



FACULTY OF JURIDICAL SCIENCES

COURSE: BALLB/BBALLB/LLB

SEMESTER SUBJECT:

INTELLECTUAL PROPERTY RIGHTS

SUBJECT CODE:

BALLB808/BBALLB808/LLB 604

NAME OF FACULTY: PANKHURI SRIVASTAVA

Lecture- 18



LECTURE 18: PATENT LAW: COMPULSORY LICENSING

▣ **Concept of compulsory licence**

Compulsory licensing means the controller of Patent will grant licence to the applicant if after expiry of 3 years from grant of patent the patentee has not commercially exploited the patent.

▣ **Grounds for grant of compulsory licence**

- (i) The reasonable requirements of the public with respect to the patented invention have not been satisfied; and
- (ii) The patented invention is not available to the public at a reasonable price.
- (iii) Non-working of the patent in India on a commercial scale.
- (iv) Demand for the patented articles being met by importation from abroad; and
- (v) Commercial working of the patented invention in India being hindered or prevented by import of the patented articles from abroad.

▣ **Factors to be taken into account while considering the application for grant of compulsory licence under section 84.**

- (1) The nature of the invention, the time which has elapsed since the sealing of the patent and the measures already taken by the patent or licensee to make full use of the invention;
 - (2) The ability of the applicant to work the invention to the public advantage;
 - (3) The capacity of the applicant to undertake the risk in providing capital and working the invention, if the application were granted;
 - (4) As to whether the applicant has made efforts to obtain a license from the patentee on reasonable terms and conditions and such efforts have not been successful within a reasonable period as the Controller may deem fit.
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