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Mr. William C. Weldon
CEO and Chairman of the Board
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, New Jersey 08933
USA

December 7, 2011

Dear Mr. Weldon,

Public Citizen is a U.S.-based 501(c)3 consumer advocacy organization with 225,000 members and supporters. Our major areas of organizational focus include, among others, pharmaceutical safety and efficacy, competition policy and global access to medicines.

We write today to urgently request that Tibotec/Johnson & Johnson commit its patents on key HIV/AIDS treatments to the Medicines Patent Pool established by UNITAID.

New science on treatment as prevention suggests that it is in our power to effectively end AIDS in our time. Secretary Clinton has issued a call for an “AIDS-free generation,” a call echoed by President Obama and many others on World AIDS Day December 1. This laudable goal will require massively scaling up access to treatment worldwide and the commitment of all stakeholders including governments, civil society and – crucially – pharmaceutical companies. It may not be possible to “get to zero” if patent monopolies and exclusive licensing arrangements limit prospects for generic competition, cost reduction and co-formulation.

Tibotec/Johnson & Johnson controls several patented medicines the world needs to help end AIDS. These include darunavir, etravirine and rilpivirine. Licenses offered thus far by Tibotec/Johnson & Johnson do not go nearly far enough to facilitate broad generic competition and access. The Medicines Patent Pool, in contrast, can facilitate licensing arrangements that would free these medicines for competition and use in combination therapies around the world, in exchange for royalty payments to the patent holders.

If ever there were a moment to band together for access, this is it. Millions of people may live or die depending on whether pharmaceutical companies do what is needed to rapidly expand treatment access and commit to ending AIDS.

As you are aware, Gilead Sciences recently licensed patents for HIV treatments to the Medicines Patent Pool. Though we recognize shortcomings in these licenses, we also believe that they represent an important step and improvement to the status quo.

We understand Tibotec/Johnson & Johnson has thus far deferred negotiating with the Medicines Patent Pool. We urge you to enter negotiations immediately. As you know, the U.S. government has paved the way by licensing patents related to darunavir to the Medicines Patent Pool for all low- and middle-income countries. But this license on its own cannot authorize use of darunavir. Generic production requires Tibotec/Johnson & Johnson license its patents as well.

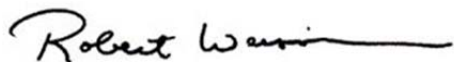
Failure to license under terms which facilitate effective generic competition compels people living with HIV, governments and health advocates to seek compulsory measures. For example, Abbott Laboratories has deferred negotiating with the Medicines Patent Pool and has consistently stymied competition. As with darunavir, Abbott's ritonavir was developed in part with public money. On November 10, health groups in a dozen countries launched a global campaign against Abbott to challenge its monopolistic hold on ritonavir and lopinavir + ritonavir through license requests, patent oppositions and further measures.

Licenses to the Medicines Patent Pool should include the most open terms possible to maximize their global benefit. We call on Tibotec/Johnson & Johnson to negotiate licenses which:

- Apply to all low- and middle-income countries, as does the license granted to the Medicines Patent Pool by the U.S. National Institutes of Health.
- Maximize the number of manufacturing locations and supply sources of active pharmaceutical ingredients to best facilitate generic competition.
- Impose royalty payments only for those periods or territories where a license would otherwise be necessary to make use of the product (*e.g.*, no royalty payments for patent applications pending examination or during the interval between a successful pre-grant opposition and its appeal).
- Respect the right and preserve the ability of governments to make meaningful use of TRIPS flexibilities, for example, by ensuring that no provisions interfere with the freedom of licensees to supply countries in the event of a compulsory license.

Mr. Weldon, people living with HIV worldwide are counting on you to do the right thing. We await your timely reply.

Sincerely,



Robert Weissman
President, Public Citizen



Peter Maybarduk
Global Access to Medicines Program Director

cc:

Will Stephens, Vice President of Global Access and Partnerships, Johnson and Johnson
Ellen 't Hoen, Executive Director, Medicines Patent Pool Foundation