



## Poverty, Not Patents, is the Problem in Africa

by Owen Lippert

For more than fifty years, intellectual property protection has enabled pharmaceutical companies to engage in billions of dollars worth of biomedical research. Just as the printing press in the Fifteenth Century "created" illiteracy, so, too, has the past half-century of pharmaceutical science led to unequal global access to new medicines. Just as private and public education led to mass literacy, public and private cooperation can today improve access to needed drugs in developing countries. Unfortunately, some critics wrongly blame pharmaceutical patents for obstructing this access. As efforts arise to make medicines more widely available, it makes no more sense to hobble the patent engine of discovery than it would have been to outlaw Johannes Gutenberg's moveable type 500 years ago because some people could not read.

Precisely because scientists have found new drugs to treat HIV/AIDS and other diseases, today countries face the challenge of ensuring that these medicines reach as many sufferers as possible. Encouraging private and public investment, removing trade barriers to economic growth, and transferring technology will assist this effort. Diluting patent protection, by contrast, would weaken the incentive to find better and less expensive treatments, while not lowering the *real* barriers to access.

One might ask, "But aren't patents already protected by international agreements?" In the 1980s, developed and developing countries negotiated the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement as part of the Uruguay Round of global trade talks. Ratified in 1994, TRIPS set forth a minimum standard of intellectual property rights protection.

Most developing countries have until the end of 2005 to bring their domestic patent

### A world of ideas on public policy.

legislation into compliance with TRIPS. But with that deadline looming, some have advanced new reasons to delay full compliance. In part, this reluctance rests on commercial considerations. In the 1980s, when India and Brazil – among others – negotiated TRIPS, they did not have substantial pharmaceutical industries that copied patented drugs. Now they do.

***Weakening R&D incentives by eroding global patent protection for drugs will only delay the discovery of real cures and prolong the misery of those suffering from HIV/AIDS***

The HIV/AIDS crisis in Sub-Saharan Africa has focused attention on whether TRIPS gives countries sufficient flexibility to suspend patents when faced with a public health crisis. In fact, patent protection has little impact on drug access in sub-Saharan Africa, since HIV/AIDS drugs are generally not patented in most countries of the region. The real obstacles to drug access in Africa are poverty, low government healthcare spending, and too few doctors, nurses, and hospitals.

The international community, including the United States, has sought to ensure that the sub-Saharan countries can apply TRIPS flexibly in order to better address their HIV/AIDS problems. The member nations of the World Trade Organization (WTO) declared in November 2001 that TRIPS permits less-developed countries, facing a genuine healthcare crisis, to license compulsorily certain patented medicines. The representatives did not, however, resolve whether poor countries lacking domestic drug

manufacturing capacity can import medicines manufactured elsewhere after 2005. Countries with local generic-drug industries (such as India) are theoretically required to comply with TRIPS by the end of that year, and their generic manufacturers will no longer be able to export copies of patented pharmaceuticals. As a result, the WTO members asked the TRIPS Council (an advisory board) to devise by the end of 2002 a solution to meet the needs of poor countries lacking domestic manufacturing capabilities but confronting public health emergencies from epidemic diseases such as HIV/AIDS, tuberculosis, and malaria.

A legitimate concern arises as the TRIPS Council considers this question. Advocates of watered-down intellectual property protection want to declare all developing countries in a state of healthcare crisis for all diseases. That would allow these countries to ignore any and all pharmaceutical patents.

This effort is misguided. The TRIPS Council risks altering the basic balance of interests upon which TRIPS is based: greater respect by developing countries for intellectual property rights in return for more access to developed-world markets. The point of TRIPS is to reduce unilateral trade actions by enforcing minimum standards of, for example, patent protection.

Undermining TRIPS will not help Africa's HIV/AIDS-stricken countries in the long run. As much as these countries need access to existing drugs, they also need international donor and business support to build the healthcare infrastructure that could save countless lives when the next generation of drugs, possibly a vaccine, arrives. Weakening R&D incentives by eroding global patent protection for drugs will only delay the discovery of real cures and prolong the misery of those suffering from HIV/AIDS.

*Owen Lippert, Ph.D. is a Senior Fellow of the Fraser Institute ([www.fraserinstitute.ca](http://www.fraserinstitute.ca)), Canada's leading economic think tank.*

To read other articles in the series, visit [www.pfizerforum.com](http://www.pfizerforum.com)

