



THE PATENTS ACT, 1970

CHAPTER XXIII MISCELLANEOUS

Section 140

Avoidance of certain restrictive conditions

(1) It shall not be lawful to insert—

- (i) in any contract for or in relation to the sale or lease of a patented article or an article made by a patented process; or
- (ii) in licence to manufacture or use a patented article; or
- (iii) in a licence to work any process protected by a patent, a condition the effect of which may be—
 - a. to require the purchaser, lessee, or licensee to acquire from the vendor, lessor, or licensor or his nominees, or to prohibit him from acquiring or to restrict in any manner or to any extent his right to acquire from any person or to prohibit him from acquiring except from the vendor, lessor, or licensor or his nominees any article other than the patented article or an article other than that made by the patented process; or
 - b. to prohibit the purchaser, lessee or licensee from using or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee, to use an article other than the patented article or an article other than that made by the patented process, which is not supplied by the vendor, lessor or licensor or his nominee; or
 - c. to prohibit the purchaser, lessee or licensee from using or to restrict in any manner or to any extent the right of the purchaser, lessee or licensee to use any process other than the patented process,
 - d. to provide exclusive grant back, prevention to challenges to validity of Patent & Coercive package licensing,

and any such condition shall be void.

(2) A condition of the nature referred to in clause (a) or clause (b) or clause (c) of sub-section (1) shall not cease to be a condition falling within that sub-section merely by reason of the fact that the agreement containing it has been entered into separately, whether before or after the contract relating to the sale, lease or licence of the patented article or process.

(3) In proceedings against any person for the infringement of a patent, it shall be a defence to prove that at the time of the infringement there was in force a contract relating to the patent and containing a condition declared unlawful by this section: Provided that this sub-section shall not apply if the plaintiff is not a party to the contract and proves to the satisfaction of the court that the restrictive condition was inserted in the contract without his knowledge and consent, express or implied.

(4) Nothing in this section shall—

- a. affect a condition in a contract by which a person is prohibited from selling goods other than those of a particular person;
- b. validate a contract which, but for this section, would be invalid;
- c. affect a condition in a contract for the lease of, or licence to use a patented article, by which the lessor or licensor reserves to himself or his nominee the right to supply such new parts of the patented article as may be required or to put or keep it in repair.

(5) [Omitted]

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