

Compulsory Licensing

Practical Experiences and Ways Forward



MPI Studies on Intellectual Property and Competition Law

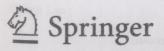
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Contents

Introduction	
Part I Practices Across Jurisdictions	
Compulsory Licence Under Indian Patent Law	
The Use of Compulsory Licences in Latin America	43
Compulsory Licences: Law and Practice in Thailand Jakkrit Kuanpoth	61
Compulsory Licence and Government Use in Taiwan: A Regress Kung-Chung Liu	79
Compulsory Licensing in Germany	95
Refusal to Licence as an Abuse of Market Dominance: From Commercial Solvents to Microsoft	121
Part II The Operation of Compulsory Licensing Regime	
Recognised and Appropriate Grounds for Compulsory Licences: Reclaiming Patent Law's Social Contract	149
Prior Negotiation and Remuneration for Patent Compulsory Licensing: Practice, Problem, and Proposal	16:

		Contents

Ancillary Orders of Compulsory Licensing and Their Compatibility with the TRIPS Agreement	1
Scope and Duration of Compulsory Licensing: Lessons from National Experiences	7
The Requirements for Compulsory Dependency Licences: Learning from the Transformative Use Doctrine in Copyright Law	1
Compulsory Licences of Pharmaceutical Patents to Remedy Anti-Competitive Practices Under Article 31(k) of the TRIPS Agreement: Can Competition Law Facilitate Access to Essential Medicines?	
Denial of Injunctive Relief on Grounds of Equity: Situation in the U.S. and Japan	
Review of Granted Compulsory Licences	
Part III Doctrinal Discussions	
Limiting Patents	13
Mandatory Licensing Under Patent Law and Competition Law: Different Concerns, Complementary Roles	33
of Inappropriate Conduct of It Right Holders	77
Crown Use and Government Use	97
Geertrui Van Overwalle	21
Economic and Procedural Constraints of Compulsory Licences for Medicines	37

Scope and Duration of Compulsory Licensing: Lessons from National Experiences

Ida Madieha bt. Abdul Ghani Azmi

Contents

1	Introduction	208
2	Must Not Go Beyond the Purpose for Which the Licence Is Issued	209
3	Must Address the Harm to Be Alleviated	211
4	Must Be Relevant and Effective	213
5	Must Be Proportionate to the Purpose of Issuing the Compulsory Licence Without	
	Unreasonably Harming the Patent Owner	216
6	Conclusion	219
	eferences	220

Abstract The TRIPS Agreement provides significant flexibility to member countries to determine the scope and duration of compulsory licences issued by them. TRIPS mandates, however, that the scope and duration of the licence must not go beyond the purpose for which the licence is issued. For countries that have never invoked compulsory licences before, the lack of detailed provision on this offers little guidance on how to invoke such licences. This chapter examines national experiences on compulsory licences and draws lessons from them by identifying the relevant criteria in setting the scope and duration of compulsory licences. From these experiences, several observations can be made. It is essential that the terms of such non-voluntary licences address the harm to be alleviated. The terms of the licences must be relevant and effective and proportionate to the harm to be alleviated. The chapter ends by suggesting that national authorities have broad

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