Thesis Title	: The Problem on Application Compulsory Licensing by the Government	
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ABSTRACT

Thailand issued compulsory licenses by virtue of Section 51 of the Patent Act B.E. 2522 (A.D. 1979) which was considered as the use by government. The major reason for that began in 2001, when the Royal Thai Government adopted the universal healthcare policy and thereby enacted National Health Security Act B.E. 2545 (A.D. 2002). The Act ensured that all the Thais would have equal access to essential drugs as listed in the national drug lists, and would be entitled to demand the access to other necessary drugs as well; hence the Royal Thai Government significantly increased the allocation of the public healthcare budget. However, the patent drugs were very expensive because the pharmaceutical companies monopolized them. Consequently, the Ministry of Public Health announced the use of the compulsory licensing on such patent drugs. This greatly affected Thailand: the patent holders, the multinational pharmaceutical companies, alleged that Thailand's compulsory licensing did not meet the requirements set forth in Article 31 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Doha Declaration on the TRIPS Agreement and Public Health, and Paris Convention for the Protection of Industrial Property. Therefore, this thesis aims at examining the legal problems on the compulsory licensing by the Royal Thai Government.

The research reveals that Thailand has the right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted. Thus, the compulsory licenses granted by the Ministry of Public Health and the Department of Disease Control by virtue of Section 51 of the Patent Act B.E. 2522 (A.D. 1979) which was considered as the use by

government, are in compliance with the requirements set forth in Article 31 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Doha Declaration on the TRIPS Agreement and Public Health, and Paris Convention for the Protection of Industrial Property. Nevertheless, the scholars split over the consequences of the compulsory licensing. One group argues that the announcement of the Ministry of Public Health is enforceable because Section 51 of the Act permits the use by the government, whereas the other argues that only the Director – General of the Department of Intellectual Property has the authority to grant the compulsory licenses as provided in Section 50 paragraph two; as a result, the compulsory licenses granted by the Ministry of Public Health Announcement was unenforceable.