



## **Workshop on the History, Experiences, and Prospects of Compulsory Licensing of Medical Patents in the United States**

Date: Friday February 24, 2017

Location: Kaiser Permanente Center for Total Health

700 Second St. NE (near Union Station)

Washington, DC 20002

The event will feature presentations and roundtable discussions and questions and comments from the workshop participants on several topics relating to the non-voluntary use of patents in the United States, with a focus on medical patents. )For more details, including links to videos and presentations and background materials from the event, see:

<http://keionline.org/feb2017clworkshop>)

### AGENDA - revised Feb 23

9 AM to 10 AM, coffee and registration

10 AM: Introduction

10:15 - 10:45

Review of all U.S. legislation proposed, enacted and/or repealed on the compulsory licensing of patents from the 19th Century to the present.

- Zack Struver, KEI

10:50 - 11:50

A discussion non-voluntary use of patents under 28 USC 1498(a), the statute that covers use of patents “by or for the United States without license of the owner.”

Moderator: Anna Kaltenboeck, Program Director and Senior Health Economist, Center for Health Policy and Outcomes at Memorial Sloan Kettering Cancer Center

Panel Members:

- Amy Kapczynski, Professor of Law, Yale Law School
- Robert Weissman, President, Public Citizen

11:50 AM to 12:30 PM

Lunch

12:30 PM - 1:30 PM

A discussion of the non-voluntary use of patents in court cases involving requests for permanent injunctions as a remedy to infringement, under the standards set out in the by the U.S. Supreme Court in eBay Inc. v. MercExchange, L.L.C., 547 U.S. 388 (2006)

Moderator: Hillary Brill, Practitioner-in-Residence at the Washington College of Law's Glushko-Samuels Intellectual Property Clinic, Partner, HTB Strategies.

Panel members:

- Matthew Herper, Forbes
- Rachel Sachs, Associate Professor at the Washington University in St. Louis School of Law
- Andrew Goldman, Counsel for Policy and Legal Affairs, Knowledge Ecology International

1:35 PM - 3:00 PM

Discussion of the experience with the Bayh-Dole Act march-in provisions.

Moderator: Alicia Mundy, Senate Budget Committee, Chief Investigator, Minority

Panel Members:

- Hanna Vogel, Legislative Assistant, Representative Doggett, U.S. House of Representatives
- C. Allen Black, Jr., Ph.D., Adjunct Professor of Law, University of Pittsburgh School of Law. (Counsel for Fabrazyme march-in case).
- Aaron S. Kesselheim, MD, JD, MPH, Associate Professor of Medicine at Harvard Medical School and a faculty member in the Division of Pharmacoepidemiology and Pharmacoeconomics in the Department of Medicine at Brigham and Women's Hospital.
- James Love, Knowledge Ecology International (KEI)
- Ashley Stevens, President, Focus IP Group (former President of AUTM, the Association of University Technology Managers )

3:00 PM to 3:15 PM

Break

3:15 PM to 3:50 PM

Global norms and compulsory licensing statutes in selected industrialized countries.

Moderator: Manon Ress, Union for Affordable Cancer Treatment

Panel members:

- Frederick M. Abbott, Edward Ball Eminent Scholar Professor of International Law, Florida State University, College of Law
- Andrew Goldman, Counsel for Policy and Legal Affairs, Knowledge Ecology International

4 PM to close

Concluding discussion about the need for new statutory authority to grant compulsory licenses on patents, with references to (a) US government negotiations on prices of drugs, (b) the broader need to curb excessive prices of drugs, and (c) the role of compulsory licensing in improving access to research tools, diagnostic tests, and upstream technologies such as CRISPR Genome Editing, and for follow-on inventions.

Everyone will be invited to share thoughts, starting with initial comments from:

- Shanna Devine, Public Citizen
- Aaron S. Kesselheim, MD, JD, MPH, Associate Professor of Medicine at Harvard Medical School and a faculty member in the Division of Pharmacoepidemiology and Pharmacoeconomics in the Department of Medicine at Brigham and Women's Hospital.
- Amy Kapczynski, Professor of Law, Yale Law School
- Rachel Sachs, Associate Professor at the Washington University in St. Louis School of Law
- Frederick M. Abbott, Edward Ball Eminent Scholar Professor of International Law, Florida State University, College of Law
- James Love, Knowledge Ecology International
- Alex Lawson, Social Security Works