

Patent Litigation in France

*International Patent Litigation
Monday 14th September 2009 • Millennium Knightsbridge Hotel, London*

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Patent Litigation in France

Courts dealing with Patent Cases in France

- Only 7 out of 190 courts of first instance have jurisdiction for patents
- Court of Paris deals with 80 % of the cases
- Plan to give exclusive jurisdiction to the Court of Paris in 2010

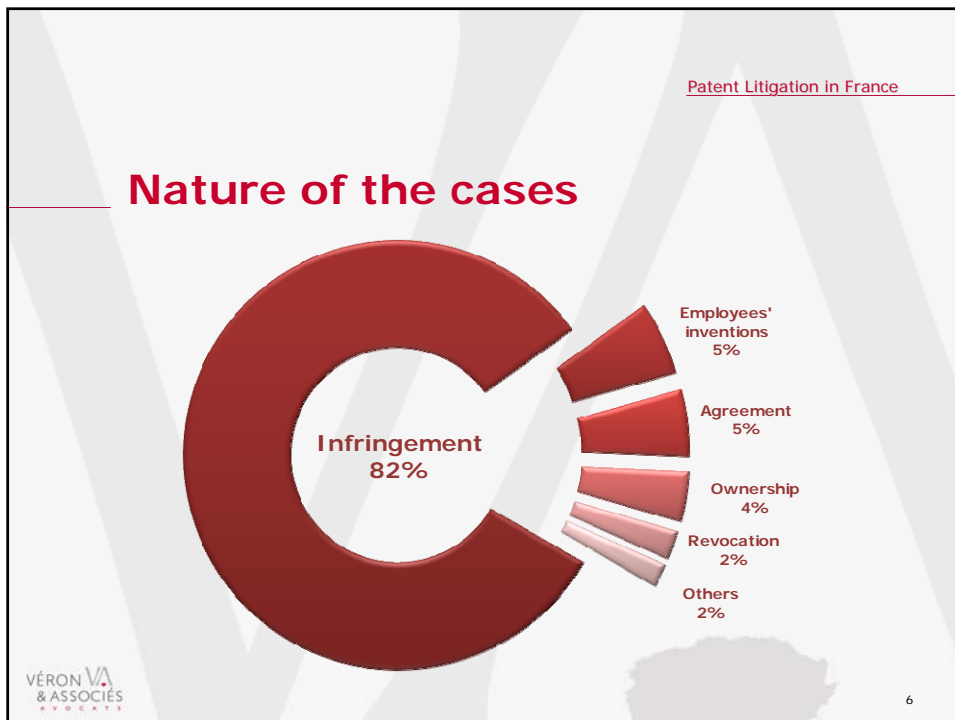
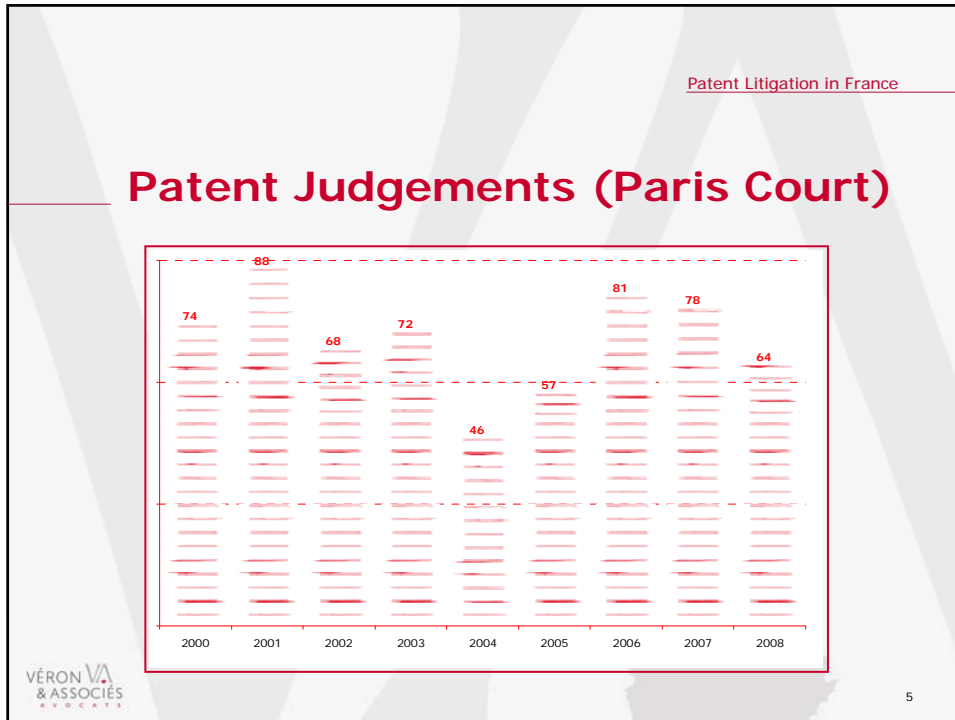


