

San Marino

Legal basis

Art. 36 of Law No. 79 of 25 May 2005 – Industrial Property Consolidation Act and subsequent amendments (hereinafter “the Law”).

Grounds for applying for a licence

Any person proving their capacity to work a patented invention can make a request for a compulsory licence if:

- after four years since the introduction of the application for a patent or three years since the patent has been granted, the patented invention has not been implemented (fully or to an adequate extent) in the Republic of San Marino;
- the implementation of the invention has been, for over three years, suspended or remarkably reduced with reference to San Marino needs;
- the invention protected by an Italian or San Marino patent cannot be used without prejudicing the rights connected to a San Marino patent granted according to a previous application.

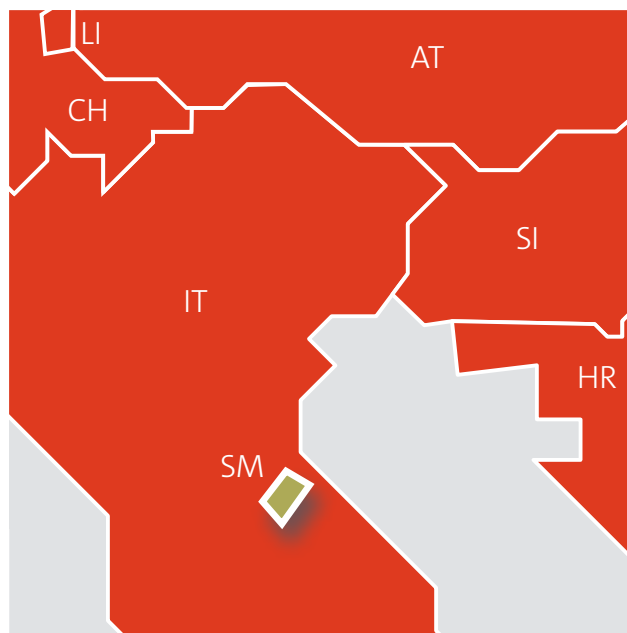
General procedure

The State Office for Patents and Trade Marks is competent to grant compulsory licences pursuant to the provisions of Art. 36 of the Law.

An applicant who wishes to obtain a compulsory licence shall make a motivated request to the Patents and Trade Marks State Office, proving his ability to develop the invention in the Republic of San Marino and indicating the extent and the methods of payment of the offered fee.

The Patents and Trade Marks State Office immediately notifies the patent owner and third parties who have acquired rights on the patent pursuant to registered deeds; they then have 60 days to oppose the application or to declare the non-acceptance of the extent and methods of payment of the offered fee.

The applicant is given another 60 days to submit his response to the opposition by the patent owner or the third parties described above.



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The licence shall be granted or rejected following a procedure carried out by the Patents and Trade Marks State Office. Discretion of the Office is limited to the evaluation of the circumstances as indicated above. The licence may be revoked by the same Office if the conditions established for the development of the invention are not met or if the licence holder has not paid the fee to the extent and with the modalities prescribed.

The decision to grant, change or revoke a compulsory licence shall be recorded in the patent register and made public through the Official Gazette.

Appeal/review

The decision of the Patents and Trade Marks State Office may be appealed before the administrative judge of first instance, pursuant to Art. 112 of the Law.

This article stipulates that every party to a procedure before the Patents and Trade Marks State Office of San Marino may appeal the decisions of the Office before the first instance administrative judge pursuant to Law 28 June 1989 No. 68 (ordinary administrative proceedings).

Statistics and jurisprudence

No jurisprudence available.

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