



Interim Remedies: Case Study

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Case Study – (1) Background

- Crop Science and Technology Exhibition
- Attendees from all over the world
- Many pesticide chemicals are protected by patents
- Chinese chemical companies due to exhibit
- Infringing chemicals may be advertised
- Exhibition is the venue for significant sales



Case Study – (2) Decision to take action

- Consequences of no action
- Can action be taken in country of manufacture?
- Reactive or pro-active?
- Timing?
- Need to stop damage by immediate action
- Cost-benefit analysis
- Decision taken to apply for interim injunctions



Case Study (3) – Evidence

- What needs to be proved
 - Exhibitors offering certain named chemicals
 - Chemicals infringe patents
 - Sales likely to be arranged at exhibition
 - Loss and damage caused to patentee as a result of infringements
- Evidence prepared before exhibition
- Evidence obtained at exhibition



Case Study (4) – Evidence prepared in advance

- List of exhibitors
- Products previously offered for sale by exhibitors
- Extent and location of activities of exhibitors
- Identity of products likely to be offered for sale by exhibitors
- Evidence that sales likely to be arranged
- Why patents are infringed
 - Claims of the patents
 - Chemical identity of allegedly infringing products
- Prepare witness statements and draft Application Notices/Summonses



Case Study (5) – On the day

- Obtain brochures and advertising literature
- Correlate names of products and generic names with patent claims
- Prepare witness statements of how and when documents obtained
- Finalise Application Notices/Summonses
- Attend Court to make applications for Orders
- Obtain Court Orders
- Return to exhibition to serve Orders



Case Study (6) After obtaining Order

- Inform Exhibition organiser
- Serve Orders on infringing exhibitors
- Inform infringing exhibitors of their duties and obligations
- Take enforcement action against any infringing exhibitors failing to comply



Case Study (7) Result

- 37 interim injunctions were obtained on the opening day of the 2005 exhibition
- Far fewer infringing exhibitors at 2006 exhibition
- Following publicity from two previous years, co-operation with exhibition organiser and exhibitors in advance of 2007 exhibition rendered similar actions unnecessary
- Infringement eliminated