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FEATURE

Pfizer Helped Create the Global Patent Rules. Now it's Using Them to Undercut Access to the Covid Vaccine.

The pharmaceutical company is opposing a proposal at the World Trade Organization to expand vaccine access to poor countries.

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DECEMBER 17, 2020





People walk by the Pfizer world headquarters in New York on November 9, 2020.

KENA BETANCUR/AFP VIA GETTY IMAGES

The pharmaceutical giant Pfizer, whose Covid-19 vaccine with German partner BioNTech was approved December 11 for emergency use in the United States, has emerged as a vocal opponent of a global effort to ensure poor countries are able to access the vaccine. In October, India and South Africa put forward a proposal that the World Trade Organization (WTO) pause enforcement of patents for Covid-19 treatments, under the organization's intellectual property agreement, "Trade-Related Aspects of Intellectual Property Rights," or TRIPS. Now supported by nearly 100 countries, the proposal would allow for the more affordable production of generic treatments during the duration of the pandemic. As wealthy countries hoard vaccine stocks, and one study warns a quarter of the world's population won't get the vaccine until 2022, the proposal—if approved—could potentially save countless lives in the Global South.

But so far, the United States, the European Union, Britain, Norway, Switzerland, Japan and Canada have successfully blocked this proposal, in a context where delay will almost certainly bring more deaths. The pharmaceutical industry, concerned with protecting its profits, is a powerful partner in this opposition, with Pfizer among its leaders. "The (intellectual property), which is the blood of the private sector, is what brought a solution to this pandemic and it is not a barrier right now," Albert Bourla, chief executive of Pfizer, declared last week. And in a December 5 article in *The Lancet*, Pfizer registered its opposition to the proposal, saying, "a one-size-fits-all model disregards the specific circumstances of each situation, each product and each country."

Pfizer's appeals make it sound as though the framework of intellectual property rules and pharmaceutical monopolies is a common-sense global order whose benefits to human society are apparent. But, in reality, these international norms are relatively recent, and were shaped, in part, by Pfizer itself. From the mid-1980s to the early 1990s, the company played a critical role in establishing the very WTO intellectual property rules that it is now invoking to argue against freeing up vaccine supplies for poor countries. The “blood of the private sector” that Bourla appeals to is not some natural state of affairs, but reflects a global trade structure the company helped create—to the detriment of poor people around the world who seek access to life-saving drugs.

A corporate campaign

In the mid-1980s, Edmund Pratt, then chairman of Pfizer, had a mission: He wanted to ensure that strong intellectual property (IP) protections were included in the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) talks—the multinational trade negotiations that would result in the establishment of the WTO in 1995. His calculus was simple: Such protections were vital for protecting the global “competitiveness”—or bottom line—of his company and other U.S. industries.

To his great advantage, Pratt had considerable institutional power beyond his immediate corporate rank. As authors Charan Devereaux, Robert Z. Lawrence and Michael D. Watkins note in their book, *Case Studies in U.S. Trade Negotiation*, Pratt served on the Advisory Committee on Trade Negotiations for the Carter and Reagan administrations. In 1986, he co-founded the Intellectual Property Committee (IPC), which would go on to build relationships with industries across Europe and Japan, meet with officials from the World Intellectual Property Organization of the United Nations, and lobby aggressively—all for the purpose of ensuring IP was included in the trade negotiations.

Both globally and domestically, Pfizer played an important role in promoting the idea that international trade should be contingent on strong intellectual property rules, while casting countries that do not follow U.S. intellectual property rules as engaging in “piracy.” As Peter Drahos and John Braithwaite note in their book *Information Feudalism*, “Like the beat of a tom-tom, the message about intellectual property went out

along the business networks to chambers of commerce, business councils, business committees, trade associations and business bodies. Progressively, Pfizer executives who occupied key positions in strategic business organizations were able to enroll their support for a trade-based approach to intellectual property.”

It was not a given, at the time, that intellectual property would be included in trade negotiations. Many Third World countries resisted such inclusion, on the grounds that stronger intellectual property rules would protect the monopoly power of corporations and undermine domestic price controls, as explained in *Case Studies in U.S. Trade Negotiation*. In 1982, Indian Prime Minister Indira Gandhi told the World Health Assembly, “the idea of a better ordered world is one in which medical discovery will be free of all patents and there will be no profiteering from life and death.” *The Christian Science Monitor* reported in 1986, “Brazil and Argentina have spearheaded a group that has blocked U.S. attempts to include intellectual property protection in the new round of talks.”

But Pratt had powerful allies, including IBM chairman John Opel, and their efforts played an important role in securing the inclusion of TRIPS—which sets intellectual property rules—in the GATT negotiations. Pratt, for his part, took some credit for the development. “The current GATT victory, which established provisions for intellectual property, resulted in part from the hard-fought efforts of the U.S. government and U.S. businesses, including Pfizer, over the past three decades. We’ve been in it from the beginning, taking a leadership role,” Pratt declared, according to the book, *Whose Trade Organization? A Comprehensive Guide to the WTO*.

