

Intellectual Property

2011 has been a big year for Intellectual Property (IP) with several key news stories and legislative changes taking place across the world. The US saw the passing of the America Invents Act, which changed the country's patent laws into a 'first to file' system as opposed to a 'first to invent' system, and on a more global scale, the Internet Corporation for Assigned Names and Numbers (ICANN) announced plans to extend the number of domain names available, paving the way for companies to expand their brand by using an identifiable word for their web addresses, i.e. .google, .canon or .nike. To find out more about the IP world during 2011, *Lawyer Monthly* speaks to Rainer Kuhnen, co-founder of German IP law firm, KUHNEN & WACKER.

Q What key IP-related cases have you been involved in this year?

Many cases have key characteristics, but if recent, we must not disclose any details. A long ago case was the famous "Epilady" case where, for the first time, the same European patent was enforced against the identical infringement form in many European countries in parallel. The result was that all kinds of possible judgments in the different countries – held infringing (Germany, Netherlands), not infringing (UK, Italy), patent valid (all countries except Austria), patent invalid (Austria). This already showed the need for a pan-European court which has since then been in focus.

Q What were the key legislative progressions?

While not legislation in Europe, the America Invents Act (AIA) is a key legislation also for Europe. The Patent Prosecution Highways (PPHs – mutual recognition of examination results) become more and more accepted. With further progress ahead on the Substantive Patent Law Treaty (SPLT) - after the US AIA change to first-to-file - there is a substantial decrease in the amount of foreign patent prosecution costs on the horizon.

Q How do you feel it may progress in 2012; what legislative changes are on the horizon/do you see the need for?

There appears to be a breakthrough with a pan-European Patent Court and with the unitary EU patent (valid in the entire EU just like a US patent is valid in all states of the USA), for all EU member states, maybe without Spain and Italy. Plans for this have been discussed for more than ten years, but always failed to get unanimous consent primarily because an agreement could not be reached on the language regimes. Except for Spain and Italy, these problems have now been resolved so that the EU Regulations for the unitary EU patent and the new court seem to become available next year.

Q Please give us a little more information about yourself, your role and your firm.

KUHNEN & WACKER was founded by Paul-Alexander Wacker and myself more than 35 years ago. The professional staff is highly specialised in all intellectual property matters, including trademarks and patents.

KUHNEN & WACKER is specialized in IP-related litigation and prosecution and offers all kinds of services in connection thereto.

We are dedicated to providing our clients with the highest quality service at reasonable costs. We have a fine blend of senior attorneys with huge experience over time, and younger, very energetic attorneys who may, in case of need, rely on the experience of their more senior colleagues.

Our typical domestic clients include individual or SME specializing in some technological niche and requiring world-wide protection for its leading edge technology and our typical overseas clients includes big corporations needing large numbers of patents around the world (Overseas clients need a domestic representative abroad even if they have large IP departments). **LM**

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