

# Is today a Happy World IP Day?

April 26, 2021

Last year, I wrote a post talking about the preference for open and collaborative research to combat the COVID pandemic ([read here](#)). At the time, I was excited to note that Governments, organisations and people were setting aside their IP norms and beliefs in the interests of human welfare. One year later, I have come to realize that my excitement was premature and uncalled for.

Except for World Health Organisation's ACT (Access to Covid-19 Tools) Accelerator Program, and the COVAX Program within it, I have not come across any significant initiative that gives preference to access over intellectual property that has contributed appreciably towards vaccines, control, diagnosis and/or treatment of COVID-19. The IP waiver proposed by India and South Africa, and supported by more than 100 countries is still pending at the WTO Council. Pharma industry groups and countries such as the United States and countries of the European Union continue to block the proposal citing the much debated incentive argument. Even if this waiver is later approved, it might be too little, too late. As it is, the IP waiver may not bring about a dramatic change to availability of vaccines and technologies immediately, but is bound to bolster confidence that IP will not stand in the way of accessibility, availability and affordability. In the context of prior problems posed by IP, specifically patents, with respect to access to medicines, this measure will certainly go a long way in hoisting human spirit.

Though India proposed the IP waiver and has been supplying vaccines through the COVAX program, it has so far not invoked any compulsory license based on national or health crisis/emergency. While it is well accepted and understood

that removing patent hurdles to vaccines, treatments and technologies may not be enough to tackle the fast spreading viral infection, announcing a compulsory license would have removed one hurdle, and would have shown India's commitment towards access to medicines and treatments. But, unfortunately, the belief in the patent system's incentive mechanism seems to hold the minds of our policy makers as well. I had written several times earlier, and it is today well established that the incentives offered by the patent system are at best likely, and cannot be confirmed to work with certainty. In other words, we really don't know if the patent system truly provides incentives to invent as believed.

On this World IP Day, I cannot help but wonder if humanity's adherence to patents and intellectual property during such a crisis makes this a day to celebrate IP. To my mind, it is not a very happy IP day, and with COVID-19 overcoming all barriers in the country, our belief and trust in the IP system and its incentives may prove to be a larger barrier than what our small minds are able to foresee.

## References

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