

**Committee:** World Intellectual Property Organization (WIPO)

**Agenda Item:** Challenging the pharmaceutical industry's monopoly power: The possibility of revising IP rights of essential medicine

**Student Officer:** Defne Yilmaz - Deputy Chair

## Introduction

Pharmaceutical companies hold patents on life-saving medications, which give the right to market and produce certain medications only for a fixed amount of time, which is usually 20 years. Businesses can increase their pricing due to the less competition in the market. This strategy seeks to promote innovation by ensuring that companies may regain the often highly expensive costs of research and development (R&D). The current structure of Intellectual Property (IP) rights in the pharmaceutical industry is designed to guarantee market exclusivity. It safeguards pharmaceutical companies' financial interests while striking the demands of public health in order to establish an environment that encourages innovation and creativity. It aims to do this by achieving the ideal balance between the needs of entrepreneurs and the public.

The system is legally protected by assets like patents, copyrights, and trademarks which allow companies to gain recognition or profit financially for their inventions. Trade secrets, trademarks, patents, and data exclusivity are therefore crucial forms of IP protection commonly utilised in the pharmaceutical industry. By upgrading the IP rights for essential medicine, the pharmaceutical industry's dominant status is being challenged to balance healthcare demands with scientific incentives. Especially in the modern era, patents provide companies with the only authority to market expensive medications, making them unaffordable in many parts of the world. Even though IP law reform could make vital medications more accessible by increasing competition, reducing expenses, and encouraging the creation of generic medications, there are substantial political, legal, and financial obstacles.

From hospitals to pharmaceuticals, monopolies continue to exist in virtually every part of the healthcare sector. The utilization of legal loopholes and legislative shielding by companies creates room for the obstruction of potential competitors and maintains their monopolies. Using their monopoly power, pharmaceutical corporations have almost full control over their prices without regard for consumer demand. Drug companies take full advantage of monopolistic pricing in healthcare which is both excessive and unfair, leaving millions of patients with only one choice which is to pay the price.

## Definition of Key Terms

**Pharmaceutical Companies:** Pharmaceutical Companies manufacture, design, produce and market medications. They make vital medicine that patients with serious illnesses rely on.

**Intellectual Property rights (IP rights):** IP rights are protections for inventions made by manufacturers. It's a legal way of protection, it prevents other companies from copying or using the intellectual property.

**Monopoly:** A market structure in which a single company sells a unique product without competition and a substitute.

**Patents:** A patent is an exclusive right granted for an invention. Patents benefit inventors by providing them with legal protection of their inventions. (WIPO)

**Copyright:** Copyright is a legal term used to describe creators' rights over their literary and artistic works. Copyright work includes books, music, paintings, sculptures, films, computer programs, databases, advertisements, maps, and technical drawings. (WIPO)

**Trademark:** A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights. (WIPO)

**Trade-Related Aspects of Intellectual Property Rights (TRIPS):** It's essential for promoting trade in innovation and knowledge, solving intellectual property trade disputes and giving WTO members the flexibility to achieve their domestic policy goals. It frames the IP system in terms of public welfare, technology transfer and innovation. The agreement is a formal acknowledgement of the importance of the connection between IP and trade, as well as the necessity of a well-balanced IP system.

## Major Actors Involved

### International Organizations

#### World Intellectual Property Organization (WIPO)

WIPO offers technical help to nations in managing intellectual property rights and participates in the development of the global IP framework.

#### World Health Organization (WHO)

The world health organization has emphasized the importance of updating intellectual property regulations to improve worldwide access, particularly for diseases that impact low and middle income nations. In order to fulfill public health demands, the WHO also additionally supports the use of public health flexibilities like mandatory licensing.

#### World Trade Organization (WTO)

The TRIPS Agreement, which generates international IP standards, is controlled by the WTO. The organization is involved in the negotiations of TRIPS flexibilities, including the Doha Declaration on TRIPS and Public Health from 2001, which made it simpler to access medications in case of public health emergencies

## UNICEF

With a priority on children's health, UNICEF participates in IP-related arguments and works to promote access to medications and vaccines, especially for conditions such as HIV/AIDS, malaria and tuberculosis.

## Regional Organizations

### African Union (AU)

In order to provide access to necessary medications, particularly for conditions such as HIV/AIDS, malaria and tuberculosis, African nations have been supporters of more flexible IP laws.

### Association of Southeast Asian Nations (ASEAN)

Discussions regarding striking a balance between intellectual property protection and medication accessibility are becoming more common among Southeast Asian nations, particularly due to trade agreements and the manufacture of generic drugs.

## General Overview of the Issue

People with serious illnesses such as cancer, diabetics, schizophrenia are obligated to utilize treatments. Most of them are pills or chemicals made and developed by the pharmaceutical industry. The chemists who work in the research and development of these pharmaceutical companies invent cures for fatal illnesses. These cures are hard to invent and manufacture, according to Pharmaceutical Research and Manufacturers of America (PhRMA) it takes 10-15 years to discover one new medicine. Pharmaceutical companies rely on these medicines that R&D invents, when they invent a drug, like most companies do, they get patents, trademarks and copyrights of these medicines that they invented.

