

October 8, 2013

Dear Senators Reid and McConnell, Representatives Boehner and Pelosi,

We are writing to ask that Congress hold a hearing on the failure of the NIH to exercise its authority to protect the public from abuses in federally funded inventions.

Since the passage of the Bayh-Dole Act in 1980, the Department of Health and Human Services (DHHS) has never granted a petition to “march-in” to permit third parties to use patents invented on federally funded research in response to abuses of the patent rights.

We do not believe that any reasonable person would conclude that in 32 years, there have been no abuses of patent rights.

On October 25, 2012, the NIH was asked grant a march-in petition to permit generic drug manufacturers to make copies of ritonavir, an NIH-funded invention for an HIV/AIDS drug that is priced 4 to 10 times higher in the United States than in any high-income country. The NIH has not granted a hearing on this petition.

As leaders of the Senate and the House of Representatives, we urge you to find a Committee or Subcommittee in the Congress that can provide oversight of the NIH on the topic of protecting the public’s rights in federally funded inventions.

Sincerely,

Academics (*institution for identifying purposes only*)

Peter S. Arno, Senior Fellow and Director, Health Policy Research, Political Economy Research Institute, University of Massachusetts-Amherst; Distinguished Fellow, City University of New York Institute for Health Equity, Lehman College

James Boyle, Professor of Law, Duke Law School

Michael Davis, Professor of Law, Cleveland State University

Sean Flynn, Associate Director, American University Washington College of Law, Program on Information Justice and Intellectual Property

Mark McKenna, Professor of Law, Notre Dame Law School

Non-Governmental Organizations

Bryan Collinworth, Executive Director, Universities Allied for Essential Medicines

Laura Etherton, Health Care Policy Analyst, U.S. PIRG

James Love, Director, Knowledge Ecology International

Peter Maybarduk, Director, Public Citizen Global Access to Medicines Program

Reshma Ramachandran, American Medical Students Association