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Compulsory Licences and Investment in Industrial Property

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Abstract. *Industrial property rights are fundamental to protecting innovation and stimulating technological progress. Compulsory licences represent a legal mechanism that allows governments to authorise third parties to exploit a patent without the consent of the rights holder, serving as both an exception to exclusive rights and a tool for promoting investment. This study aims to explore the role of compulsory licences in encouraging investment, research and development (R&D), and innovation in the industrial field. Using an analytical descriptive approach, the study examines the basic concepts of industrial property and the legal and economic dimensions of compulsory licences. The results indicate that compulsory licences can facilitate technology transfer, attract foreign direct investment, protect public health, and limit abusive practices by patent owners. The study concludes that while compulsory licences offer significant economic and social advantages, their proper use requires a careful balance between protecting intellectual property rights and fostering innovation and investment.*

Keywords: *compulsory licences, industrial property, intellectual property, investment*

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Sənaye mülkiyyətinə məcburi lisenziyalar və investisiyalar

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Xülasə. *Sənaye mülkiyyəti hüquqları innovasiyanın qorunması və texnoloji tərəqqinin stimullaşdırılması üçün əsasdır. Məcburi lisenziyalar hökumətlərə hüquq sahibinin razılığı olmadan üçüncü tərəflərə patentdən istifadə etməyə icazə verən hüquqi mexanizmi təmsil edir və həm eksklüziv hüquqlara istisna, həm də investisiyaların təşviqi üçün bir vasitə kimi xidmət edir. Bu tədqiqatın məqsədi sənaye sahəsində investisiyaların, tədqiqat və inkişafın (R&İ) və innovasiyanın təşviqində məcburi lisenziyaların rolunu araşdırmaqdır. Analitik təsviri yanaşmadan istifadə edərək, tədqiqat sənaye mülkiyyətinin əsas anlayışlarını və məcburi lisenziyaların hüquqi və iqtisadi ölçülərini araşdırır. Nəticələr göstərir ki, məcburi lisenziyalar texnologiya ötürülməsini asanlaşdıra, birbaşa xarici investisiyaları cəlb edə, ictimai sağlamlığı qoruya və patent sahibləri tərəfindən sui-istifadə hallarını məhdudlaşdıra bilər.*

Tədqiqat nəticəsində məlum olur ki, məcburi lisenziyalar əhəmiyyətli iqtisadi və sosial üstünlüklər təklif etsə də, onların düzgün istifadəsi əqli mülkiyyət hüquqlarının qorunması ilə innovasiya və investisiyaların təşviqi arasında diqqətli bir tarazlıq tələb edir.

Açar sözlər: *məcburi lisenziyalar, sənaye mülkiyyəti, əqli mülkiyyət, investisiya*

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Introduction

The protection of creative and intellectual products has become increasingly important in the current global economic and technological landscape, as the new economy rapidly transitions towards a knowledge-based model founded on innovation (Zouani, 2021). Industrial property is one of the main factors stimulating technological and economic development in modern societies. In order to promote investment in industrial property and encourage companies and inventors to develop new ideas and technologies, the system of compulsory licences plays a crucial role (Lakhal & Azzouz, 2023).

It must be noted from the outset that protecting the exclusive right of the original holder of industrial property does not mean protecting the inventor's interest at the expense of society. On the contrary, whenever society suffers harm due to the non-exploitation of that right, the public authority may intervene to restore balance by forcing the holder of the intellectual property right to grant a licence to a third party (Ait Chaalal, 2016). Compulsory licences are a legal mechanism used to grant intellectual property rights to individuals or entities concerned with a particular product or invention, allowing the government to authorise use of industrial property without the consent of the rights holder.

Given the impact of licences on attracting investment in industrial property and encouraging R&D projects, this study examines the factors influencing investors' decisions to invest in industrial property, including the potential benefits and risks associated with compulsory licences. There are clear differences in the matter of compulsory licences from one country to another, depending on government policies and regulations (Al-Kaswani, 2011).

Research Problem: What role do compulsory licences play in investment in the field of industrial property?
Research Approach: The study adopts both descriptive and analytical approaches.

Methods

To achieve the study's objectives, the researchers adopted both the descriptive approach and the analytical approach.

- **Descriptive approach:** Used to define and explain the basic concepts of industrial property rights, their characteristics, and the legal and economic dimensions of compulsory licences as found in

Algerian legislation (particularly Ordinance 03/07 relating to patents), international agreements (the Paris Convention for the Protection of Industrial Property and the TRIPS Agreement), and existing legal literature.
- **Analytical approach:** Employed to examine the conditions, cases, and procedures for granting compulsory licences under Algerian law and to analyse the potential economic effects of these licences on investment, technology transfer, market competition, and public health.
Data were collected from primary legal sources (legislative ordinances, official gazettes, and international treaties) and secondary sources (books, peer-reviewed journal articles, master's theses, doctoral dissertations, and reports from the World Intellectual Property Organization (WIPO), as cited in the reference list).

