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Article 28

Rights Conferred

1. A patent shall confer on its owner the following exclusive rights:
 - (a) where the subject matter of a patent is a product, to prevent third parties not having the owner's consent from the acts of: making, using, offering for sale, selling, or importing⁶ for these purposes that product;

(*footnote original*)⁶ This right, like all other rights conferred under this Agreement in respect of the use, sale, importation or other distribution of goods, is subject to the provisions of Article 6.

 - (b) where the subject matter of a patent is a process, to prevent third parties not having the owner's consent from the act of using the process, and from the acts of: using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process.
2. Patent owners shall also have the right to assign, or transfer by succession, the patent and to conclude licensing contracts.

1.2 General

1. In *Canada – Pharmaceutical Patents*, the Panel was called on to examine a complaint that a Canadian measure was in violation of Article 28.1:

"There was no dispute as to the meaning of Article 28.1 exclusive rights as they pertain to Section 55.2(2) of Canada's Patent Act. Canada acknowledged that the provisions of Section 55.2(2) permitting third parties to 'make', 'construct' or 'use' the patented product during the term of the patent, without the patent owner's permission, would be a violation of Article 28.1 if not excused under Article 30 of the Agreement. The dispute on the claim of violation of Article 28.1 involved whether Section 55.2(2) of the Patent Act complies with the conditions of Article 30."¹

Current as of: December 2024

¹ Panel Report, *Canada – Pharmaceutical Patents*, para. 7.18.