

INTERNATIONAL CONFERENCE

INTELLECTUAL PROPERTY & MEDICAL INNOVATION CHALLENGES FOR THE FUTURE

PATENT EXCEPTIONS AND LIMITATIONS IN THE HEALTH CONTEXT

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WHAT PATENT PROTECTION MEANS

(State) PRIVILEGE

Nature (of the privilege)

MONOPOLISTIC
(personal)

FINANCIAL
(territorial)

With three powers

«Producing»

«Trading»

«Excluding»

ARE THERE ANY STATUTORY EXCEPTIONS-LIMITATIONS?

YES

**THE PROTECTION PROVIDED
BY THE ABSOLUTE RIGHT OF
A PATENT IS LIMITED
AND
THE POWERS ARISING FROM
A PATENT ARE SUSPENDED**

WHEN

- THIS JUSTIFIED BY :**
- **SOCIAL REASONS**
 - **RESEARCH REASONS**
 - **PUBLIC INTEREST REASONS**
 - **PUBLIC HEALTH REASONS**
 - **LEGAL REASONS**

LEGAL FRAMEWORK?

It is an integrated international legal framework harmonized with the national legislation of most countries.

In particularly:

1. «The Agreement on Trade Related Aspects of Intellectual Property Rights(TRIPS)» (GATT, Marrakesh 1994).

Articles 30 and 31

Members/States: 159 countries/members of the World Trade Organization (WTO)

2. Paris Convention for the protection of Industrial Property revised at Stockholm in 1967).

Articles 5A (2) and (4)

Members/states : 175 countries

LEGAL FRAMEWORK?

3. «Declaration of the TRIPS agreement and Public Health» Doha WTO Ministerial Conference, 2001.

Points 4 and 5b), c) και d)

Member/states : 159 countries/members of the WTO

4. The European Union's Legislation and the harmonized national laws.

Regulation (EU) 816/2006 (17 May 2006)

Member/states : 28 countries

WHICH ARE THE EXCEPTIONS

A. COMPULSORY PATENT LICENCES

GRANTED

- ✓ with a state decision
- ✓ without prior consent of the patentee
- ✓ public health reasons
- ✓ generic medicines-manufacturing companies

REQUIRED

- ✓ An administrative act
- ✓ Reasonable Compensation
(law 1733/1987 legal opinion by the OBI)
- ✓ Localized Production
- ✓ Time-limited license-non exclusive license

WHICH ARE THE EXCEPTIONS

A. COMPULSORY PATENT LICENCES

SPECIAL ARRANGEMENT FOR DEVELOPING OR LEAST DEVELOPED COUNTRIES OR COUNTRIES WITHOUT PRODUCTION

- COMPULSORY LICENCES FOR IMPORTS OF GENERICS

(Implementing Decision for the 6th paragraph of the Dohas's Declaration, 30 August 2003)

WHICH ARE THE EXCEPTIONS

B. BOLAR EXCEPTION*

- ✓ The use of a patented medicine is permitted before the expiry date of the patent
- ✓ Without the prior consent of the owner of the patent
- ✓ Preparation of the generic medicines for circulation in the market after the expiry date of the patent
- ✓ Benefit: market entry of low cost medicines 3-6,5 years earlier

WHICH ARE THE EXCEPTIONS

C. INDIVIDUAL PRESCRIPTION*

- ✓ Preparation of a pharmaceutical product in a pharmacy
- ✓ Prescription
- ✓ In specific individual cases
- ✓ Marketing and use of the medicine

WHICH ARE THE EXCEPTIONS

D. SCIENTIFIC RESEARCH*

- ✓ Use for experiments/laboratories
- ✓ Scientific analysis/research
- ✓ Non-commercial use
- ✓ Universities/Research centers
- ✓ Private use

THE EXAMPLE OF A FIFTEEN-YEAR-OLD INVENTOR



ANDRAKA JACK THOMAS, A 15 YEAR-OLD INVENTOR



A' AWARD 2012 International Exhibition of Science and Engineering

PANCREATIC CANCER DETECTION TEST

A piece of paper, impregnated with a nanotube solution containing mesothelin detection specific antibody

Today he is a Researcher at the Johns Hopkins University

PATENTS

US201261656988P/2012067

US201261632838P/20120512

WO2013172866(A2)

TITLE: SENSORS FOR DETECTION OF MESOTHELIN

REGARDS: A METHOD FOR THE DETECTION OF PANCREATIC CANCER



CHARACTERISTICS

RELIABILITY:	100%	- 400 times more sensitive
COST:	3 cents	- 26.000 times cheaper
RESULT:	5 mins	- 168 times quicker

*“The aim of science is not to open the door
to infinite wisdom but rather to set a limit
to infinite error”*

B. Brecht, The life of Galileo, 1963

**Thank you very much
for your attention!**

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