Results

The analysis of compulsory licences in the context of industrial property yielded the following key results:

3.1 Legal Framework and Characteristics of Industrial Property Rights

Industrial property rights are defined as rights that entitle their owner to invest by exploiting new innovations or using distinctive signs to distinguish his establishment or products (Al-Fatlawi, 1998). These rights have several distinguishing characteristics:

- Moral rights (incorporeal movable): The registration certificate is considered an incorporeal movable with economic content, making it transferable and assignable (Al-Khouli, n.d.).
- Temporary right: Patent protection is temporary, lasting 20 years under Article 9 of the Patent Law (Ordinance 03/07).
- Transferability and pledge: Industrial property rights may be transferred, sold, or pledged, subject to formal registration requirements (Al-Manzalawi, 1983; Ordinance 75/59, Commercial Code).

3.2 Definition and Cases for Granting Compulsory Licences

A compulsory licence is defined as an administrative measure resulting from non-exploitation or insufficient exploitation of the patent by its owner (Al-Absee, 2009). Under Algerian Ordinance 03/07, compulsory licences may be granted in two main cases:

Case	Legal Basis	Conditions
Non-exploitation or insufficient exploitation -1	Article 38	After 4 years from filing date or 3 years from grant date; applicant must have sought a voluntary licence first.
Public interest -2	Article 49	No time limit; applies to national security, health, nutrition, or to remedy anti-competitive practices.

3.3 Economic and Investment-Related Outcomes

The study found that compulsory licences can produce several positive economic outcomes:

- Supporting the national economy: Compulsory licences aim to supply the domestic market (Article 48), break monopolies, employ the workforce, and reduce unemployment (Ben Ayad, 2022).
- Facilitating technology transfer: For developing countries, compulsory licences provide access to necessary technologies that would otherwise be unavailable (Awad Allah, 1983; Abu Al-Hijaa, 2006).
- Attracting investment: Strong intellectual property protection, including a well-regulated compulsory licensing system, encourages foreign direct investment by providing a predictable legal climate (Antar, 2009).
- Protecting public health: Compulsory licences have been used to obtain essential medicines at affordable prices, countering excessive pricing by patent-holding multinational corporations (Hewas, 2021; Yahia, 2020).
- Limiting abusive practices:The threat of compulsory licences serves as an effective deterrent against discriminatory pricing, market non-supply, and unfair terms (Al-Mousawi, 2012).

Discussion

The results indicate that compulsory licences play a prominent role in stimulating investment and innovation in industrial property. They drive investors to engage in research, development, and innovation activities by contributing to technology transfer and knowledge exchange between companies and different sectors (Ferrache & Akroum, 2020). Furthermore, compulsory licences enhance economic cooperation between companies and countries, thereby promoting economic development and creating new job opportunities (Shama, 2015).

However, several challenges must be addressed. The primary challenge is maintaining a proper balance between protecting intellectual property rights and encouraging innovation and investment. If compulsory licences are granted too easily, they may discourage future innovation by reducing the expected returns from patent ownership. Conversely, if they are too difficult to obtain, the public interest may suffer from monopolistic practices and high prices (Imran, 2010; Senoussi, 2020).

The study also notes that compulsory licences are rare for trade marks compared to patents, as they typically arise only where an enterprise holds a dominant market position. Moreover, the effectiveness of compulsory licences depends heavily on the legal and institutional capacity of the granting country. For developing countries, simply having compulsory licence provisions in law is insufficient; they must also possess the technical expertise and administrative infrastructure to implement them effectively (Siddiq, 2009).

Institutions and governments should adopt appropriate policies and procedures to enhance awareness and understanding of compulsory licences, their benefits and challenges. The parties concerned should seek to promote cooperation and the exchange of knowledge and experience in this field, which contributes to improving practices and developing relevant policies (Al-Mousawi, 2012).

Conclusion

Compulsory licences play a vital role in encouraging investment in industrial property and driving innovation. However, attention must be paid to directing them correctly and maintaining a balance between protecting intellectual property rights and supporting economic development in order to achieve sustainable development. The results can be summarised as follows:
- Compulsory licences are granted when a patent concerns the public interest, and the law intervenes to serve the common good.
- Investment in patents can take place through compulsory licences because the patent concerns a large segment of society, so the potential for profit is very real.
- Proper use of compulsory licences can bring important economic and social advantages, but a balance between intellectual property protection and innovation promotion remains essential.

