



CARDOZO

Benjamin N. Cardozo School of Law

LARC @ Cardozo Law

CICLR Online

Journal Blogs

11-9-2023

Writer v. Big Pharma: How John Green, Author and YouTuber, Fought the Evergreening of a Drug Patent

Rachel Bier

Cardozo International & Comparative Law Review, rbier1@law.cardozo.yu.edu

Follow this and additional works at: <https://larc.cardozo.yu.edu/ciclr-online>



Part of the [Comparative and Foreign Law Commons](#), [International Law Commons](#), and the [Legal Education Commons](#)

Recommended Citation

Bier, Rachel, "Writer v. Big Pharma: How John Green, Author and YouTuber, Fought the Evergreening of a Drug Patent" (2023). *CICLR Online*. 91.

<https://larc.cardozo.yu.edu/ciclr-online/91>

This Blog Post is brought to you for free and open access by the Journal Blogs at LARC @ Cardozo Law. It has been accepted for inclusion in CICLR Online by an authorized administrator of LARC @ Cardozo Law. For more information, please contact larc@yu.edu.

Writer v. Big Pharma: How John Green, Author and YouTuber, Fought the Evergreening of a Drug Patent

By: Rachel Bier



Tuberculosis (TB), an illness caused by the bacterium *Mycobacterium tuberculosis*,^[1] is the deadliest disease in human history.^[2] In the 1950s and 1960s, scientists developed several drugs that could treat TB.^[3] These developments meant that TB became a curable disease.^[4] However, TB remains a terrible epidemic in poor communities around the world.^[5] About 4,000 people die from TB *every day*,^[6] with over eighty percent of those deaths occurring in low- and middle-income countries.^[7]

To tackle this enormous global health crisis, on September 26, 2018, the United Nations (U.N.) held the first high-level meeting on ending TB.^[8] At that meeting, the participants drafted a resolution that set forth commitments for Member States to follow to reach the goal of ending the tuberculosis pandemic^[9] by 2030, which was then adopted by the General Assembly.^[10] Since the first meeting, some progress has been made in combating TB.^[11] However, the global Covid-19 pandemic has slowed progress and further strained healthcare systems around the world.^[12]

In order to set updated and more effective goals to fight TB, the U.N. General Assembly held a second high-level meeting on September 22, 2023.[13] The subject of the meeting was to end the plague of tuberculosis, “in particular, by ensuring equitable access to prevention, testing, treatment and care.”[14] In attendance at the meeting were world leaders, TB survivors, and representatives of civil society organizations. One of the civil society representatives was John Green,[15] a famous YouTuber, YA novelist,[16] and TB activist.[17]

Green, working in partnership with other TB activists like the global health and social justice organization Partners in Health (PIH),[18] and his community of online followers known as Nerdfighteria,[19] has played an important part in the fight to end TB. Most notably, Green’s activism has directly made the critical medication Sirturo, known generically as bedaquiline, [20] more accessible to patients in developing countries.[21]

Bedaquiline is a medication that targets forms of TB that are otherwise drug-resistant, making it a highly important tool in combating the TB epidemic.[22] Bedaquiline was developed and patented by the pharmaceutical giant Johnson & Johnson (J&J) in 2012.[23] The majority of the funding for bedaquiline’s research and development came from public funding, but J&J held a monopoly on the drug.[24] J&J’s patent was set to expire in 2023, which would allow the manufacture of cheaper generic versions and could save the lives of millions of low-income patients. [25] In an attempt to “evergreen” its control over the supply of bedaquiline, J&J slightly modified the drug’s composition in order to be able to enforce a secondary patent.[26] Imposing this secondary patent would mean generic bedaquiline would remain out of reach of scores of TB patients for several more years.[27] Hundreds of thousands of people who could have otherwise been cured would die of TB.[28]

Determined to stop this from happening, on July 11, 2023, John Green posted a video on his YouTube channel Vlogbrothers entitled, *Barely Contained Rage: An Open Letter to Johnson & Johnson*. [29] In the video, he described the great injustice that would occur if J&J enforced its patent and allowed thousands of people to die from lack of access to generic bedaquiline.[30] He called on J&J to remain true to its corporate credo: “We believe our first responsibility is to the patients.”[31] Green then called on his followers to pressure J&J not to enforce its secondary patent.[32] In response, J&J put out a statement denying that it was acting in bad faith.[33] Green, however, did not back down and continued to speak out against the company across his various social media platforms.[34] After only two days of Green’s vocal online pressure campaign, J&J caved. Stop TB Partnership, a U.N.-hosted TB-fighting organization, announced that, after negotiating with J&J, the company would allow the manufacture of generic bedaquiline in low- and middle-income countries where it was so desperately needed.[35]

