

Chronicle of Compulsory Licenses Foretold: The Sofosbuvir Case in OECD Latin American Countries

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Diego is a lawyer passionate about patents, who has 10 years of professional experience at the Peruvian Intellectual Property Office (INDECOPI). In 2013 he was designated as Technical Secretary (Head of Department) at the Patent Agency, and, as such, he has an active role in Peruvian IP policy-making, which involves the proposition of new regulatory provisions and the participation in the negotiation of FTAs. This position also gives him the authority to manage the processing of the administrative contentious cases in charge of the Agency, that is, pre-grant oppositions, revocations and infringement lawsuits on patents, utility models, designs and new plant varieties.

Diego is very proud to be a lecturer for IP graduate programs since 2017. Currently, he works at Universidad Peruana Cayetano Heredia and Universidad del Pacífico, both located in Lima.

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Abstract

In recent years, Colombia and Chile, both members of the Organisation for Economic Cooperation and Development (OECD), have dealt with requests from health-related associations to declare the public interest of sofosbuvir, the well-known medicine indicated for the treatment of hepatitis C, being this declaration a necessary step for the adoption of compulsory licenses in such countries. As it usually occurs when a country assesses the utilization of this kind of flexibility, national commerce authorities of the IP owner's country of origin and health authorities from Chile and Colombia have carried out a vigorous debate on the legality of the above-referred public interest declaration.

Taking that into account, the purpose of this presentation is to focus on the analysis of the factors that form part of the current discussion on this matter to later determine whether these requests are validly justified or not, in particular, if they are consistent with the TRIPS Agreement.