

DePaul discusses medicine patents in developing world

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On Thursday, September 20, 2007, four DePaul University College of institutes and centers – The Health Law Institute, The Center for Intellectual Property Law & Information Technology, the Center for Public Interest Law, the International Human Rights Law Institute – hosted a roundtable discussion, co-sponsored by Doctors Without Borders/Médecins Sans Frontières (MSF), which focused on the role of intellectual property law on developing countries' access to essential medicines.

The event was particularly pertinent in light of Abbot Laboratory's recent decision to withdraw all applications to register drugs in Thailand, including the AIDS drug, Kaletra. Abbott's decision was a reaction to the Thai Ministry of Health's use of compulsory patent licenses to obtain low cost generic versions of Abbott's HIV/AIDS drug

Much of the roundtable discussion revolved around whether a compulsory license is an appropriate method for developing countries to gain access to otherwise expensive, life-saving drugs. Drug companies report that in order to recoup investments in research and development, they are forced to sell the drugs at high prices for the life of the patent. As well, they claim that compulsory licenses undermine incentives for medical research and development.

On the other hand, MSF has condemned the action taken on the part of Abbot, and supports the use of compulsory licenses. They claim patents lead to the rationing of essential medicines which hurts the poor, and that higher patent protections worldwide have failed to drive medical innovation needed by patients in the developing world.

Dr. Buddhima Lokuge stated, "'As doctors, we have seen the human costs of pharmaceutical patent barriers... [m]ore than 25 million people have died of HIV/AIDS ... even though effective therapies have existed for more than 10 years. As the pandemic spread in the late 1990s throughout Africa and Asia, our teams sent people living with HIV/AIDS home to die because patent barriers meant antiretrovirals (ARVs) were unaffordable for most people on the planet. Patents are a contract between states and inventors in order to promote science for the public benefit. Clearly this contract has broken down in the developing world. By definition patents raise the price of essential medicines (above production cost), creating barriers to access and lead to the rationing of lifesaving therapies. At the same time study after study shows that ... innovation is declining and the private sector continues to neglect the research needs of the developing world - for example cures and vaccines for diseases like TB and malaria. As a medical organization treating patients in the worlds most disadvantages settings, we believe the right of parents and children to access affordable medicines trumps all other concerns."

DePaul University College of Law Professor Matthew Sag commented that it is important to separate out two distinct issues in the access to medicines debate. "The first issue is how to strike the right balance between access to much needed medicines today, while still maintaining incentives for research and development for the drugs we will need tomorrow. The second issue is how can we modify or supplement the patent system to channel innovation to those areas where it is needed most so as to address 'neglected diseases' such as malaria and sleeping sickness."