



LEADERS LEAGUE

présente



ICOSA



tiré du Guide international 2014
Innovation - Technology & Intellectual Property

FRANCE BEST IP ATTORNEYS: PATENT

The firms are listed alphabetically within each band

FIRM	LEADING PARTNERS
LEADING	
Beau de Loménie	Philippe Hubert, Jean-Jacques Joly, Didier Intès, Pierre-Louis Désormière, François Délumeau, Pierre Balesta
Cabinet Plasseraud	D. Boulinguez, C. Nargolwalla, F. Bérogin, B. Loisel, É. Burbaud, S. Verdure, R. Fleurance, A. Hassine, C. Touati, G. Cousin
Casalonga	A. Casalonga, G. Dossmann, F. Zapalowicz, O. Delprat, V. Martin-Charbonneau, V. Crest, J.-B. Lecoeur
Lavoix	Ph. Blot, A. Colombet, B. Domenego, É. Habasque, C. Jacobson, G. Myon
Regimbeau	F. Ahner, Ch. Texier, J. Collin, J.-R. Callon de Lamarck, M. Levieils, F. Faivre Petit
Santarelli	L. Santarelli, T. Caen, F. Lepelletier-Beaufond, B. Quantin, H. Stankoff, G. de Trémiolles
EXCELLENT	
Brevalex	Philippe Audier, Éric Augarde, Philippe Ahner
Cabinet Orès	Béatrice Orès, Michel Bolinches, Xavier Rataboul
Egyp	Anne Desaix, Carol Almond-Martin, Julia Andral-Ziurys
Marks & Clerk	Ch. Nguyen-Van-Yen, S. Esselin, L. Lucas, J.-M. Breda, I. Dudouit, M.-P. Henriot, M. Guérin
Dejade & Biset	Xavier Demulsant, Raphaël Louiset
Fidal Innovation	Pierre Breesé
Germain & Maureau	F. Gaillarde, N. Delorme, R. Chevalier, P. Verriest
Netter	Jean-Yves Plaçais, Gabriel de Kernier, Jean Bezault, Jérémie Palacci, Alexis Renard
Novagraaf	É. Enderlin, M. Bethenod
HIGHLY RECOMMENDED	
Boettcher	Bruno Lavialle, Benjamin Parzy
Cabinet Didier Martin	Didier Martin, Jean-François Weber
Cabinet Vidon	Patrice Vidon, Ludovic Bioret
Camus Lebkiri	Olivier Camus, Alexandre Lebkiri
Coralis & Harle Phelip	V. Chauvin, F. Orsini, J.-M. Le Bihan, M. Allab, A. Catherine, A. Michelet
Gevers	M. Benoit, R. Charguillon, D. David, G. Gevers, B. Hauer, J.-C. Rolland, B. Welzer, L. Rambaldelli, C. Vansuyt
Icosa	Caroline de Mareüil Villette, Claire Verschelde
Ipsilon	Valérie Feray, Valérie Godineau, Sylvie Hervouet-Malbec, Jean-Loup Laget, Laurence Lenne, Wilfried Peguet
Lynde & Associés	Stéphane Lynde, Pierre Kohler, Christian Riege
RECOMMENDED	
Becker & Associés	Ph. Becker, B. Tézier Herman, V. Gallois, M. Chajmowicz
Cabinet Flechner	Olivier Eidelsberg
Cabinet Hammond	William Hammond
Cabinet Marconnet	Sébastien Marconnet
Cabinet Moutard	Xavier Mazabraud, François Goutorbe
Cabinet Wagret	Frédéric Wagret, Muriel Aupetit
Degret	Jacques Degret
Hirsch & Associés	Marc-Roger Hirsch, Christophe Andral
Ixas Conseil	Martin P. Schmidt, Daniel Pigasse
LLR	Guillaume de la Bigne, Vincent Remy, Emmanuel Potdevin, Clémence Thiollier-Vallée
Malemont	Frank Sauvestre
Nony	François Tanty, Pascale Le Coupance
Pontet Allano & Associés	Bernard Pontet, Sylvain Allano, Alain Kingolo
Schmit Chrétien	Christian Schmit, Christophe Cornuejols, Georges Cornuejols
Strato-IP	Julien Sayettat
Weinstein	Hartmut Bergemann, Helmut Berger, Michel Thinat

BELGIUM BEST IP ATTORNEYS: PATENT PROSECUTION

The firms are listed alphabetically within each band

FIRM	LEADING PARTNERS
LEADING	
Bird Goën & Co	Thierry Dubost, David Terrell
De Clercq & Partners	Ann De Clercq
Gevers	Georges Leherte, Claude Quintelier, Jos Van Reet
EXCELLENT	
Kirkpatrick	Alain Decamps, Joop van Straaten
Pronovem – Office Van Malderen	Joëlle Van Malderen, Eric Van Malderen, Franck Matkowska
HIGHLY RECOMMENDED	
Arnold & Siedsma	Addick Land, Arjen Hooiveld, Erik Bartelds, Petri van Someren
Cabinet Bede	nc
Denk	Davy Wauters, Kris Hertoghe
Icosa Europe	Yannick Hugodot
V.O.	Johannes van Melle

