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Responding to COVID Through Recognition of the Right to Research in Comparative Copyright

Most of the attention of scholars and policy makers at the intersection of IP and COVID has been focused on patents. Some of the largest barriers to a just and equitable response to the pandemic are grounded in copyright, however. Without access to copyright, one cannot repair many software enabled medical devices, engage in text and data mining research, or access the materials in a (closed down) library. This paper begins by documenting such instances where copyright creates barriers to the global scale up of access to vaccines, treatments, and the ability to contain the virus through social distancing. It then presents information from a large empirical research project on the extent to which countries recognize a right to research within copyright law that can permit many of these essential activities needed to respond to COVID and to promote human flourishing. The research shows that every copyright law in the world has at least one exception to promote research uses of copyrighted works, but that such exceptions vary widely between countries. The paper concludes with lessons for international copyright law and policy. This analysis may be useful to policy makers searching for models for domestic reform, to scholars looking for independent variables to use in impact analysis, and to international policy makers seeking to promote harmonization in research uses across countries.