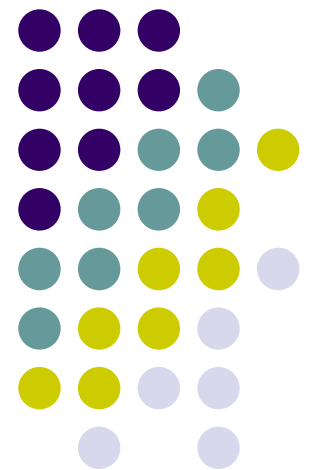


WIPO symposium

April 7-8, 2008

Session 3: Patent Landscaping for
Plant Genetic Resource Policymakers
Lessons, Tools and Methodologies

Pierre Roger – Seed and IP regulation





FTO in plant genetic

- A plant should be protected because of :

PBR

Expressed traits issued from “conventional” breeding

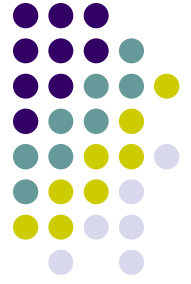
Expressed traits issued from plant biotech engineering

Patents

Other expressed traits from either conventional breeding or plant biotech

Produced through either a non essentially biological and/or a microbiological process

Being used in industrial process



FTO in plant genetic

- An example: a plant variety being resistant to an herbicide
 - Lab techniques: **molecular markers, PCR, DNA extracting and cloning kits, *in vitro* culture, ...**
 - Genetic engineering compounds: **promoter, gene of interest, enhancer, ...**
 - Microbiological process: **Agrobacterium, ...**
 - Products: **herbicide resistant maize, genetically transformed maize, plant variety, ...**



FTO in plant genetic

- Plant variety as a complex IP interfering zone
 - Complexity to compile all relevant IP statutory protection
 - Complexity to identify different applicable rights and their relation
 - Complexity to access an updated and reliable information in every relevant country
 - Complexity to anticipate in long and medium term product FTO

An FTO strategy



FTO 1st step

- ✓ Check the prior art
- ✓ Locate third party patents
- ✓ Claim coverage

IP landscape

- Main competitors
- Technological information
- Scientific trends

- Direct impact on the program direction

FTO 2nd step

- ✓ Check prior art again
- ✓ Follow up on identified relevant patents
- ✓ Result patentability

Patent survey

- New competitors or scientific approaches
- Advancements on patents proceedings
- Direct impact on IP strategic decisions (protection, opposition, licence)

FTO 3rd step

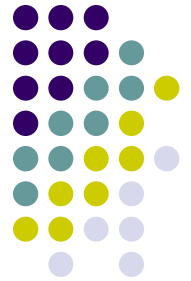
- ✓ Study in depth of the relevant patents
- ✓ Legal status on each relevant state

Freedom strategy

- Monitor direct competitors
- FTO for external trials

- Direct impact on valuation of the product components

Current issues when IP landscaping



- Many tools available: databases, internet access, web browsers devoted to IP information but:
 - Very unequal quality and reliability of the sources
 - Only few offices opening on web their examination files
 - Information exists in national languages only: translation costs is prohibitive for industry, in particular SMEs
 - Contrasted situations in China and in Europe