AIPPI FORUM SINGAPORE
October 4 - 6, 2007

Session VI

Requirements for granting preliminary injunctions in IPR infringement

Friday, October 5, 2007
04.00 to 05.30 p.m.

Moderator:
Guillermo Carey (Assistant Secretary General of AIPPI)

Speakers:
Richard Ebbink (The Netherlands)
John Livingstone (Japan)
Justice Choo Han Teck (Supreme Court of Singapore)
One powerful tool in infringement actions are preliminary injunctions, i.e. injunctions which prohibit the alleged infringer from continuing his infringing actions not permanently but at least for a certain time. Art. 50 TRIPS contains certain rules regarding provisional measures and provides for a minimum standard of the national legal systems. Nevertheless, the requirements for granting preliminary injunctions differ significantly in the various jurisdictions. This does not only refer to procedural differences but also to substantive issues. As a result, the effectiveness of enforcement proceedings will also vary from country to country.

The speakers in this session will give an insight into their own experience. The aim is to present solutions and general advice also from a comparative point of view. The comparison will reveal advantages and disadvantages of different systems and should also help to advance systems which are still lacking sufficient options for preliminary injunctions in IPR infringement cases. Another aspect may be conclusions to be drawn from the latest developments in US case law following the US Supreme Court “Ebay” decision which dealt with conditions for permanent injunctions.
Richard Ebbink

“Richard Ebbink, advocate, BRINKHOF, Amsterdam

Richard Ebbink’s practice concentrates on conducting and coordinating European patent litigation. He has successfully represented international companies before the Courts of The Hague and is internationally respected for his poise in coordinating parallel national proceedings and EPO oppositions. His language skills (fluent English, French, and German) particularly recommend him in an international context. He is an experienced trade mark litigator as well, having represented major trade mark owners for many years.

Richard (1957) is a regular speaker at international conferences on cross-border patent enforcement, equivalence, and the future of the European patent system. He attended law school in Amsterdam and New York (Columbia University Law School; LLM, 1983) and spent three years in the US.”

Short Summary of Presentation

Practice:
- patent infringement
- trade mark infringement

Legal Framework:
- TRIPS Agreement, 1996
- National Procedural Rules and Practices in Europe

National Courts:
- experience of judges (concentration of jurisdiction or venue)
- timing
- costs

Requirements:
- urgency
- success on the merits
- balance of interests

Basis for this presentation:
- Experience with PI proceedings in several European countries and recent information from England, France, Germany, and the Netherlands.
John Livingstone

John Livingstone is resident in the firm’s Tokyo office, where his practice includes patent, trademark, and copyright litigation; appellate practice; client counseling; due diligence; opinion; and prosecution work. John concentrates in the areas of pharmaceuticals, biotechnology, and chemistry, including litigation of cases arising from the filing of abbreviated new drug applications.

As a graduate student, John studied and researched neuroscience, while teaching at the undergraduate level. His thesis research in reproductive neuroendocrinology focused on the effects of ovarian steroids on intracellular messenger systems.

While in law school, John was a member of the Emory Law Journal. He has written numerous research articles and presented to national and international audiences.

Admitted:

Education:
Emory University School of Law (J.D., with honors, Order of the Coif, 2001); Florida State University (M.S., Biology, 1997; B.S., Biochemistry, 1994).

Association Involvement:

Representative Publications:


