

EQUIVALENTS IN FRENCH PATENT LAW

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[1]

1. PRINCIPLES OF EQUIVALENTS IN FRENCH LAW

- NOT ENACTED IN A SPECIFIC LAW
- CASE LAW CONSTRUCTION



[2]

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'ENVIRONNEMENT