

The Linguistic Freedom and the Pain of Searching

**Dr. Christof Wilk, Patentanwalt
Henkel AG & Co KGaA, Germany**

ICIC 2012, Berlin

14.12.2012

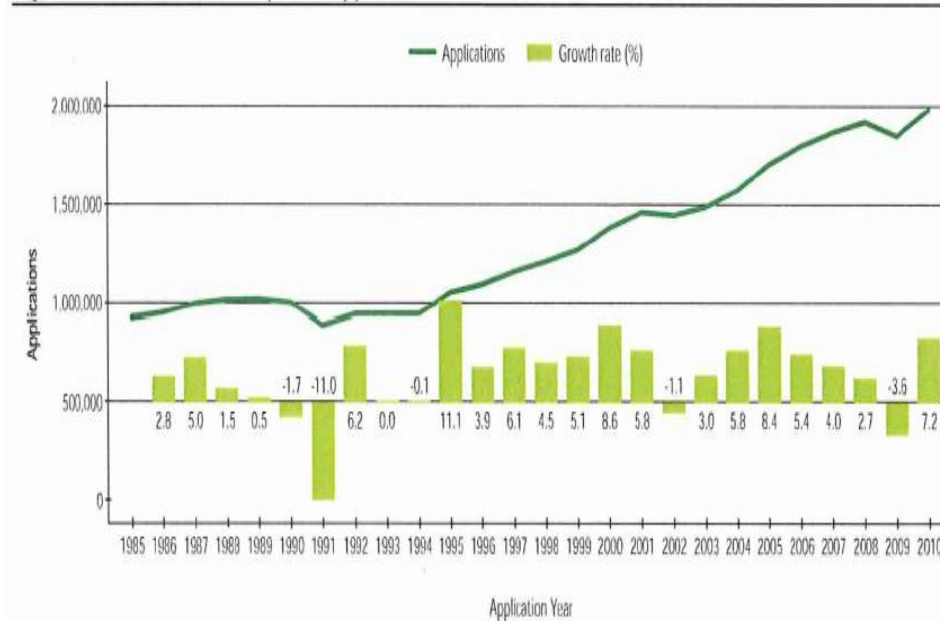


Excellence is our Passion

The Linguistic Freedom and the Pain of Searching

A trivial Message: the number of Patent applications is constantly growing

Figure A.1.1.1 Trend in total patent applications

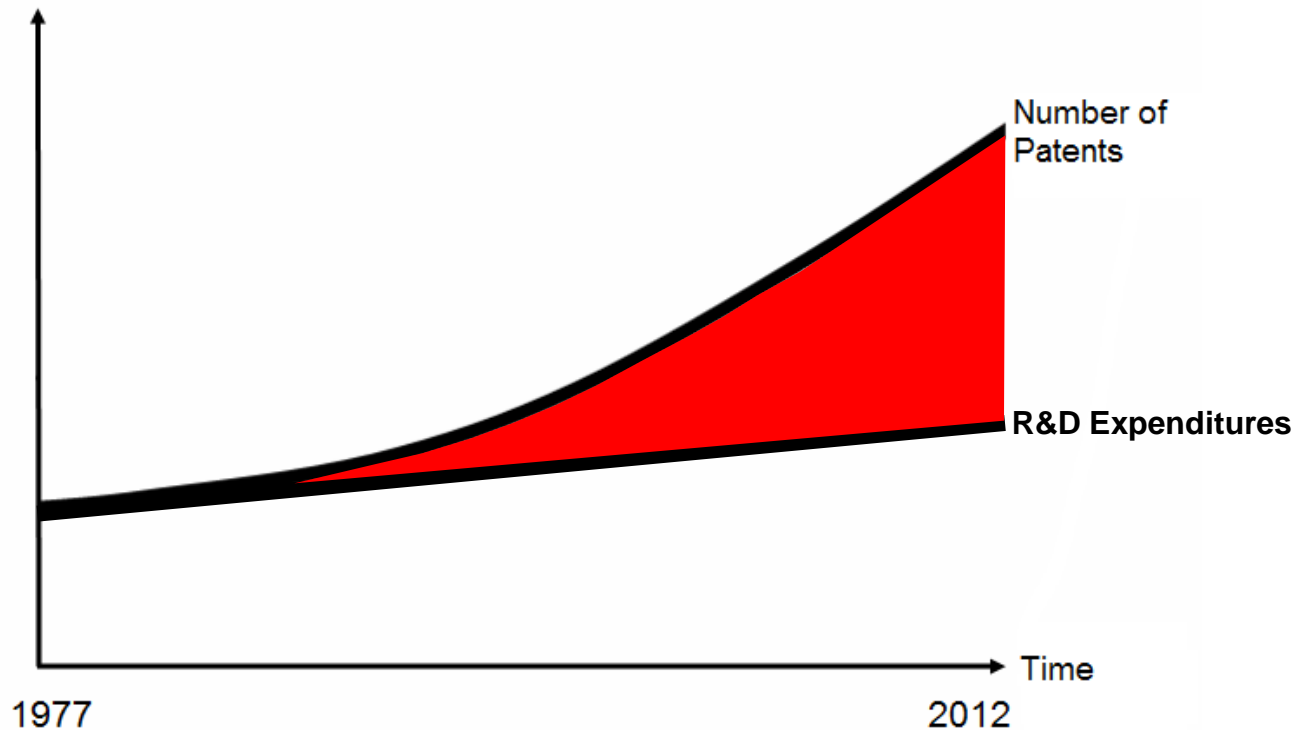


Note: Data prior to 1995 may be downwardly biased due to the incomplete reporting of PCT national phase entries. Counts are based on application date. The world total is a WIPO estimate covering around 135 patent offices (see Data Description). The world total estimate includes direct applications and PCT national phase entry data.

