to developing U.S. international trade, but the integrity of the WTO will be compromised. In this instance, the waiver of the TRIPS Agreement would be the first step in turning the WTO into a

venue for the confiscation of member countries' intellectual property. Waiving IP protections for COVID-19 vaccines would be an unprecedented move on the part of the WTO; there is no historical parallel for waiving the patent protections of a technological innovation of this magnitude. As such, we fear that any TRIPS Agreement waiver would undermine the reputation of the WTO as an institution that raises the standard of living for its member countries through trade. The appeal of trade evaporates without the concrete guarantee of property rights through the mutual enforcement of patent protections.

The WTO is not an institution for technology transfer, but for encouraging the economic growth of its members through trade. Any waiver of the intellectual property protections for the COVID-19 vaccine would set a precedence for future waivers.

We urge you, as a representative of the American people, to consider the long-term ramifications of authorizing a waiver of protected U.S. intellectual property and vote against any TRIPS waiver agreement.

Sincerely,



Michael S. Lee  
United States Senator



Thom Tillis  
United States Senator



Tom Cotton  
United States Senator



Marsha Blackburn  
United States Senator