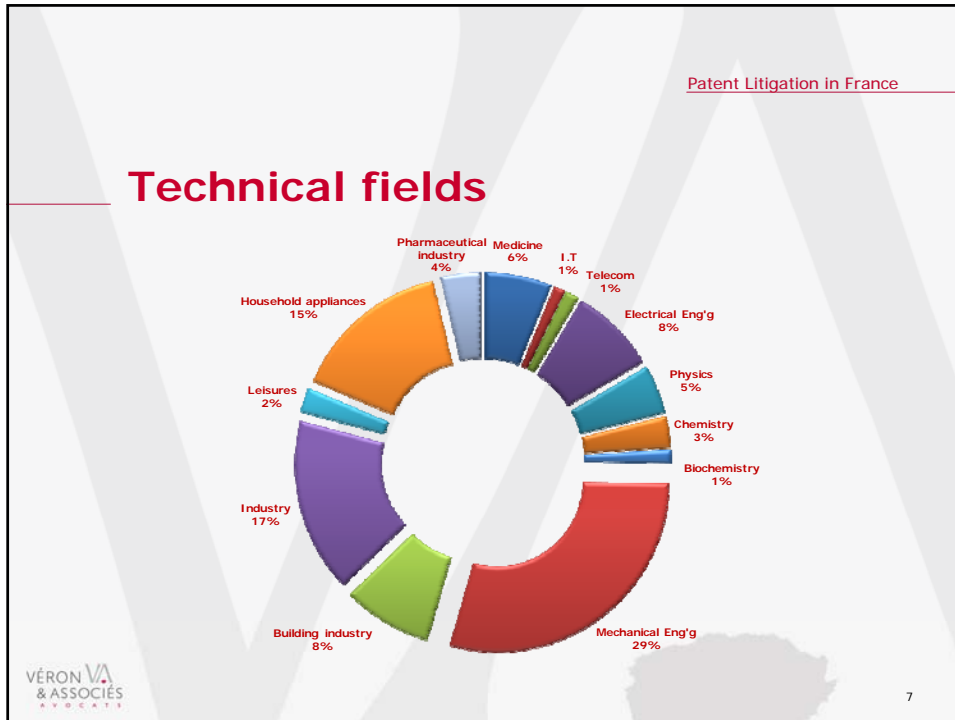
Welcome To The Paris First Instance Court



The Paris First Instance Court in figures

- 12 IP specialist judges
- 4 panels ("*sections*")
- 200 new patent cases a year
- 75 patent cases decided a year (others settled or withdrawn)





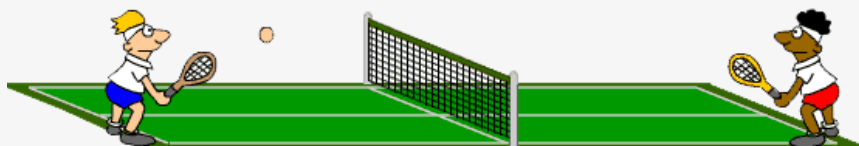
- Patent Litigation in France
- ## Main features of French proceedings
- No discovery or disclosure
 - *Saisie-contrefaçon* widely available
 - Court deals with both validity and infringement
 - Mainly written proceedings
 - Judgement within 15-24 months
- VÉRON VA & ASSOCIÉS AVOCATS
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Evidence

- No discovery or disclosure
- *Saisie-contrefaçon* widely available
 - ▶ Powerful
 - ▶ Fast
 - ▶ Inexpensive

Proceedings

- Mainly exchange of written pleadings and documents (including written expert reports)