Icosa: Healthcare IP



Caroline de Mareüil-Villette

Leader:
Caroline de Mareüil-Villette
Established:
2009

Track record: this firm boasts both scientific and industrial property expertise, allowing it to provide support to pharmaceutical companies, universities, research centers and start-ups in the fields of biotech, chemicals and medical devices all over the world – in Japan, the United States, Switzerland, Belgium, Germany, and of course France.

Differentiation: the team has opened an office in Brussels, headed by Yannick Hugodot, a European Patent Attorney with renowned expertise in Industrial Property strategy. He manages biotechnology patent portfolios for innovative companies and public institutions.

METHODOLOGY

Our rankings are drawn up using the following methods:

We send questionnaires to firms already included in our rankings and to others likely to be included. They are, in particular, invited to provide information on their organization, their client base and their market. To supplement these questionnaires, the Leaders League teams conduct a large number of interviews, which enable us not only to learn more about the firms included in our listings, but also to assess the dynamic of which they are a part. We also have meetings with a large number of enterprises to show them our rankings, giving them the opportunity to comment and provide fresh intelligence on the market and on their market advice.

The following criteria are used:

- Name and reputation of the firm on its market
- Team size, seniority of partners (or executive officers, managing directors, etc.), training of associates (or consultants, investment managers, etc.)
- Number and nature of cases dealt with by the firm
- Prestige, diversity and internationalization of the firm's client base
- Team expansion and revenue generated by the activity considered in the ranking

The true story of the freedom to operate

Freedom to operate is a key issue for innovative companies. If your innovation is valuable, it may attract your competitors and be an incentive for them to litigate with you or to file patents that can bar your development. Identifying dominant patents, main competitors, and prepare a strategy to avoid litigation, these are the challenges of what is called the Freedom to Operate.



Caroline de Mareüil-Villette



Claire Vershelde

ABOUT THE AUTHORS

Caroline de Mareüil-Villette and Claire Vershelde, Ph.D., are Patent Attorneys specialized in Life Sciences. They founded ICOSA, an IP law firm based in Paris, France and in Bruxelles, Belgium, which has undergone a rapid and successful development. The specificity of the ICOSA group indeed lies in its ability to provide solid IP and technological expertise, in Life Sciences, Chemistry and Medical Device.

Freedom to operate (FTO) is “the” IP issue for innovators and investors. “If you think your product and your innovation is valuable, others probably think the same thing”, they say. Consequently, there’s a strong probability others have the same ideas at the same time, and protect them.

“Freedom to operate”, abbreviated “FTO”, means making sure that commercializing a product or a process, can be done without infringing valid intellectual property rights of others. FTO is all about this: Can you run your business and launch new products without receiving an IP claim? Without being called an infringer?

With a huge number of patents filed each year, the common thought generally is “Better assess the risk than ignore it”.

However, some people still misunderstand the risk, and do not prepare the launch of a new product on the IP side.

The Sofosbuvir story

Sofosbuvir (Sovaldi; also known as GS-7977) is a first-in-class hepatitis C virus (HCV) drug, approved the

US Food and Drug Administration (FDA) on 6 December, 2013 and by the European EMEA on January 27, 2014. This product is a real hope for the HCV patients, as it is the first time that inhibitors of HCV polymerase are successfully developed, and Sofosbuvir undoubtedly opens a new therapeutic area. And, importantly, it is the first oral drug regimen that will allow patients to be treated without interferon.

Sofosbuvir is promised to be a blockbuster, with estimated peak annual worldwide sales of about US\$5.3 billion.

Sofosbuvir is owned by Gilead Sciences, Inc., and is protected by numerous patents. Patent protection will last until 2025 (US 7429572) at the minimum, and probably until 2029.

Apparently, other pharma companies want their share of the cake, without waiting so long.

On December 2, 2013, four days before FDA approval, Idenix filed two district court complaints in the US. In a first complaint in the United States District Court in Boston, Massachusetts, Idenix, together with the French National Centre for Scientific Research

(CNRS) and Montpellier 2 University, alleged that sofosbuvir infringes on two of their patents, 6,914,054 and 7,608,597. In a second complaint, in the United States District Court in Wilmington, Delaware, Idenix claimed a patent infringement and an interference lawsuit on the basis of another co-owned patent US 7,608,600, where Idenix states that it was the first to file a valid patent on the invention. The interference involves Idenix 7,608,600 patent and Gilead 8,415,322 patent. And a third dispute is still pending before the US Patent and Trademark Office between Idenix US patent application 12/131,868 and Gilead US patent 7,429,572. Other disputes between Idenix and Gilead involve related patents in Canada, Norway and Australia.