When John Green spoke at the U.N. high-level meeting in September, he explained how today, tuberculosis deaths are not the results of a bacterium.[36] When patients of TB, a curable disease, die because human-built socioeconomic systems prevent them from accessing the treatments that would cure them, their deaths are “caused by ... human choice.”[37] Green went on to urge the other participants of the meeting to change this reality: “We have chosen the world that we share today and we can choose a better world. We are currently choosing a world where 1.6 million people die of tuberculosis and I believe that with your help together ... we will choose a world where no one dies of tuberculosis.”[38]

Green and his fellow activist’s work has been impactful. At the conclusion of the meeting, Member States approved a political declaration renewing their vow to end TB by 2030.[39] The declaration, which they drafted for General Assembly adoption, frequently stresses the importance of guaranteeing access to TB medications.[40] The new resolution mentions the necessity of ensuring access to generic TB treatments three times; the 2018 version only did so once.[41]

J&J is a company worth over 300 billion dollars.[42] And yet, in a matter of days, hardworking activists, a passionate author, and a social-justice-oriented online community were able to bring a megacorporation to its knees. This advocacy blocked the evergreening of a patent, impacted policymaking at the highest intergovernmental levels, and saved thousands of lives. Looking to the future, it is clear that grassroots activism is a key tool in the fight against TB and healthcare injustice.

Rachel Bier is a Staff Editor at CICLR.

[1] Ilaria Barberis, Nicola Luigi Bragazzi, Lucia Galluzzo & Mariano Martini, *The History of Tuberculosis: From the First Historical Records to the Isolation of Koch's Bacillus*, 58 J. Preventative Med. Hygiene E9, E9 (2017).

[2] *Report of the High-Level Consultation on Accelerating the Development of the M72/AS01E Tuberculosis Vaccine Candidate*, at 1, World Health Organization [WHO] (2019), https://cdn.who.int/medinotedocs/default-source/documents/tuberculosis/report-consultation-accelerating-tb-vaccinedbd25166-d9f4-4f13-939c-171367b4dd8c.pdf?sfvrsn=6e0fb8a1_1&download=true [<https://perma.cc/BU5N-CZYZ>].

[3] *History of World TB Day, Treatment*, Centers for Disease Control and Prevention [CDC], <https://www.cdc.gov/tb/worldtbdays/history.htm> [<https://perma.cc/4L2C-G8PZ>].

[4] World Health Organization [WHO], *Status Update: Reaching the Targets in the Political Declaration of the United Nations General Assembly High-level Meeting on the Fight Against Tuberculosis*, at 2, WHO/UCN/TB/2023.4 (Sept. 2023) [hereinafter *Status Update*].

[5] *Id.*

[6] *Id.*

[7] *Tuberculosis*, WHO: Fact Sheets (Apr. 21, 2023) <https://www.who.int/news-room/fact-sheets/detail/tuberculosis> [<https://perma.cc/5PCT-YUPA>] [hereinafter *Fact Sheets*].

[8] G.A. Res. 73/3, at 1 (Oct. 18, 2018).

[9] *TB is a Pandemic*, TB Alliance, <https://www.tballiance.org/why-new-tb-drugs/global-pandemic#:~:text=Tuberculosis%20is%20a%20global%20pandemic,1.6%20million%20in%202021%20alone> [<https://perma.cc/26X7-D7BK>].

[10] *Id.*

[11] *Id.*

[12] *Status Update*, *supra* note 4, at 2.

[13] *Preparing for the UN High-level Meeting on the Fight Against Tuberculosis, 2023*, WHO, <https://www.who.int/activities/preparing-for-the-un-high-level-meeting-on-the-fight-against-tuberculosis--2023> [<https://perma.cc/S2GU-JQ7S>].

[14] *Id.*

[15] Vlogbrothers, *John Goes ... to the UNITED NATIONS?*, YouTube (Sept. 27, 2023), <https://www.youtube.com/watch?v=tMhgw5SW0h4> [hereinafter *John Goes*].

