Working in the Public Interest

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Parties can apply for a compulsory licence in India on several grounds, including that the invention is not worked in the country. Neeti Wilson explores. 2015 marks a decade since product patents in the area of pharmaceuticals have been allowed in India. Generic pharma companies have finally accepted that such patents are here to stay. Pharma product patents are being opposed before the Indian Patent Office (IPO), are the subject of revocation actions before the Intellectual Property Appellate Board (IPAB) and of compulsory licences (CLs), and are being litigated for infringement (more recently we have seen settlements out of court). Indian patent law, including CL provisions, is TRIPS Agreement-compliant. There is also a specific CL provision for the export of patented pharma products to least developed countries or countries with no manufacturing capacity, based on paragraph 6 of the Doha Declaration. It is pertinent to note that the statute does not distinguish between technological areas of inventions for CLs, but the recent trend indicates CL activity is only in the pharma sector. *This article was published in Life Sciences Intellectual Property Review 2015.* Read more

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