

# essential*inventions*

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Mr. Andreas Lykourantzou  
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18 March 2013

Dear Minister Lykourantzou:

Essential Inventions requests both a cooperative agreement and a non-voluntary authorization to use patents on pharmaceutical drugs for cancer, HIV/AIDS and other diseases and conditions under Article 14 of the Greece patent law [LAW No. 1733/87 (FEK 171 A' of 22.09.1987) "Technology transfer, inventions, and technological innovation" as amended by Art. 18, of Law No. 1739/1987 (FEK 201, A' of 20.11.1987)].

Essential Inventions is a non-profit company with officers in the United States and Europe. We propose to secure and import to Greece affordable high quality pharmaceutical drugs for cancer, HIV/AIDS and other diseases and conditions. We propose the following cooperative agreement.

1. The Ministry for Health and Social Solidarity ("the Ministry") identifies patented pharmaceutical and biologic drugs that are not currently available in adequate supplies at affordable prices in Greece.
2. Essential Inventions enters into negotiations with our suppliers in India, Canada and other countries, and identifies the products that it can supply, the timetable for such supply, and the prices for generic or biosimilar versions of the patented products.
3. Upon agreement of the quantities, timetables and prices, the Ministry gives notice that it will be providing a non-voluntary license to use patents under Article 14 of the Greece patent law.
4. Essential Inventions agrees to contact the firms currently selling the patented products to inform them of the pending non-voluntary license, and to propose terms for

compensation for the use of the patent, beginning with the 2005 World Health Organization (WHO) Tiered Royalty Method.

### **Benefits of the Proposal**

Essential Inventions is proposing to directly address the challenge of obtaining adequate and affordable supplies of generic versions of drugs that are currently subject to patent protection in Greece. One alternative to this approach is to negotiate lower drug prices from patent holders. For Greece, this is a challenging and sometimes ineffective approach, in part because patent holders are reluctant to influence other country reference pricing norms or have lower priced drugs enter into parallel trade for other European countries. The compulsory licensing alternative has several benefits to both Greece and the patent holders. For Greece, the ability to acquire products from generic suppliers around the world makes it far easier to obtain affordable versions of drugs protected by patents. In a number of cases, generic versions can be obtained in bulk for 10 to 1 percent of the prices typically charged for European consumers by patent holders. And, while patent holders will lose their monopoly in the Greece market, they will benefit both from royalties on the generic versions and from a curtailment of parallel trade to other European markets, since the generic versions obtained under a compulsory license would be considered infringing products in other European countries.

Essential Inventions is working with persons who have extensive expertise in dealing with generic drug suppliers and compulsory licenses on drug patents. If the government of Greece is willing to explore this option, it will undoubtedly provide new opportunities for Greece to address current shortages of affordable drugs, including for those involving life threatening illnesses.

We request a meeting to discuss this proposal further

Sincerely

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## About Essential Inventions

Essential Inventions, Inc. (EII) is a non-profit corporation organized under the laws of the District of Columbia in January 2004 to promote the creation and distribution of essential inventions and other works that support public health, nutrition, learning, and access to information and cultural life. EII has been involved in two march-in petitions to the NIH for patents on medicines, including the 2004 ritonavir case, which was the only case under the US Bayh-Dole Act for which the NIH has granted a hearing. In the ritonavir case, Abbott agreed to a 80 percent price decrease for medicines that were used by the federal government programs that support most AIDS treatment in the United States. EII was also a co-sponsor with MSF of the proposal that lead to the creation of the medicines patent pool. Additional Information about the board of directors, staff and activities of EII are available on the Internet at <http://essentialinventions.org>.

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### **Article 14**

#### **Licence to the Public Sector**

1. For imperative reason of serving public health and national defence after justified decision of the Minister of Industry, Energy, and Technology and, according to the case, any competent Ministers, a licence for exploitation of an invention can be granted to bodies of the public sector which may exploit the invention in Greece, provided that the relevant invention has not been productively exploited in Greece or the production of the products thereof is insufficient to cover local needs.
2. Prior to the issue of the relevant decision, the patentee and anyone who is in position to give useful advice, are called upon to express their views.
3. By the same decision, following the opinion of OBI, the amount and the terms of the compensation to the owner or the patent are determined. The amount of the compensation is determined in accordance with the extent of the industrial exploitation of the invention. In case of disagreement of the patentee as regards the amount of the compensation, the compensation is determined by the relevant one-member court of first instance of the jurisdiction, in the injunction proceedings.