[16] John Green, *About John Green*, <https://www.johngreenbooks.com/bio> [<https://perma.cc/8TT2-D4Q5>].

[17] Jenny Lei Ravelo, *4 Questions for John Green, the 'Tuberculosis Hater'*, devex (Oct. 5, 2023), <https://www.devex.com/news/4-questions-for-john-green-the-tuberculosis-hater-106304> [<https://perma.cc/B946-NJJN>].

[18] *PIH Urges Further Steps to Ensure TB Drugs Available to All*, Partners in Health (July 13, 2023), <https://www.pih.org/article/pih-urges-further-steps-ensure-tb-drugs-available-all> [<https://perma.cc/G44J-MZAE>].

[19] Nerdfighter Newsletter, <https://nerdfighter.com> [<https://perma.cc/3UB6-6LGL>].

[20] *Treatment of Multidrug-Resistant TB: Bedaquiline Fact Sheet*, CDC, <https://www.cdc.gov/tb/publications/factsheets/treatment/bedaquiline.htm> [<https://perma.cc/LN5V-RR4J>] [hereinafter *Bedaquiline Fact Sheet*].

- [21] Lucy Tu, *How Advocates Pushed Big Pharma to Cut Tuberculosis Drug Prices*, Sci. Am. (Aug. 12, 2023), <https://www.scientificamerican.com/article/how-advocates-pushed-big-pharma-to-cut-tuberculosis-drug-prices/> [<https://perma.cc/N5ZU-7D38>].
- [22] See *Bedaquiline Fact Sheet*, *supra*, note 20.
- [23] John Green, *Why is a Curable Disease Still Allowed to Kill Millions?*, Wash. Post: Opinions (May 16, 2023, 6:00 AM), <https://www.washingtonpost.com/opinions/2023/05/16/multidrug-resistant-tuberculosis-treatment/> [<https://perma.cc/5RUK-6Y9U>].
- [24] *Id.*
- [25] *Id.*
- [26] *Id.*
- [27] *Id.*
- [28] *Id.*
- [29] Vlogbrothers, *Barely Contained Rage: An Open Letter to Johnson & Johnson*, YouTube (July 11, 2023), <https://www.youtube.com/watch?v=tMhgw5SW0h4>.
- [30] *Id.*
- [31] *Id.*; see also *Our Credo*, Johnson & Johnson, <https://www.jnj.com/credo/> [<https://perma.cc/LN5V-RR4J>].
- [32] See Vlogbrothers, *supra* note 29.
- [33] Johnson & Johnson (@JNJNews), Twitter (July 12, 2023, 12:38 PM), <https://twitter.com/JNJNews/status/1679168314986094592?lang=en> (“It is false to suggest—as some recently have—that our patents are being used to prevent access to SIRTURO® (bedaquiline), our medicine for MDR-TB.”).
- [34] John Green (@johngreen), Twitter (July 12, 2023, 5:36 PM), <https://twitter.com/johngreen/status/1679243466524459008>; *Id.* (July 12, 2023, 6:12 PM), <https://twitter.com/johngreen/status/1679252298055274496>; *Id.* (July 13, 2023, 11:11 AM), <https://twitter.com/johngreen/status/1679508967053983745>; John Green (@literallyjohngreen), TikTok (July 12, 2023), <https://www.tiktok.com/@literallyjohngreen/video/7255017410808352042>.
- [35] *Global Drug Facility Update on Access to Bedaquiline*, Stop TB Partnership (July 13, 2023), <https://www.stoptb.org/news/global-drug-facility-update-access-to-bedaquiline> [<https://perma.cc/B6BH-JT79>].
- [36] See *John Goes*, *supra* note 15.
- [37] *Id.*
- [38] *Id.*
- [39] U.N. GAOR, 78th Sess., at 1, U.N. Doc. A/78/L.4 (Sept. 25, 2023).
- [40] *Id.*; cf. G.A. Res. 73/3, *supra* note 8.
- [41] See U.N. Doc. A/78/L.4., *supra* note 39, at 11, 13; cf. G.A. Res. 73/3, *supra* note 8, at 11.
- [42] *Johnson & Johnson*, Financial Times, <https://markets.ft.com/data/equities/tearsheet/summary?s=JNJ:NYQ> [<https://perma.cc/YW6J-D77U>].