

BIO664

IP and Tech Transfer

Brazil and HIV medicines

Patents on AIDS drugs had expired or were not in effect when, in 1994, a Brazilian public lab began producing medicines to combat the epidemic. Even after a 1996 law was passed that recognized pharmaceutical patents, the country was able to continue manufacturing many key AIDS drugs.

Article 71 of the 1997 Brazilian patent law requires that foreign products be manufactured in Brazil within 3 years of receiving a patent. If a foreign company does not comply, Brazil may authorize a local company to produce the drug without the consent of the patent licensee.

A 1999 presidential decree given by Brazil's President Fernando Henrique Cardoso declared the AIDS epidemic amongst its citizens a national emergency. The decree allows for local Brazilian manufacture of foreign patented medicines by a government granted license, but only for cases of national emergency.

In early 2001, the U.S., pushed by domestic pharmaceutical lobbies filed a complaint with the World Trade Organization saying Brazil had violated the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights, known as TRIPS.

- How can a developing-world government put health before trade when considering political and economical pressures?
- Is the right to life a powerful enough human rights issue to be able to violate drug patent laws?
- How can drug companies be given incentives to innovate (which costs millions of dollars and a long gestation time), while allowing poor countries access to desperately needed drugs?

Adapted into case format from student presentation by Benjamin Blasco, Anna Ferretti, Sophie Venet (Fall 2009).