They have a monopoly on the drug that they invented which means they can become the only manufacturer of the drug they invented and only they can make it and sell it. In addition the cost of producing and manufacturing these medicines are high and not easy to make. Average cost of manufacturing a drug is around \$2.6 billion USD. Businesses increase their prices due to the lack of competition because they have patents on the medicine that they have invented. So people with serious illnesses find it hard to access the drugs that are vital for them to get proper treatment and live.

IP rights are mainly behind all of this. As mentioned earlier, patents, trademarks, trade secrets, and copyrights are the intellectual property rights. These vital medicines are protected with the IP rights which make these companies have monopoly and have no competition in the market.

## Timeline of Important Events

Date:	Event:
14 November 2001	Doha Declaration of TRIPS and Public Health
29 August 2003	Thailand Issues First Compulsory Licence
17 December 2005	Introduction of TRIPS Flexibilities
28 November 2013	WTO Revises TRIPS for Public Health
5 May 2020	Calls for IP Waiver During COVID-19 Pandemic

## Related Documents

1. Doha Declaration on TRIPS and Public Health (2001)
2. WTO Decision on Compulsory Licensing (2003)

3. WTO's General Council Decision on Access to Medicines (2003)
4. TRIPS and Public Health: The Doha Declaration and Africa (2007)
5. Compulsory Licensing in the Global South (2015)
6. WHO's Global Strategy and Plan of Action on Public Health, Innovation, and Intellectual Property (2008)
7. WTO Trade and Public Health Report (2005)
8. WTO Ministerial Decision on Access to Medicines (2001)
9. UN High Commissioner for Human Rights - Access to Medicines (2017)

## Past Solution Attempts

There have been several attempts to combat the malicious monopoly of the pharmaceutical industry. As it is evidently explored before, the monopoly of the pharmaceutical companies seeking profits out of people's health and life hurdles. It can be clearly observed that the issue at hand requires dealing with the capitalist thirst of the multinational corporations, hence there has not been many endeavors to interfere with the situation. Since the international community primarily runs under the power of these monopolies it has become increasingly difficult to alleviate the problems surrounding the pharmaceutical industry.

The states or parties that realize the deterioration in the sector opt to turn a blind eye to the issue, fearing that the powerful companies would become menaces to their authority. All because of the capitalist system that dwells on the face of earth, there has not been much of a discourse upon the resolution of this intricate matter. However, the attempts that have been made are primarily results of the United Nations or countries that relatively value the life quality of their citizens more on the international arena.

One of the attempts that have been tried by the international community is to enforce compulsory licensing regulations on various drugs. Thailand is one of the countries that established the importance of applying this regulation consistently in order to achieve tangible improvements towards the accomplishment of a solution to the issue. Thailand's issuance of a compulsory license for an AIDS drug demonstrated how countries could use compulsory licensing to avoid patents and lower drug prices. Although this action taken by the Thai government was reasonable, the endeavor failed to reach the aim of completely eradicating the detrimental effects of the monopolies created by the pharmaceutical industry. This is because many countries that possess companies in the business of pharmaceutical industry acted unfavorably on this measure. They applied trade sanctions and prevented this measure from advancing any forward in the international discussions. As stated before, this is rooted from the fact that the world is under the devastating influence of capitalist multinational corporations that prioritize their profits over patient benefit. With diseases like AIDS/HIV acting as a fatal menace towards the lives of many citizens, the priorities of these monopolies hurt the people the most. Other attempts have been adopted by international bodies of diplomacy. The WTO stated that countries could use TRIPS flexibilities to address public health needs by bypassing patents during health emergencies. Despite the flexibility, many developing nations that do not have sufficient financial funds still struggle to adopt these implementations due to a lack of local production capabilities, weak legal infrastructures, and ongoing pressure from financially able nations and pharmaceutical corporations to uphold patent protections.

There have also been attempts on behalf of the United Nations. The UN called for alterations to IP regulations to ensure that all citizens could access fundamental medicines, perceiving access as a human right. Despite these calls, the reform of IP laws has not been rapid, and there was resistance from powerful pharmaceutical companies and many developed nations. These sides argued that patent regulations incentivize innovation and thus hinder effective IP reforms.

One of the main events that drew attention to the inefficiencies of the pharmaceutical industry was the COVID-19 pandemic. This was the first major pandemic that the world has dealt with since the beginning of the 21st century. It being extremely fatal for some demographic groups led to panic in the international community, making it harder for the drug industry to cover up the insensitive lucrative acts that they perpetuate. It also increased the need for accessible healthcare that is affordable and effective for all citizens and all social classes. With the emergence of the global outbreak, several calls have been made for IP waivers to ensure border access to drugs and treatment methods. Unfortunately, the call for this implementation faced a plethora of negative reactions from developed countries that fed off the profits made by predator multinational corporations.

## Possible Solutions

Ideas regarding the resolution of the monopoly owned by multinational companies lie in altering the mindset that the international community embodies about the lucrative actions of multinational corporations. Contemporary governments and actors predominantly view independent interventions on the economy and the rise of the private sector as a beneficial development that can alleviate financial devastation faced by an abundance of nations. Although this applies to a variety of countries, capitalist actions of these multinational companies primarily focus on the benefit of the developed countries that also support the advancement of the private sector.



