

Slovenia

Legal basis

Art. 125 Industrial Property Act (ZIL-1-UPB3) (as amended up to 6 December 2013) (hereinafter IPA).

EU Regulation 816/2006 is directly applicable and Slovenian legislation has implemented Art. 12 of the Biotech Directive.

Grounds for applying for a licence

According to Art. 125(1) IPA, compulsory licences may be granted:

a) where the public interest is concerned, in particular if national security, nutrition, health or the development of other vital sectors of the national economy so requires; or

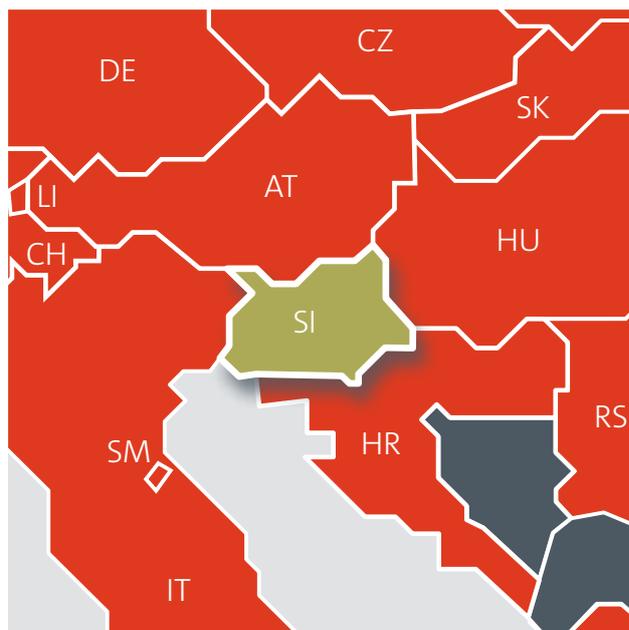
(b) where the court has determined that the owner of the patent or his licensee abuses patent rights, in particular where the manner of exploitation is contrary to the adopted regulations or constitutes a distortion of competition (Art. 125(1) IPA).

The Court shall deliberate on whether a compulsory licence could be granted after assessing the given circumstances and after the owner of the patent is heard in court (Art. 125(2) IPA).

General procedure

The District Court of Ljubljana (commercial department) has exclusive jurisdiction for first instance decisions (Art. 103(2) Courts Act, Official Gazette of the Republic of Slovenia, No. 19/94 as amended).

The applicant may file a request for the grant of a compulsory licence if sufficient proof is demonstrated that an attempt was made to conclude a licence agreement with a patent holder (under reasonable terms) and that such endeavour turned out to be unsuccessful within a reasonable period of time. No such proof is required if a state of war or similar state of emergency has been declared. In such cases, the patent holder must be informed at the earliest convenience (Art. 125(3) IPA).



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The court will grant compulsory licences in favour of the applicant (Government of Slovenia or any third party) if conditions under Art. 125(1) IPA are met and pursuant to the terms in Art. 126(1) and (2) IPA.

If a compulsory licence is granted, compensation shall be due to the patent owner, taking into account the circumstances of the case and economic value of the compulsory licence (Art. 127 IPA).

The court has the discretion to define the scope and expiration date of the compulsory licence in line with the purpose of the compulsory licence in question (Art. 126(1)(a) IPA).

The compulsory licence may not be exclusive; it should be transferrable and should predominantly ensure supply to the Slovenian market (Art. 126(1)(b) to (d) IPA).

The compulsory licence should not infringe other patents, except if the patent subject to the compulsory licence impedes technical development of significant value to the national economy. The compulsory licence should also be granted in favour of the infringed patent holder (cross-licence), and is conditional upon the non-transferability of rights under both patents (Art. 126(2) IPA).

The court may also decide on the duration of the compulsory licence if the circumstances in which the compulsory licence was granted are no longer met and if it such circumstances are unlikely to recur (Art. 126(2) IPA).

The District Court of Ljubljana has exclusive jurisdiction to deliberate in patent matters. Terms that do not fall within the court's discretion are statutory and can be altered only through legislative changes.

Appeal/review

The decision may be appealed to the Court of Appeal of Ljubljana (Art. 31 Non-Contentious Civil Procedure Act, Official Gazette of SRS, No. 30/86 as amended).

Statistics and jurisprudence

Not available.