References

1. Abaza, I. E. D. (2016). *Intellectual property, copyright and neighbouring rights, and industrial property*. Dar Al-Jami'a Al-Jadida.
2. Abdel Sadiq, M. S. (2009). *Industrial property: Patents, trademarks, industrial drawings and models*. Dar Al-Nahda Al-Arabiya.
3. Abdul Wahab Ahmed. (2020). *The economic harm resulting from infringement of intellectual property*. http://www.ecpps.org/attachments/article/337
4. Abu Al-Hijaa, R. S. A. (2006). *Patents between Jordanian and Egyptian legislations and international agreements*. Alam Al-Kutub Al-Hadithah.
5. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). (1994). Annex 1C to the *Marrakesh Agreement Establishing the World Trade Organization*.
6. Ait Chaalal, E. (2016). *Protection of industrial property rights against the crime of counterfeiting* (Master's thesis, University of Tizi Ouzou).
7. Al-Absee, E. M. A. (2009). *Compulsory licensing to exploit patents: A comparative study*. Dar Al-Nahda Al-Arabiya.
8. Al-Fatlawi, S. J. H. (1998). *Industrial property according to Algerian laws*. University Publications Office.
9. Al-Kaswani, A. M. (2011). *The law applicable to intellectual property matters* (1st ed.). Dar Wael.
10. Al-Khouli, S. A. (n.d.). *Industrial property rights: Their concept, characteristics, registration procedures*. Dar Majdalawi.
11. Al-Manzalawi, A. H. (1983). *Industrial property*. University Publications Office.
12. Al-Mousawi, H. J. Y. (2012). *Compulsory licensing to exploit patents: A comparative study*. Dar Safa.
13. Al-Muhaisen, O. N. (2011). *The concise in intellectual property law*. Dar Al-Thaqafa.
14. Antar, A. R. A. (2009). *Intellectual property rights and their economic effects*. Dar Al-Fikr Al-Jami'i.
15. Awad Allah, J. A. K. (1983). *The legal system for the protection of inventions and technology transfer to developing countries*. Silsilat Publications.
16. Ben Ayad, J. (2022). *Compulsory licences for patents as a tool for economic development*. *Algerian Journal of Law and Political Science, 7*(1).
17. Ferrache, C., & Akroum, A. (2020). *The compulsory licence to exploit patents in international agreements and its impact on Algerian legislation*. *Professor Researcher: Journal of Legal and Political Studies, 5*(1).
18. Hewas, F. (2021). *Compulsory licences in the pharmaceutical industry*. *Journal of Judicial Ijtihad, 1*(13).

19. Imran, J. (2010). *Compulsory licensing and its impact on the patent system in Libyan and Egyptian law*. *Journal of Legal and Economic Sciences*.
20. Imran, J. (2018). *Compulsory licensing and its impact on the patent system in Libyan and Egyptian law* (Master's thesis, University of Benghazi).
21. Jradi, S., & Soualemia, N. (2021). *Youth uses of the public park: A sociological study in Mascara City*. *Afaaq Journal of Sociology, 11*(1).
22. Lakhal, A., & Azzouz, S. (2023). *The relationship between legal protection of industrial property rights and economic development*. *Journal of Legal and Economic Studies, 5*(3).
23. Ordinance 03/07 of 19 July 2003 relating to patents. *Official Gazette*, No. 44.
24. Ordinance 66/86 of 28 April 1966 relating to industrial drawings and models. *Official Gazette*, No. 35.
25. Ordinance 75/59 of 26 September 1975 concerning the Commercial Code (amended 2022). *Official Gazette*, No. 32.
26. Paris Convention for the Protection of Industrial Property. (1967). *Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Stockholm on July 14, 1967, and as amended on September 28, 1979*. https://www.wipo.int/treaties/en/ip/paris/
27. Senoussi, S. S. (2020). *Compulsory licences for patents under the provisions of UAE Industrial Property Regulation and Protection Law No. 17 of 2002*. *New Economy Journal, 11*(1).
28. Shama, S. M. (2015). *Licences to exploit patents: An analytical study under Algerian legislation*. Dar Houma.
29. Siddiq, J. M. R. (2009). *International responsibility for violations of human rights by multinational corporations*. University Publications House.
30. World Intellectual Property Organization. (2020). *IP handbook: Policy, law and use*. WIPO.
31. Yahia, S. B. (2020). *The role of compulsory licences in confronting epidemics: The case of COVID-19*. *Algerian Journal of Law and Political Science, 5*(3, Special Issue).
32. Zouani, N. (2021). *Investment in industrial property*. *Journal of Law and Humanities, 4*.