Bad. But it may be worse, apparently. Last summer, Merck (as Merck and Co. and Merck Sharp & Dohme), together with Isis Pharmaceuticals allegedly asked Gilead to license two patents — US 7,105,499 and US 8,481,712, and pay a 10% royalty fee on net sales of sofosbuvir. Expectedly, Gilead disagreed, and promptly filed

KEY POINTS

A FTO opinion can help:

- As it is a strategic risk-management tool
- In understanding competitors' patent portfolios
- In identifying the most innovative teams on a subject
- In amending the design of the product you are currently developing before it is too costly
- For future licensing negotiations, or for future acquisitions.

a lawsuit, saying both that the Merck patents were to be found invalid, and if not, that sofosbuvir did not infringe the Merck patents.

That's not all.

Roche invited himself in the party, also claiming that it was entitled to receive license fees on sofosbuvir, on the basis of a partnership with Pharmasset, the first developer of the sofosbuvir which was purchased in 2011 by Gilead for US\$11.2 billion to develop PSI6130, that is also an HCV polymerase inhibitor (the development of which was discontinued). Roche alleged that sofosbuvir is a prodrug of PSI6130 and therefore it is entitled to an exclusive license. Gilead answered that Roche is not entitled to such a license because the collaboration between Roche and Pharmasset ended before Gilead bought Pharmasset.

End of the story. Beginning of a patent fight.

In other innovation fields, do the same stories happen?

Yes, definitely, and every single day. Even if your product is not a Phase

III program, or not a pharmaceutical product, if it is valuable, it may attract litigation. Intellectual Property is increasingly the key asset of business, and that what makes FTO relevant to any business with innovative products. It is the responsibility of the CEOs of ensuring FTO of the future products (and sometimes they might be found liable for failing to take FTO seriously).

FTO and IP strategy

Having your own patent does not grant you FTO. Again, if you think your innovation is valuable, others probably think the same thing about a similar or identical innovation. Consequently there's a strong probability they are building their own IP. In fact, the more valuable the technology area, the more likely others are chasing the same dream.

The outcome of that, is that others may have dominant patents, with consideration to your product. You need to know all about that before launching the product and facing an infringement lawsuit. Your informa-

tion must be as exhaustive as possible. Specialists for that are Patent Attorneys. Patent Attorneys perform FTO patent searches or patent overviews, and they identify dominant patents. In order to know if you have to face dominant patent, a Patent Attorney carries out a broad patent search and checks if the identified patents are valid, where they are valid, and analyze the claims of the identified patents to give you an opinion.

A dominant patent is a patent that will be infringed by your product when it comes to the market.

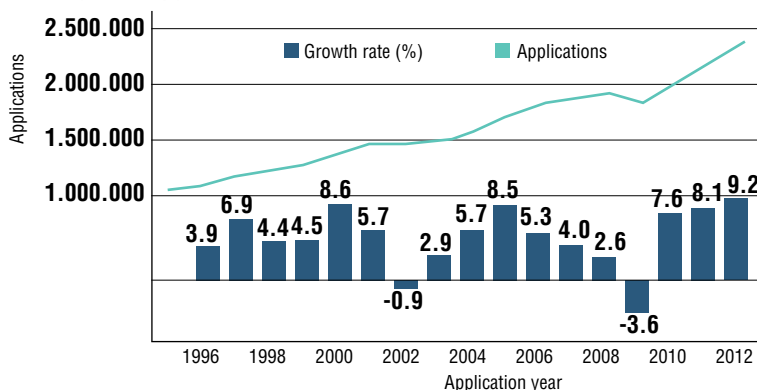
You can only infringe a patent that is in force. A patent expires twenty years after the filing date (but for pharma and phytopharma patents, that can extend up to 25 years). Maintenance fees are due, each year or regularly. This information is checked by the Patent Attorney.

A patent is territorial. A valid US patent is a protective IP Rights for the territory of the US, but not for Canada or Europe. The FTO Opinion always has a geographical dimension.

A patent has to be read and understood. Claim construction and claim interpretation have to be carefully examined by a professional, and an Opinion is drafted.

Freedom to Operate is about considering other people's patents and manage the risk of infringement long before it becomes crucial to the business model of the product. It is a key issue for innovative companies. It helps designing a product out of the scope of the other's Intellectual Property. Incorporating FTO considerations into the product development, at early stage, sounds to be a valuable strategy. "Better assess the risk than ignore it".

Trend in patent application worldwide



Note : World totals are WIPO estimates using data covering approximately 130 patent offices (see Data Description). These estimates include direct applications and PCT national phase entry data.