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COMPULSORY LICENSING IN THE PHARMACEUTICAL INDUSTRY

The article considers the issuance of a basic compulsory license in the pharmaceutical industry. The author analyzes the provisions of the TRIPS Agreement, the Doha Declaration, which define the use of patented invention, utility model to address the public authority without the consent of the patent owner. The article considers the practice and conditions of compulsory licensing in foreign countries.

Compulsory licensing may only be permitted if, prior to such use, the user has made efforts to obtain authorization from the right holder on reasonable commercial terms and conditions and that such efforts have not been successful within a reasonable period of time. This requirement may be waived by a member in the case of a national emergency or other circumstance of extreme urgency or in cases of public non-commercial use.

The permission to use the patented invention for the manufacture of drugs is issued by the Cabinet of Ministers of Ukraine. The permit is issued under the following conditions: the patent owner cannot meet the demand for the drug in those conditions that are commonly used to produce the drug; patent owner without good reason refuses to issue the applicant a license to use the invention, utility model.

Compulsory licensing in the pharmaceutical industry is applied to provide patients with inexpensive drugs of the required quantity. Often compulsory licenses are issued for the manufacture to import a medicament for the treatment of AIDS, tuberculosis and malaria. Compulsory licensing can significantly reduce the cost of treatment.