1. Principles of Equivalents in French Law

- Not enacted in a specific law
- Case law construction
CLASSICAL DEFINITION

« TWO MEANS ARE EQUIVALENT, ALTHOUGH THEY HAVE A DIFFERENT SHAPE, IF THEY ACCOMPLISH THE SAME FUNCTION FOR THE SAME END RESULT »

ALTERNATIVELY:

« IN ORDER TO HAVE A COUNTERFEITING ACT BY EQUIVALENCE, THE PRODUCT HAS TO REPRODUCE THE SAME FUNCTION, FOR THE SAME END RESULT AS THE PATENTED MEAN »

3 MAIN ELEMENTS:

- THE MEANS (« HOW IS IT DONE? »)
- THE FUNCTION (« WHAT DOES IT DO? »)
- THE END RESULT (« WHAT IS IT FOR? »)
THE MEANS («HOW IS IT DONE? »)

« THE TECHNICAL ELEMENTS GIVING ITS SOLUTION TO A GIVEN PROBLEM »

THE FUNCTION (« WHAT DOES IT DO? »)

« THE TECHNICAL EFFECT IN THE PROCESS »
THE END RESULT (« WHAT IS IT FOR? »)

« THE OUTCOME OF THE FUNCTION »

2. RECENT DEVELOPMENTS / EXAMPLES IN CASE LAW

SUPREME COURT, COMMERCIAL CHAMBER, APRIL 3RD 2012, X. VS BROYEURS BECKER:

➢ All the means have to be reproduced in order to have a counterfeiting act by equivalency

SUPREME COURT, COMMERCIAL CHAMBER, SEPTEMBER 29TH 2015, CDVI DIGIT VS SEWOSY:

➢ The function has to be covered by the patent

PARIS COURT OF APPEAL, MAY 17TH 2016, SOC. RABAUD VS SOCIÉTÉ D’ÉQUIPEMENT POUR L’ENVIRONEMENT