

Granting of compulsory licences is governed by Article 27 and 28 of Act No. 435/2001 Coll. on patents, supplementary protection certificates and on amendment of some acts as amended. Please, see below an unofficial translation of the provisions of Article 27 and 28 into English (Act No 435/2001 Coll. in original, i.e. Slovak language is available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2001/435/>).

Article 27

(1) On the request, the court shall be entitled to grant a compulsory licence to any person, who has proved the capability to exploit an invention, which is subject-matter of granted patent, within the territory of the Slovak Republic, provided that

a) 4 years since filing a patent application or 3 years from granting a patent have expired, where the time limit, which expires later, shall apply,

b) person requesting granting a compulsory licence has offered to the patent holder, before filing a request for compulsory licence, conclusion of a contractual licence on reasonable commercial terms, whilst the patent holder has not accepted the offer within three months, and

c) invention has not been exploited or it has been exploited insufficiently by the patent holder within the territory of the Slovak Republic without an appropriate reason on the patent holder's side, while patented invention as a product has not been supplied to the market in the Slovak Republic in a sufficient quantity. Non-existence of appropriate reason shall be presupposed, unless proved otherwise.

(2) Compulsory licence may be granted only as a non-exclusive licence, whilst its duration and scope shall be limited to purpose for which it has been granted provided that domestic market needs shall be satisfied preferentially.

(3) If subject-matter of a patent is a technology concerning semiconductor products, compulsory licence may be granted only for public, non-commercial exploitation or in order to prevent a patent holder from further actions which, pursuant to a decision of a competent body, can be considered as an action abusing or restricting economic competition or in case of threat of important public interest.

(4) Notwithstanding paragraph 1(a) and (b) compulsory licence may be granted in case of threat of important public interest.

(5) Notwithstanding paragraph 1 and 2, on the request, the court shall be entitled to grant a compulsory licence for non-exclusive use of the biotechnological invention protected by the patent, where a breeder cannot acquire or exploit a plant variety right without infringing a prior patent, if the requester proves that

a) before filing a request for compulsory licence has offered to the patent holder conclusion of a contractual licence, whilst the patent holder has not accepted the offer within three months; and

(b) the plant variety constitutes significant technical progress of considerable economic interest compared with the invention protected by the patent which is subject-matter of the request for compulsory licence.

(6) In case of granting a compulsory licence pursuant to paragraph 5, the patent holder shall be entitled to a cross-licence for use of protected variety under reasonable terms.

(7) If a compulsory licence for use of protected plant variety has been granted to the patent holder, the holder of the variety right shall be entitled to a cross-licence for use of protected invention.

(8) Assignment or transfer of rights from a compulsory licence shall be possible exclusively as a part of assignment or transfer of a company or its part within which an invention is being used on a basis of a compulsory licence.

(9) A holder of a compulsory licence shall be entitled to waive rights from a compulsory licence by a written notice delivered to the Industrial Property Office of the Slovak Republic. Waiver of rights shall come into effect on the day of delivery of the notice to the Office or on a later day which is stated in the notice.

Article 28

(1) By granting a compulsory licence, the right of the patent holder to adequate remuneration shall remain unaffected; Article 26(3) shall apply *mutatis mutandis* for the purposes of determining remuneration for exploitation of an invention, which is subject-matter of a compulsory licence.

(2) In case of substantial change of circumstances, which led to granting of a compulsory licence, the court, on the request of one of the parties to the licence, shall be entitled to cancel a decision on granting a compulsory licence, provided that re-occurrence of reasons for granting a compulsory licence is improbable or compulsory licence rights have not been used during one year.

(3) The Industrial Property Office of the Slovak Republic shall enter valid decision on granting and cancelling of compulsory licence into the Patent Register.

Please, be informed that according to knowledge of the Industrial Property Office of the Slovak Republic the courts in the Slovak Republic have not granted any compulsory licence so far.