

Germany

Technology is all around us. It moves a fast pace and affects almost every aspect of life. Legally, the technology sector is a major area with several key practice areas coming in to play, particularly Intellectual Property. In 2011 there were many high-profile IP stories involving some of the world's biggest technology players – Samsung, Apple, HTC and Google – relating to various litigious cases revolving around IP and infringement. To find out more about the legal issues surrounding the Technology sector currently, *Lawyer Monthly* speaks to Paul-Alexander Wacker, a founding partner of KUHLEN & WACKER, a leading Intellectual Property Law Firm in Freising/Munich, Germany.

Q Technology moves at a fast pace; can legislation keep up? How?

The progress in the information and communication technologies including software related inventions still shows big differences in the different jurisdictions and the different reflections in the related population. Atomic energy and green biotechnology are typical fields where the lawmakers have to decide between the public mainstream and the tendencies of the media on the ecological side and the needs and costs from an economical side. For more than 35 years Mr. Wacker of KUHLEN & WACKER has been active in networking between top managers, entrepreneurial groups, politicians and academia in many nations to assist in balancing the modernization of existing and new IP related Acts and is including younger partners in these networking skills.

Q Please introduce yourself, your role and your firm.

I co-founded KUHLEN & WACKER with my partner, Rainer A. Kuhnen. As a qualified German Patent Attorney since 1975, and as a European Patent Attorney and a European Trademark and Design Attorney I am specialized in many fields of electrical engineering as well as in mechanical and medical technology. In addition to my long experience with

outstanding patent litigation, trademark and mediation cases as well as my background in business administration I have acquired valuable know-how in the management and valuation of intellectual assets and in the fields of trademarks, designs, licensing and litigation.

KUHLEN & WACKER is a full service intellectual property (IP) law firm which was established more than 35 years ago in Freising close to the Munich airport. The firm represents SMEs as well as major corporate and global technical innovators. We have a fine blend of senior attorneys with sophisticated experience over time, and younger proactive attorneys who sometimes form teams by integrating the experience of their more senior colleagues and/or to complete various interdisciplinary teams.

We are a diverse team of presently 82 persons, 17 of whom are specialized attorneys and attorneys at law. These attorneys are supported by 7 expert patent engineers and specialists, as well as by a highly qualified and multilingual administrative team. As such, we are known to successfully handle also complex cases.

Q What are the common types of cases you see within the technology sector?

Our firm is strongly related to the automotive sector and its suppliers with

a large variety of components in electrical, chemical and material technologies. Moreover, a second strong field of technology covers the information and communication technologies as well as the software business and its related equipment like office equipment and parts thereof and the semiconductor business. A third group is very active in medical technology and implants as well as image processing and other optical devices. A further group is related to the energy technology with exploration, distribution and storage as well as new resources including chemical and thermal processing. New materials and biochemistry including pharmaceutical inventions are part of our chemical, biochemical and biotechnology group. The nutrition technology includes any kind of classical and new food and drink and health technology.

Q What are the main types of litigation and arbitration to arise within the technology sector?

As the founders of KUHLEN & WACKER, we very early obtained and developed a profound experience in litigation. Therefore, our long record of success involves the "Epilady" litigation as well as more recent litigation cases relating to cardiac stents, ink cartridges for printers and in the automotive field.

Q What are the most common challenges to arise when working on technology-related cases?

Typically progressing and emerging markets are resulting from interdisciplinary objectives. The ability to communicate with experts from different fields of technology is not only achieved by members of the firm KUHLEN & WACKER having more than one technical background, but in a daily cooperation and discussion with members of other teams in order to exchange specific know-how and to comply with interface problems and slang words of laboratories, and in a continued education in international meetings with clients and attending special seminars.

Q What are your opinions of the recent ongoing patent battles between some of the major telecoms companies – Samsung, Apple, Google etc? Will this type of litigation continue or begin to peter out?

We at KUHLEN & WACKER have early on experienced the changes from an industry-based society to a knowledge-based society, in which the battleground of the economic war has shifted from specific nations to specific technologies. Companies who are permanently prepared to invest a serious part of their profits in scouting new technologies, fashions and tastes and are able to secure the results of their efforts to maintain or regain a leading edge have one leg on the ground of success. The other leg has to walk on permanent benchmark efforts, and both legs have to be controlled by a visionary chapter, as the values of related litigation will increase and shareholders have to recognize that the securing of intangible values is a necessary part of serious reinvestments in research and development.

Q Were there any legislative changes particularly relevant to the technology sector in 2011?

The legislative changes in 2011 have had mainly a defensive character against the growth of IP and especially against the

innovative power of SMEs. Fee increases in most jurisdictions, deterioration in the prosecution and litigation procedures and the extreme bureaucratic handling of the interpretation of Acts and Rules have frustrated most SMEs to open their mind for the cooperation with major corporations. The amended US-patent Act of 2011 may allow SMEs to grow again in the USA after its full implementation. Maybe the upcoming new unified European Patent and related European Patent Court can help to respect innovations from SMEs and to fertilize the international cooperation.

Q Do you foresee the need for legislative change in 2012, if so why?

Only the new unified European Patent System of 2012 and the ongoing amendment of the US-patent Act can help balancing the sophisticated know-how of the West with the economic and human power of the East in a Fair Trade. According to the 6th Konradjewe Cycle only the efforts in a more human approach will result in a peaceful world. **LM**

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