During the TRIPS negotiations, the IPC played an active role in organizing corporate leaders in the United States, as well as Europe and Japan, to support strong intellectual property rules. By the time the WTO was formally established, and the TRIPs Agreement concluded, Pratt was no longer chairman of Pfizer. But his contribution, and the role of Pfizer, was still strongly felt. As Devereaux, Lawrence and Watkins note, one U.S. negotiator said it was Pratt and Opel who “basically engineered, pushed, and cajoled the government into including IP as one of the topics for negotiation” in the first place.

The WTO's TRIPS Agreement, which went into effect in 1995, would go on to be the “most important agreement on intellectual property of the 20th century,” Drahos and Braithwaite write. It brought most of the world under minimum standards for intellectual property, including patent monopolies for pharmaceutical companies, with some limited safeguards and flexibility.

Dean Baker, economist and co-founder of the Center for Economic and Policy Research (CEPR), a left-leaning think tank, tells *In These Times*, “TRIPS required developing countries, and countries around the world, to adopt a U.S.-type patent and copyright rule. Previously, both had been outside trade agreements, so countries could have whatever rules they want. India already had a well-developed pharmaceutical industry by the 1990s. Pre-TRIPS, India didn't allow drug companies to patent drugs. They could patent processes, but not drugs.”

Cutting off access to medicines

TRIPS brought profits to pharmaceutical companies and “raised pharmaceutical costs in the U.S. and further restricted the availability of lifesaving drugs in WTO developing countries,” according to corporate watchdog group Public Citizen. This dynamic played out ruthlessly during the AIDS crisis, which was in full swing as the WTO was created. “It took the South African government almost a decade to break the monopolies held by foreign drug companies that kept the country hostage, and kept people there dying,” wrote Achal Prabhala, Arjun Jayadev and Dean Baker in a recent piece in the *New York Times*.

It is difficult to think of a clearer case for suspending intellectual property laws than a global pandemic, a position that is certainly not fringe in today's political context. In addition to a swath of global activists, mainstream human rights groups and UN human rights experts have added their voices to the demand for a suspension of patent laws. Their calls follow the global justice movement of the 1990s and early 2000s, which focused on the tremendous role of the WTO, along with other global institutions like the World Bank and International Monetary Fund, in expanding the power of corporations to undermine domestic protec-

tions, from labor to environment to public health. The outsized power of the United States and U.S. corporations in the WTO—on display in the blocking of the proposal for a patent waiver—has been a key point of criticism.

Pfizer is not alone in staking out its opposition to pausing intellectual property rules. Pharmaceutical industry trade groups and individual companies—including Moderna, which is behind another leading Covid-19 vaccine—have all come out in full force against the proposal for reprieve from stringent intellectual property rules.

“The influence of the pharmaceutical industry is enormous,” Baker tells *In These Times*. “Needless to say, Trump is going to go with the pharmaceutical industry. Even Biden is going to be hearing from the pharmaceutical industry and will be hard pressed to do something they don’t like. There’s no one other than the pharmaceutical industry who’s going to stand up against this. They’re the ones that are pushing it.”

The pharmaceutical industry is fighting to hoard life-saving information about vaccines and Covid-19 treatments despite the tremendous role of public funds in enabling their development. Pfizer’s partner BioNTech, for example, received significant public funding from Germany. But at an estimated cost of \$19.50 per dose for the first 100 million doses, the vaccine is likely too costly for many poor countries, particularly in light of its expensive storage requirements. Pharmaceutical company AstraZeneca, which produced a vaccine with Oxford, has made some commitments to increase access to poor countries, and it says it won’t make a profit from the vaccine during the pandemic. But it “has retained the right to declare the end of the pandemic as early as July 2021,” Prabhala, Jayadev and Baker note.

Indeed, the data emerging indicates what could have been predicted months ago: One could make a map of global poverty, lay it over a map of vaccine access, and it would be a virtual one-to-one match. “The U.S., Britain, Canada and others are hedging their bets, reserving doses that far outnumber their populations,” the *New York Times* reports, “as many poorer nations struggle to secure enough.” This is a logical outcome for a system designed from the onset to reinforce long-existing power structures informed by an entrenched legacy of colonialism. Regardless of “intent,” once again majority black and brown countries,

by and large, are left to suffer and die while wealthy Global North countries far exceed their needed capacity (although this is no guarantee of equitable distribution *within* Global North countries).

Given the risk that we could see a global apartheid of vaccine distribution, in which poor countries continue to face devastating loss while rich countries pursue herd immunity, vague assurances of corporate benevolence are not enough. As Baker puts it, “Why wouldn’t you want every vaccine available as widely as possible?”

Frank Carber and Hannah Faris contributed research to this article.



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