

Proposal for the 40th ATRIP Annual Congress

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Proposal Title: IF NOT NOW, WHEN? REFORM OF PATENT LAW IN TIMES OF CRISIS

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Abstract: The COVID-19 pandemic has brought many intellectual property (IP) access issues to the forefront of international debate. While wealthier countries race to deliver vaccines to their residents, treat their patients and recover economically, developing countries struggle to access the knowledge and technologies to do the same. Once again, the role and function of IP rights in providing needed technology access and knowledge transfer has been called into question.

This paper outlines the unprecedented challenges for the international patent system and underlines the danger of vaccine nationalism that have been growing in the past two years.

The first part examines the existing compulsory licensing mechanisms of patent and put forward what a non-voluntary mechanism should look like to accommodate the next global crisis. This part revisits the promises of patent law and whether strong exclusivity incentives should be maintained, or certain restrictions can be introduced to respond to societal needs in the time of crises. What parameters should be embedded in the patent system to maintain balances and flexibilities.

The second part of this paper explores the different models of voluntary access mechanisms to address urgent global public health crises. This part examines the collaborative approaches to vaccine development and distribution during outbreaks including the Patent Collective and the Open COVID Pledge initiatives. The role of universities and public-private partnerships in technology sharing models will be reviewed to improve existing forms of collaboration and securing a freedom to operate for future crisis.

The paper will conclude with a set of recommendations related to the involuntary access under the WTO TRIPS Agreement and the voluntary initiatives of collaboration in times of crisis.