WORLD TRADE ORGANIZATION

Council for Trade-Related Aspects of Intellectual Property Rights

Original: English

NOTIFICATION OF LAWS AND REGULATIONS UNDER ARTICLE 63.2 OF THE TRIPS AGREEMENT

HUNGARY: GOVERNMENT DECREE 212/2020 (16 MAY) ON PUBLIC HEALTH COMPULSORY LICENCES FOR EXPLOITATION WITHIN HUNGARY

Notifying Member	HUNGARY

Details of the notified legal text

Title	Government Decree 212/2020 (16 May) on public health compulsory licences for exploitation within Hungary
Subject matter	Patents (including plant variety protection)
Nature of notification	[ ] Main dedicated intellectual property law or regulation [X] Other law or regulation
Link to legal text*	https://ip-documents.info/2020/IP/HUN/20_3563_00_e.pdf https://ip-documents.info/2020/IP/HUN/20_3563_00_x.pdf
Notification status	[X] First notification [ ] Amendment or revision to notified legal text [ ] Replacement or consolidation of notified legal text(s)
Previous notification(s) referred to	Not applicable

Brief description of the notified legal text

In connection with the COVID19 pandemic, the Hungarian Government declared special legal order (State of Danger). During this period, the Government may adopt decrees by means of which it may, as provided for by a cardinal Act, suspend the application of certain Acts, derogate from the provisions of Acts and take other extraordinary measures.

The Government Decree 212/2020 (16 May) on public health compulsory licences for exploitation within Hungary, based on Art 31 of the TRIPS Agreement, creates a public health compulsory licence for exploitation within Hungary.

With a view to satisfying the needs arising within Hungary in connection with the health crisis, the Hungarian Intellectual Property Office (hereinafter "HIPO") shall issue a public health compulsory licence for the exploitation of

a) a medicinal product or an active substance under patent or supplementary protection, or a medical device or an investigational medicinal product under patent protection (hereinafter jointly "healthcare product"), or

b) a procedure, equipment or tool under patent protection that is required for the production of a healthcare product.

On the basis of a public health compulsory licence, the compulsory licence holder shall be entitled to exploit the healthcare product, procedure, equipment or tool solely for satisfying the needs arising within Hungary as set out under Art 1(1) of the Government Decree.

The public health compulsory licence shall not confer exclusive right of exploitation; on the basis of the public health compulsory licence, the public health compulsory licence holder may not grant any licence for exploitation.

The period and fees of the compulsory licence are determined by HIPO.

Healthcare products produced on the basis of a public health compulsory licence shall be distinguished from products produced by the patent holder by a unique marking. The fact that a healthcare product was produced on the basis of a public health compulsory licence granted by the HIPO for the sole purpose of placing it into market in Hungary shall be clearly indicated on the packaging and any related documents.

Upon the termination of the State of Danger, the Government Decree shall cease to have effect.

Language(s) of notified legal text	English, Hungarian
Entry into force	17 May 2020; Upon the termination of the State of Danger, the Government Decree shall cease to have effect.
Other date	Publication: 16 May 2020

Notification details

Submission date of notification	3 June 2020
Other information	
Agency or authority responsible	Ministry of Justice of Hungary 1055 Budapest, Kossuth Lajos tér 4. Department of Competition Law, Consumer Protection and IP Law vfsztfo@im.gov.hu

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* Links are provided to texts of laws and regulations notified under the TRIPS Agreement in the form supplied by the Member concerned; the WTO Secretariat does not endorse or revise their content.