



Developments at the Intersection of IP and Competition Law

Before the Federal Circuit Bar Association
Eighth Bench and Bar Conference
June 30, 2006

William Blumenthal
General Counsel
Federal Trade Commission
Washington DC



Background: The FTC's 2003 Report on Innovation

Aligning Related Policies of IP and Competition Law

- Purpose of the Report
- Methodology
- Favorable citations include
 - Wall Street Journal
 - Supreme Court
- Likelihood of Second Report

Key Findings

- Importance of patent quality
- Adverse effects of questionable patents include
 - Discouragement of innovation
 - Elevated cost
 - Unnecessary licensing activity

Recommendations

- Steps to eliminate questionable patents after issuance
- Steps to minimize issuance of questionable patents
- Steps to promote disclosure function of patents
- Steps to encourage consideration of economic analysis in patent policy



Noteworthy Supreme Court Cases From the Current Term

Competition Law Cases

- Independent Ink
- Dagher
- Volvo
- Weyerhaeuser
- Schering

IP Cases of Interest to Competition Agencies

- eBay
- MedImmune
- Apotex
- KSR