



What is a Quality Patent ?
- User perspective -

Competitors of Patent Owner

FICPI/AIPLA Colloquium
Amsterdam
June 8-9, 2007

Where does the competitor stand ?

- Active in the same technical field as the patent owner
- Offers the same or a similar technology to the market
- Faces exclusive rights of competitors (third patent owners)
- May have exclusive rights himself, e.g. own patent portfolio

Challenges for the competitor

- ✓ Find a position among the other market players to accomodate the needs of his customers
- ✓ Is there a reasonable choice of technology?
- ✓ What is the IP situation with regard to this/these technology(ies)?

Impact of the IP Situation

- Patented technology is available for the customers to a limited extent
- Forces competitor to develop own technology (circumvention of the patented technology) which may also be patented
- Creates exclusive positions for the patent owner and the competitor („strike back“)
- Good quality patents strengthen competitive position
- Bad quality patents cause uncertainty among customers

How can patent owner influence the IP situation?

- File multiple claims
- Delay granting or refusal of patents
- File cascades of divisional applications or continuation applications
- Description is unclear or does not match the claims (in particular after amendment of claims)

Criteria for a quality patent

- ✓ Strict application of patentability criteria
- ✓ Timely decisions in search and examination (avoid delays)
- ✓ Predictability (clear scope of protection)

What needs to be changed?

- Force applicants to comply with deadlines and guidelines
- Limit cascades of divisional and similar applications?
- Limit number of claims?
- Equip PTOs with means to facilitate search in particular with regard to new technologies
- Other structural improvements



AIPPI positions on quality patents (www.aippi.org)

- **Q193** (ExCo Singapore 2007): Divisional, continuation and continuation in part applications
- **Q189** (Congress Gothenburg 2006): Amendment of patent claims after grant
- **Q175** (ExCo Lucerne 2003): Role of equivalents and the prosecution history in defining the scope of patent protection
- **Q150** (ExCo Sorrento 2000): Patentability requirements and scope of protection of biotech inventions



AIPPI positions on quality patents (www.aippi.org)

- **Q142** (Congress Rio de Janeiro 1998): Breadth of claims, support by disclosure and scope of patent protection
- **Q119** (ExCo Copenhagen 1994): Restitution of patent and patent application rights which have lapsed because of post filing defaults in meeting time limits



Thank you !