Trial

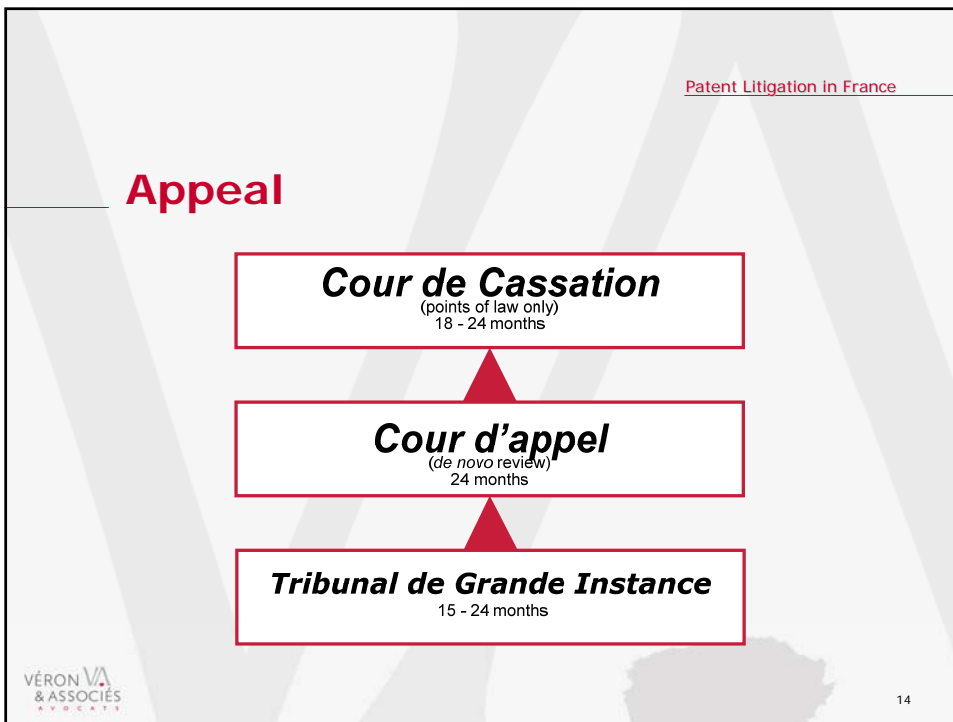
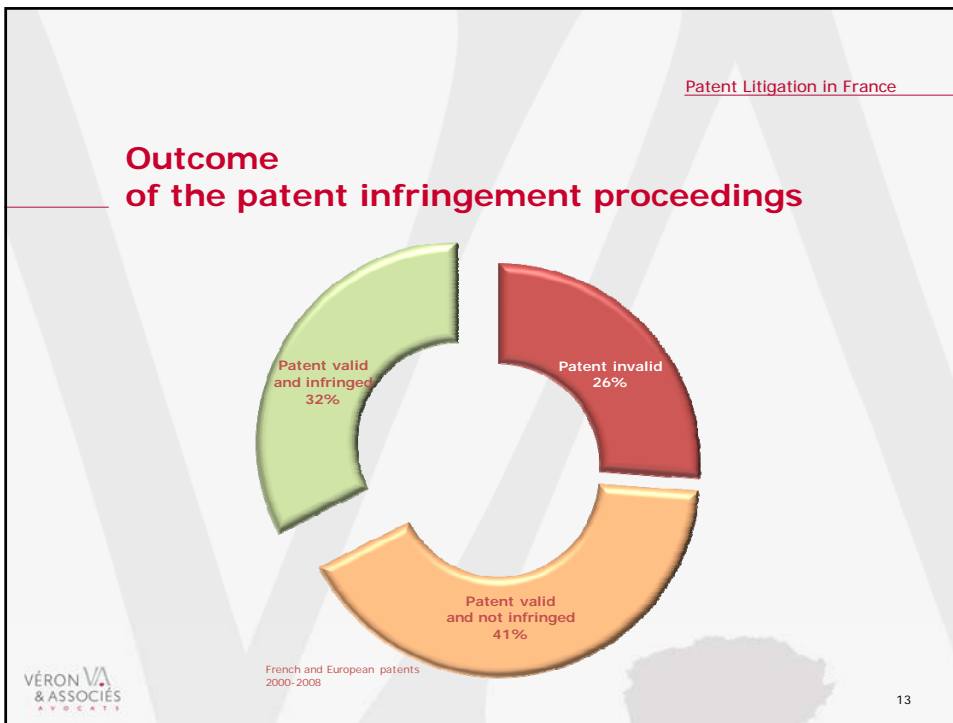
Oral hearing
half a day
only for attorneys'
(*avocats*)
presentations
no witnesses
no experts



Courtroom
Tribunal de grande instance de Paris
3rd chamber

Streamlined proceedings

- Since 2007, number of pleadings usually limited to 2 for each party
- Cases decided within 15 to 24 months



Notable trends

- “National” amendment of patents possible
before or during litigation since 1 January 2009
- Increased damages
(€ 10,000,000 account on damages in *Ethypharm v. Fournier*, 9 February 2007, galenic formulation
€ 4,300,000 in *Agilent Technologies v. Waters*, 14 January 2009, chromatographs)
- Costs
(up to € 300,000)
- Mediation
(€ 8,500,000 in *L'Oréal v. Bourjois*, 11 February 2009, mascara brushes)

