

Paris Convention §5A

“(1) Importation by the patentee into the country where the patent has been granted of articles manufactured in any of the countries of the Union shall not entail forfeiture of the patent.”

- P has product patents in Countries A and B; instead of manufacturing the product in B, P imports products from A; B may not cancel P's patent in B

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“(2) Each country of the Union shall have the right to take legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exercise of the exclusive rights conferred by the patent, for example, failure to work.”

- CLs are permissible to penalize patentees for failure to work, but...

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“(4) A compulsory license may not be applied for on the ground of failure to work or insufficient working before the expiration of a period of four years from the date of filing of the patent application or three years from the date of the grant of the patent, whichever period expires last; it shall be refused if the patentee justifies his inaction by legitimate reasons. Such a compulsory license shall be non-exclusive and shall not be transferable, even in the form of the grant of a sub-license, except with that part of the enterprise or goodwill which exploits such license.”

- B may not use CLs if P offers legitimate excuse
- B must wait 3/4 years before imposing CL
- CLs must be non-exclusive

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“(3) Forfeiture of the patent shall not be provided for except in cases where the grant of compulsory licenses would not have been sufficient to prevent the said abuses. No proceedings for the forfeiture or revocation of a patent may be instituted before the expiration of two years from the grant of the first compulsory license.”

- Forfeiture permissible only as last resort
- B must wait 2 year after first trying CLs