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Thesis Summary

Renewable energy sources, such as wind, solar, geothermal, ocean, biomass, and waste-to-energy, have attracted wide attention and developed rapidly in many parts of the world. However, most of renewable energy patents are held in developed countries. This situation restricts the use and development of renewable energy sources in emerging economies including China and India.

A compulsory license permits a government (or a third party authorized by the nation) to use a patented invention without permission of the patent owner in exchange with the payment of a government's determined royalty. In order to promote renewable energy technology in developing countries, appropriate restrictions of the right of patentee of renewable energy technology are worthy of exploration. This paper purposes to argue that compulsory licenses should be introduced into renewable energy sector in China and to explore system design by analyzing a variety of interests from a political philosophy perspective.

In Chapter 1, after making a review of the literature including studies on compulsory licenses, pharmaceutical industry and environment-related field, I point out the following limitations of the literature. First, besides pharmaceutical industry there is no research that explores the field of the renewable energy technology from a perspective of political philosophy. Second, compulsory licenses in a specific country have been rarely studied. China, the largest emitter of green house gases, is worthy studying in terms of renewable energy policy. Based on my assessment of the literature, the objective of my research is to analyze the current situation of Chinese compulsory license system and to propose a new mechanism of such license by developing concepts and ideas utilized in the politico-philosophical literature on the idea of interest.

In Chapter 2, I describe the current situation of renewable energy patents, most of which are held by businesses based in developed countries. This situation raises the challenges for developing countries that face environmental problems such as climate change, pollution and energy depletion. Next, the legal arrangements of compulsory licenses in pharmaceutical industry both in China and some other parts of the world are described. Observations shed a new light on the legal basis for possible compulsory

license in renewable energy field. Most of the countries have enacted legal regulations on compulsory license; however, only a few of countries have implemented it in pharmaceutical industry in practice.

In Chapter 3, I discuss the three pairs of interest: interest as welfare and interest as resource; reflective interest and volitional interest; public interest and private interest. I examine the welfarist conception of interest and the idea of volitional interest, and then show the strengths of the resourcist conception of interest and those of reflective interest. In the context of patent, we can see that a patentee, a licensee and consumers have different interests, and the interests of other parts than a patentee will be improved by compulsory licenses.

Next, in Chapter 4, I argue that interests in the field of renewable energy technology are not only relevant to the present generation in China but also to current peoples in other societies and future generations. Climate change and environmental pollution are threats to transnational interests, and resource depletion is closely related to the posterity's interest. Interest as resource and reflective interest of licensee and consumers will be promoted when compulsory license in renewable energy technology.

In Chapter 5, I offer recommendations for system design. The current legal framework of compulsory license in China has no distinct rules governing renewable energy technology and lacks implementation of the existing rules. In response to these limitations, I propose adding new clauses: which authorize compulsory license in renewable energy technology to Patent Law, and new provisions enhancing the force of proposed program to Measure for Compulsory License on Patent Implementation. Finally, some suggestions are made to meet implementation challenges, including a reasonable price and economic reward that may keep the incentive of a patentee.

Chapter 6 summarizes major findings and arguments. Compulsory license is regulated by international treaties. Nevertheless, how to implement compulsory license depends on relevant laws in each country. This paper focuses on Chinese laws governing compulsory license and their possible improvements. Because compulsory license system is crucial to a variety of interests, the analysis of conception of interest is of great importance. In this paper, the research on compulsory licenses on renewable energy technology in China has been carried out from a perspective of political philosophy. From chapter 3 and chapter 4, it is concluded that the conceptions of

interest as resource and reflective interest are appropriate. Taking advantage of these interest conceptions, I analyzed the Chinese legal system and made a conclusion that compulsory license system should be introduced into renewable energy technology.