

# ALLEN & OVERY



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## *IP Dispute Resolution in Life Sciences*

### *Session 3 – Focus Arbitration*

# Why Arbitration in Life Sciences represents a valuable alternative to Court proceedings



Contractual disputes in Life Sciences



In major jurisdictions such as Germany many judges have no experience neither in drafting or negotiating agreements on Life Sciences innovations nor in the economic background



Arbitration offers a more competent and more flexible forum

# Disputes on infringement and validity of patents

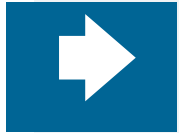
With the exception of classical disputes between originators and generics arbitration offers a valuable alternative to Court proceedings

## Disputes on validity

- Inconsistency between Federal Patent Court and Federal Supreme Court in Germany
- FPC pushes costs high through inappropriate increases of values in dispute

## Disputes on infringement

- Some Courts demonstrate a limited sensitivity to the parties' legitimate interest to be heard, e.g. limitation of grounds for appeal to 8 pages



Focus on arbitration

WIPO arbitration offers a service orientated and competent forum for resolving life sciences disputes

# Patent Infringement Dispute (I)

- Two U.S. companies, litigation in several jurisdictions
- Submission Agreement to WIPO Arbitration:
  - Patent infringement dispute related to a European patent in the area of consumer goods
  - Patent law of a particular European country applicable
  - Three-member arbitral tribunal
  - Detailed procedural and hearing schedule
  - Amendments of WIPO Rules: e.g. shortened timelines and detailed provision on experiments
  - Requested remedy: injunction
  - Detailed provisions in case injunction rendered

## Patent Infringement Dispute (II)

- WIPO Center suggested three arbitrators with substantial expertise in arbitration and in the relevant national patent law
- Exchange of written submissions in compliance with procedural schedule
- One-day hearing in Geneva including witness statements
- Final award rendered within five months of the commencement of the arbitration


# Contact



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# Questions?

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