

Ganging Up on Moderna

The left and the feds want to take undeserved credit for the company's Covid vaccine patent.

By [The Editorial Board](#)

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Boxes of Moderna Covid-19 vaccine at Ramathibodi Hospital in Bangkok, Nov. 9.

PHOTO: VICHAN POTI/ZUMA PRESS

Barack Obama captured the view of modern progressives with his famous line about successful businesses: “You didn’t build that.” Now Democrats are claiming that Moderna didn’t invent its enormously successful Covid vaccine—the National Institutes of Health (NIH) did.

Several media outlets reported last week that Moderna is refusing to give NIH researchers credit for patents that were supposedly key to its Covid vaccine. The charge is that Moderna is profiting from government innovation. This misinformation is being used to promote the narrative that drug makers owe their success to the government.

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The main controversy involves a patent over the gene sequence in the Moderna mRNA vaccine for the coronavirus spike protein. Proteins are formed by chains of amino acids, each of which is defined by three mRNA nucleotides. There are literally trillions of possible gene sequences that might have been used to recreate the spike protein.

Moderna scientists studied the permutations and selected the one using their technology that they believed would be most effective. The company filed a patent for it on Jan. 28, 2020.

Democrats nonetheless claim that NIH deserves credit for Moderna's gene sequence and should be named on the principal patent application because government researchers picked the coronavirus spike protein as the vaccine target. But virtually all Covid vaccines target the spike protein, including those made by the Chinese. Moderna's significant contribution was choosing the particular gene sequence to reverse engineer the spike.

Liberals also flog a 2016 patent by scientists at the NIH, Dartmouth College and Scripps Research Institute that made modifications to the coronavirus spike protein, which stemmed from research on other coronaviruses. Moderna's vaccine like many others does encode this modified coronavirus spike, and the company recognizes its importance. But it was by no means the secret sauce to its success. Moderna had filed for a patent for a coronavirus mRNA vaccine prototype in 2015.

Media reports claim that Moderna, unlike other vaccine makers, has refused to pay the NIH for its invention. Yet Moderna has offered to license the government's patent on the same payment terms as other manufacturers. Negotiations with the government faltered once liberal groups turned the issue into a *cri de coeur*.

"This is the people's vaccine," the left-wing group Public Citizen declared last November. "Federal scientists helped invent it and taxpayers are funding its development" so "it

should belong to humanity.” Democratic Senators are now demanding that NIH assert its “rights” to Moderna’s vaccine and force it to share its intellectual property with the rest of the world.

Never mind that Moderna has promised not to enforce its Covid vaccine patents. It has also offered to give the NIH co-ownership of the patent of its gene sequence. What progressives want, however, is for Moderna to concede that the government invented its Covid vaccine. They have been demanding that NIH Director Francis Collins make this proclamation too, and last week he surrendered.

“I think Moderna has made a serious mistake here in not providing the kind of co-inventorship credit to people who played a major role in the development of the vaccine that they’re now making a fair amount of money off of,” Dr. Collins told Reuters, adding: “But we are not done. Clearly this is something that legal authorities are going to have to figure out.”

Government has long financed basic scientific research, but Moderna has spent billions of dollars over many years developing the technology that made its Covid vaccine a success. Liberals now want Americans to believe that government invented Moderna’s vaccine because its success undermines two of their big political goals: Weakening intellectual property protections and imposing drug price controls. If government created the vaccine, then it has a stronger claim to control its price and distribution. Both policies would reduce the incentives and rewards for innovation.

The modern left hates when private companies succeed without relying on government largesse, and all the more when the companies don’t feel a need to apologize for it.

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