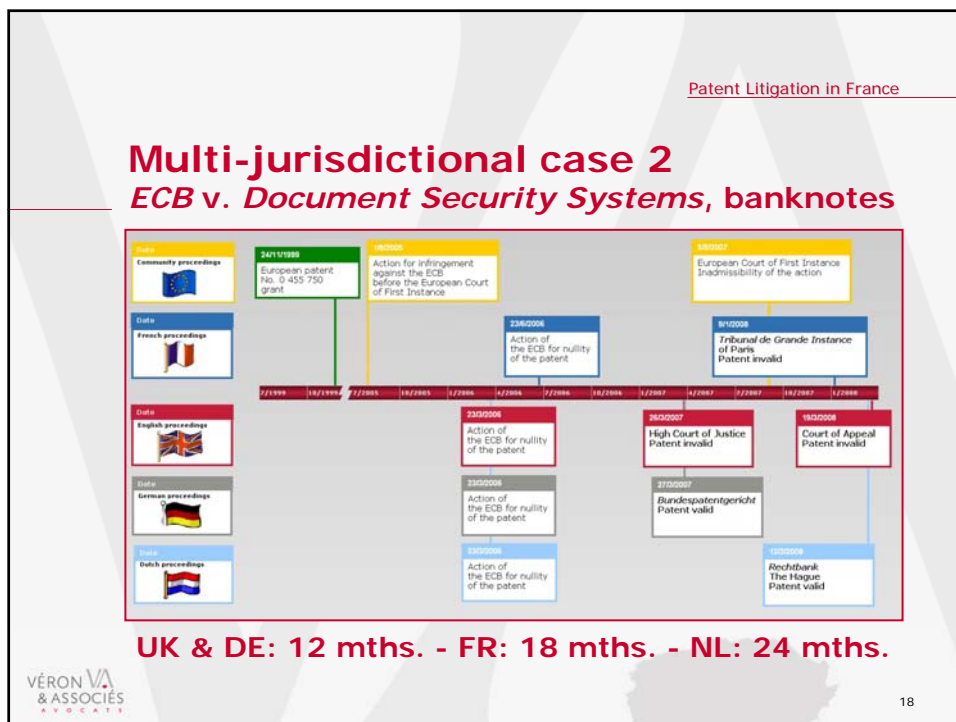
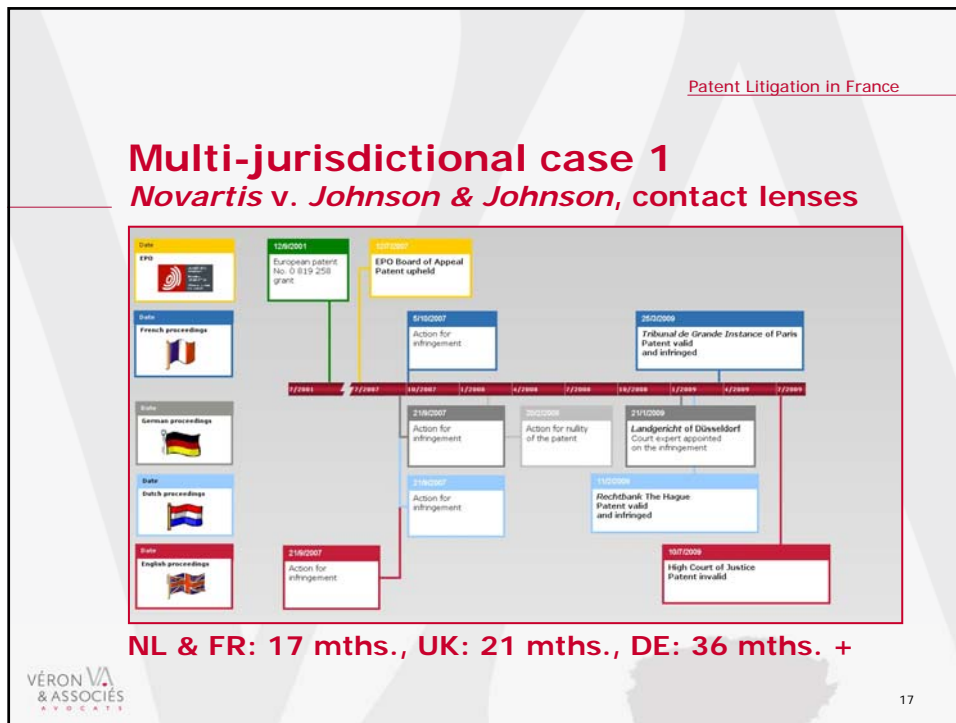
France: Pros & Cons

Pros

- *Saisie* makes gathering evidence of infringement fast, easy and inexpensive
- Specialist judges
- Reasoned opinions
- Affordable cost
- French language

Cons

- French language
- Preliminary injunctions difficult to obtain
- Short opinions (*Cour de cassation*)



Patent Litigation in France

Multi-jurisdictional case 3 *Agilent v. Waters, chromatographs*

UK: 9 yrs - FR: 11 yrs - DE: 12 yrs +

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Thank you

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