

Patent office may grant CL in future if circumstances demand so: Patent Controller

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With respect to safeguarding of public interest and to ensure availability of life saving drugs at affordable prices, Patent office informed that they may certainly consider accepting Compulsory Licence (CL) applications in future also, if circumstances demand so. However, Chaitanya Prasad who recently took over the position of controller general of patents stressed that granting of CL will completely depend on the demand of the drug in the country and most importantly the affordability.

This announcement comes in the wake of granting of country's first Compulsory Licence recently by the previous CG, P H Kurian, under Section 84 of the Patent Act. Speaking about historical decision to grant CL to Hyderabad based Natco for manufacturing Bayer's cancer drug Nexavar, Prasad said that the decision had been well balanced and progressive considering the case and its circumstances.

He said, "In this case we see a well reasoned decision given by the previous controller general that both respects the patent as well as fulfils the need towards making life saving drugs available to the public which is otherwise unaffordable to them."

However, Prasad clarified that though granting CL is sometimes essential for ensuring availability of drugs to all the sections of the society, it does not necessarily mean that the patent office will indulge in granting of CL without credible reasons.

He pointed out, "All the decisions given by the patents office will be taken on case-to-case basis after due deliverance and thorough research, based on the facts and circumstances of the case. We do not want to create any confusion or fear among any section of the industry on the credibility of the patents office while considering applications. All measures will be taken to ensure delivery of best services without any bias as the final decision will be taken on subject matter and facts of the particular case."

Compulsory licensing is when a government allows someone else to produce the patented product or process without the consent of the patent owner for the benefit of the public at large. It is one of the flexibilities on patent protection included in the WTO's agreement on intellectual property, the Trade-Related aspects of Intellectual Property Rights (TRIPS) Agreement.