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On Friday, the [Initiative for Medicines, Access & Knowledge](#) (I-MAK) with [Patients for Affordable Drugs](#) (P4AD) filed an Amicus brief with the United States Supreme Court in support of RPX Corp in *RPX Corp. v. Chanbond LLC* . The case lifts up the issue of whether patients and public interest groups have the right to appeal a decision from an inter partes review (IPR) to the Courts to overturn unwarranted patents—a major cause of high drug prices—after an initial patent challenge receives an adverse ruling.

Under current interpretation of the law, only parties and patent holders facing or accused of infringing a patent are given legal standing to appeal an IPR ruling from the patent board. As the Amicus argues, this effectively blocks public interest groups and U.S. patients from having a full and equal voice in the patent system—a system that wields tremendous influence over the price of pharmaceutical drugs.

The Amicus argues that non-commercial and public interest actors should be given the same rights and channels to the courts as drugmakers.

The Amicus comes in response to a January 2018 ruling from the U.S. Court of Appeals for the Federal Circuit that dismissed an appeal by RPX after their petition submitted to the Patent Trial and Appeal Board through the *inter partes review* process resulted in an unfavorable decision.

Tahir Amin, co-founder and co-director of I-MAK said about the case:

“The question this case lifts up is: do patients and consumers in the U.S. get to have a fair and equal voice in the patent system? Not presently. Current interpretations of the law prohibit non-commercial public interests from appealing any adverse decision resulting from a patent challenge, even though patent holders automatically have that right. The requirement for legal standing in patent cases in the U.S. is very narrow and favors corporations over American families. For the sake of patients struggling to afford and access lifesaving treatments, we need to restore balance and fairness to the legal system to make sure it works for everyone and not the few.

David Mitchell, president and founder of P4AD said:

“This decision matters for patients and American families. We are urging SCOTUS to ensure patients and consumers can appeal to the Courts to overturn unwarranted patents as intended under law. The public has a right to this avenue to fight high drug prices that are keeping life-saving medicines out of reach.”

As the Amicus explains:

...The AIA (America Invents Act) created an administrative framework known as inter partes review to ensure that patent monopolies are restricted to their legitimate scope....IPR enables the United States Patent and Trademark Office (“PTO”), through the Patent Trial and Appeals Board (“PTAB”), to reevaluate its initial patentability decision and cancel unpatentable claims.

The decision below contravenes Congress’ goals. By not allowing petitioners like RPX to appeal adverse decisions, while simultaneously saddling them with estoppel, the Federal Circuit undercuts the AIA’s goal of eliminating bad patents through IPRs filed by third-parties....

Indeed, when an instituted IPR is wrongly denied (as RPX contended in its appeal), the petitioner has spent \$30,500 in IPR fees without obtaining the cancellation of the challenged claims required by statute. That injury is concrete and particularized. And by denying such petitioners standing to appeal, the decision below contravenes Congress’s intent to have full public rights to challenge unmerited patents.

I-MAK is a not-for-profit charitable organization, comprised of lawyers, scientists, and health experts working to increase access to affordable medicines by restoring integrity to the patent system. Since 2006, I-MAK has been working to increase access to medicines around the world. The organization’s legal work and research reaches across 49 countries and 20 treatments for eight diseases, including hepatitis C, HIV, leukemia, tuberculosis, diabetes, cancer, and blood-related disorders. [Click here for more on I-MAK’s impact around the world.](#)

Patients For Affordable Drugs is the only independent, national patient organization focused exclusively on achieving policy changes to lower the price of prescription drugs. A non-profit organization, it was founded and is partly funded by David Mitchell, a patient who is completely reliant on expensive drugs to fight an incurable blood cancer, and his wife, Nicole Mitchell, a breast cancer survivor. Patients For Affordable Drugs does not accept contributions from any organizations that profit from the development or distribution of prescription drugs.