

# **INTERNATIONAL PATENT EXHAUSTION**

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BUSAN

# ***I. The goods and the markets***

(1) ordinary goods:

- single reward

- international exhaustion

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(2) patented goods:

- a) rewards through patents
  
- b) ● Paris Convention (1883)
  - TRIPS (?)

# ***I. The goods and the markets***

(3) the markets:

a) plurality

- b) i. justified differences in prices (?)
- ii. the profits of parallel importers (!)

**II.**

(1) AIPPI:

- a) no international patent exhaustion  
(Q101 – 146 – 137 – 156 – 202)
  
- b) exception for a common market  
over several countries

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(2) TRIPS

### ***III. The rules***

(1)

a) the legislative rules:

- i. imperative
- ii. “*suppletive*”



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(1)

a) the legislative rules:

- i. imperative
- ii. “*suppletive*”

b) the contractual rules:

- i. express consent
- ii. implicit consent
  - presumed consent(?)

### ***III. The rules***

(2) the law of the contract:

a) the law of the country:

- of first sale
- of importation (?)

b) existence and scope of the consent

### ***III. The rules***

(3) voluntary consent:

a) not mandatory

b) total (price)

c) TRIPS (art. 31 bis)

### ***III. The rules***

(4) the complexity of the assessment of the existence of consent:

a) - rules

- law of the contract  
the parties' intent

b) - implicit consent of the seller

- awareness of the buyer

## ***IV. Conclusion***

- no international patent exhaustion
- express stipulation prohibiting importation

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### **Remarks on the scope of this study :**

- no modification
- no repair, recycling, reconstruction
- no selective distribution

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