This becomes a cycle of inefficiency as governments support these companies and they support the governments that contribute to their monopolies. Financial power is an undeniable truth of the globe, leading the ways of manipulating large populations as well as governments. The first thing to accomplish in order to eliminate the issue is to understand that the world's view of prioritizing materialistic desires and money over the well-being of the human race is the main issue. In order to eliminate the effect caused by these monopolies, the delegates should consider establishing an international framework that makes it obligatory for all states that ratify it to impose drug regulations on pharmaceutical companies. Additionally, it is extremely crucial to realize that regulations on these corporations regarding their trade relations shall be enforced. These are the main points that the delegates should revolve around and derive from to come up with other diverse solutions.

## Useful Links

<https://www.wipo.int/portal/en/index.html>

<https://www.oecd.org/>

[https://www.wto.org/english/thewto\\_e/coher\\_e/mdg\\_e/medicine\\_e.htm](https://www.wto.org/english/thewto_e/coher_e/mdg_e/medicine_e.htm)

[https://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_trips\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm)

[https://www.wto.org/english/tratop\\_e/trips\\_e/pharmpatent\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/pharmpatent_e.htm)

[II. The Doha Declaration on the TRIPS Agreement and ..World Intellectual Property Organization \(WIPO\)](https://www.wipo.int/wipo_ip_dipl_saa_07_3)

<https://www.undp.org/publications/doha-declaration-10-years-and-its-impact-access-medicines-and-right-health>

<https://www.sciencedirect.com/science/article/pii/S0954349X23000048>

<https://healthpolicy.usc.edu/article/blame-capitalism-why-hundreds-of-decades-old-yet-vital-drugs-are-nearly-impossible-to-find/>

[Capitalism gone wrong: how big pharma created America's ...The Guardian](https://www.theguardian.com/healthcare/2022/jul/14/capitalism-gone-wrong-how-big-pharma-created-americas-problem-with-drugs)[https://www.theguardian.com › jul](https://www.theguardian.com/healthcare/2022/jul/14/capitalism-gone-wrong-how-big-pharma-created-americas-problem-with-drugs)

<https://harvardpolitics.com/cost-plus-drugs-an-altruistic-capitalist-venture/>

<https://www.philanthropyroundtable.org/big-pharma-and-traditional-capitalism-to-the-rescue/>

## Bibliography

(PDF) Trips and Public Health: The Doha Declaration and Africa, [www.researchgate.net/publication/4989287\\_TRIPs\\_and\\_Public\\_Health\\_The\\_Doha\\_Declaration\\_and\\_Africa](https://www.researchgate.net/publication/4989287_TRIPs_and_Public_Health_The_Doha_Declaration_and_Africa). Accessed 05 Dec. 2024.

Caccam, Charlotte. “Cost plus Drugs: An Altruistic Capitalist Venture.” *Harvard Political Review*, 14 Nov. 2023, [harvardpolitics.com/cost-plus-drugs-an-altruistic-capitalist-venture/](https://harvardpolitics.com/cost-plus-drugs-an-altruistic-capitalist-venture/). Accessed 06 Dec. 2024.

“The Doha Declaration 10 Years on and Its Impact on Access to Medicines and the Right to Health.” UNDP, [www.undp.org/publications/doha-declaration-10-years-and-its-impact-access-medicines-and-right-health](https://www.undp.org/publications/doha-declaration-10-years-and-its-impact-access-medicines-and-right-health). Accessed 05 Dec. 2024.

II. The Doha Declaration on the TRIPS Agreement And ..., [www.wipo.int/edocs/mdocs/arab/en/wipo\\_ip\\_dipl\\_saa\\_07/wipo\\_ip\\_dipl\\_saa\\_07\\_3.ppt](https://www.wipo.int/edocs/mdocs/arab/en/wipo_ip_dipl_saa_07/wipo_ip_dipl_saa_07_3.ppt). Accessed 05 Dec. 2024.

Roundtable, The Philanthropy. “Big Pharma and Traditional Capitalism to the Rescue.” *Philanthropy Roundtable*, 1 Mar. 2022, [www.philanthropyroundtable.org/big-pharma-and-traditional-capitalism-to-the-rescue/](https://www.philanthropyroundtable.org/big-pharma-and-traditional-capitalism-to-the-rescue/). Accessed 05 Dec. 2024.

Staff, KEI. “WTO Panel Finds 2001 Doha Declaration on the TRIPS Agreement and Public Health Is an Agreement between Members.” Knowledge Ecology International, 19 Sept. 2018, [www.keionline.org/28950](http://www.keionline.org/28950). Accessed 05 Dec. 2024.

WHO,  
[apps.who.int/iris/bitstream/handle/10665/67345/WHO\\_EDM\\_PAR\\_2002.3.pdf](https://apps.who.int/iris/bitstream/handle/10665/67345/WHO_EDM_PAR_2002.3.pdf). Accessed 05 Dec. 2024.