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# From Fair Use to Compulsory Licensing: The Evolution of Limitations on Intellectual Property Rights in the UK and the USA

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The development of intellectual property law over several centuries has been accompanied by the search for a balance between the interests of right holders and the public interest. Exclusive rights have traditionally been granted to authors and inventors in order to stimulate scientific and technological progress. However, such rights have never been absolute and have always been limited in time and scope. Within this model, the state has attempted to ensure a compromise between the monopoly of the right holder and society's need for access to the results of intellectual activity. One of the legal mechanisms designed to achieve such balance is the institution of compulsory use of intellectual property without the consent of the right holder.

The purpose of this study is to analyze the evolution of compulsory use mechanisms in the United Kingdom and the United States. Particular attention is paid to the distinction between compulsory use and fair use as different mechanisms limiting exclusive intellectual property rights.

Historically, the prerequisites for limiting exclusive rights emerged during the era of royal privileges. Already in the English Statute of Monopolies of 1623, certain conditions were established under which the grant of exclusive rights to inventions should not harm the state, trade, or the public interest [1]. This act laid the foundations for the understanding that exclusive rights may be restricted where their exercise contradicts the public good [5].

In copyright law, the idea that works may be used without the author's consent developed after the adoption of the Statute of Anne of 1710. Judicial practice of the eighteenth century, including cases such as Burnett v. Chetwood and Millar v. Taylor, gradually formed the view that certain forms of use did not constitute copyright infringement [8]. Translations, abridgements, and adaptations were increasingly regarded as independent creative works [3]. These approaches later became historical foundations of the doctrine of fair use.

At the same time, compulsory use of intellectual property developed according to a different legal logic. Unlike free use, compulsory use presupposes that a protected work or invention may be used without the consent of the right holder but subject to payment of remuneration and compliance with statutory procedures. As early as the nineteenth century, English law began to develop mechanisms similar to modern compulsory licensing. One example is the case of In Re Mallet's Patent (1866), where the court effectively required the patent holder to grant licenses to all interested parties on terms similar to those previously agreed with another licensee [6].

The legislative consolidation of compulsory licensing in the United Kingdom was achieved with the Patents, Designs and Trade Marks Act of 1883 [7]. The Act provided for the possibility of granting compulsory licenses in cases of non-use of an invention, inability to satisfy reasonable public demand, or obstruction of the economic activity of other persons. Thus, the legislature

recognized that exclusive rights cannot be regarded as absolute and may be restricted in the public interest.

Subsequently, the development of compulsory licensing largely occurred at the international level. The Paris Convention allowed compulsory licenses in cases of non-working of patents, while international copyright agreements introduced similar mechanisms for educational and socially significant purposes. Since the adoption of the TRIPS Agreement, compulsory licensing has increasingly been viewed as a tool for ensuring access to technologies and medicines.

In the United States, the development of compulsory use mechanisms occurred within a somewhat different institutional framework. Judicial interpretation and antitrust regulation played a crucial role in shaping this institution. American courts gradually developed the doctrine of the "social responsibility" of patent holders, according to which exclusive rights may be limited if their exercise hinders innovation, scientific development, or the public welfare [4].

Notably, as in the United Kingdom, early statutory forms of compulsory licensing in the United States appeared in copyright law rather than in patent law. The Copyright Act of 1909 introduced a compulsory license for the mechanical reproduction of musical works. This mechanism allowed third parties to use a work without the author's consent, provided that statutory royalties were paid to the copyright holder [2].

Historical analysis demonstrates that fair use and compulsory licensing have different legal natures. Fair use represents an exception to exclusive rights, allowing certain uses of works without remuneration and without obtaining permission from the right holder. Compulsory licensing, by contrast, preserves the exclusive right but limits the right holder's control by granting third parties the legal right to use the protected subject matter in exchange for remuneration.

In this regard, it appears reasonable to treat both mechanisms as elements of a broader category of limitations on intellectual property rights. Such a generic concept makes it possible to explain their historical evolution and avoid an artificial opposition between these institutions in contemporary legal doctrine.

Thus, the experience of the United Kingdom and the United States shows that mechanisms of compulsory use of intellectual property developed in response to social and technological change and reflect the search for a balance between exclusive rights and the public interest.

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