Source: WIPO Statistics Database, October 2011

The Linguistic Freedom and the Pain of Searching

Discussing the growth of the number of patent applications in more detail:



The Linguistic Freedom and the Pain of Searching

The Result of the Analysis:

The numbers of patents grow, but R&D efforts don't.

Does it make sense ?

What are the reasons?

Where do the additional Patents come from?

The Linguistic Freedom and the Pain of Searching

Where do the additional Patents come from?

Patenting out of the scope of “classical” Patent Law

- Business methods
- Computer programs
- Esthetics formulated as technical inventions

Liberal standards

The Linguistic Freedom and the Pain of Searching

Where do the additional Patents come from?

- The freedom for applicants to influence the grant process in their sense
- The problem solution approach of the EPO
- The freedom to let a Patent application be its own dictionary

The Linguistic Freedom and the Pain of Searching

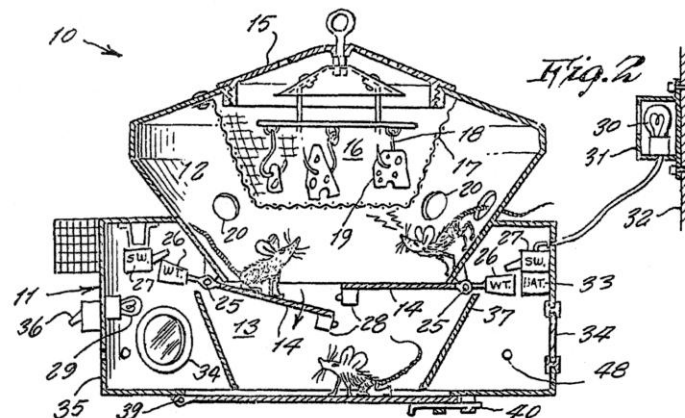
Where is the freedom of the applicant in conflict with the interests of the public?

- Poor invention might be hidden behind strange wording (water containing leisure time installation for swimming pool),
- Using negative definitions
- Using pictures and formulas, that are not or poorly available for text mining programs
- Using rare commercial names
- Hiding information in examples and Tables
- Describing obvious effects with strange measurement methods

The Linguistic Freedom and the Pain of Searching

Why does the patent information community always accept the shortcomings produced by applicants to their own advantage?

United States Patent [19]		[11]	4,154,016
Reyes		[45]	May 15, 1979
[54]	MOUSE TRAP WITH BAIT HOLDING TILT TUBE	3,778,922 12/1973	Clark 43/61
		3,778,923 12/1973	Cuoco 43/69
		3,936,972 2/1976	Meyers et al. 43/69
[76]	Inventor: Daniel Reyes, c/o George Spector, 3615 Woolworth Bldg., 233 Broadway, New York, N.Y. 10007	FOREIGN PATENT DOCUMENTS	
[21]	Appl. No.: 762,315	606483 1926	France 43/64
[22]	Filed: Jan. 25, 1977	164631 1921	United Kingdom 43/69
[51]	Int. Cl. ²		
[52]	U.S. Cl.		
[58]		



The Linguistic Freedom and the Pain of Searching

What can be done:

a good example:

There are rules to describe biological inventions.

```
Ala Gln Ser Val Pro Trp Gly Ile Ser Arg Val Gln Ala Pro Ala Ala
1          5          10          15

His Asn Arg Gly Leu Thr Gly Ser Gly Val Lys Val Ala Val Leu Asp
20          25          30

Thr Gly Ile Ser Thr His Pro Asp Leu Asn Ile Arg Gly Gly Ala Ser
35          40          45

Phe Val Pro Gly Glu Pro Ser Thr Gln Asp Gly Asn Gly His Gly Thr
50          55          60

His Val Ala Gly Thr Ile Ala Ala Leu Asn Asn Ser Ile Gly Val Leu
65          70          75          80

Gly Val Ala Pro Ser Ala Glu Leu Tyr Ala Val Lys Val Leu Gly Ala
85          90          95

Asp Gly Arg Gly Ala Ile Ser Ser Ile Ala Gln Gly Leu Glu Trp Ala
100         105         110

Gly Asn Asn Gly Met His Val Ala Asn Leu Ser Leu Gly Ser Pro Ser
115         120         125

Pro Ser Ala Thr Leu Glu Gln Ala Val Asn Ser Ala Thr Ser Arg Gly
130         135         140

Val Leu Val Val Ala Ala Ser Gly Asn Ser Gly Ala Ser Ser Ile Ser
145         150         155         160

Asn Asn Asn Arg Ala Ser Phe Ser Gln Tyr Gly Ala Gly Leu Asp Ile
180         185         190

Val Ala Pro Gly Val Asn Val Gln Ser Thr Tyr Pro Gly Ser Thr Tyr
195         200         205

Ala Ser Leu Asn Gly Thr Ser Met Ala Thr Pro His Val Ala Gly Ala
210         215         220

Ala Ala Leu Val Lys Gln Lys Asn Pro Ser Trp Ser Asn Val Gln Ile
225         230         235         240

Arg Asn His Leu Lys Asn Thr Ala Thr Ser Leu Gly Ser Thr Asn Leu
245         250         255

Tyr Gly Ser Gly Leu Val Asn Ala Glu Ala Ala Thr Arg
260         265
```

The Linguistic Freedom and the Pain of Searching

What can be done:

Instead of unlimited freedom, more rules are needed to describe technology.

These rules have to be implemented by the Patent Offices to keep the system running and to reduce their efforts / costs for searching.

The Linguistic Freedom and the Pain of Searching

Conventions are known and available. (In Chemistry e.g. IUPAC names). They only have to be mandatory.

For Example:

- Standards for abstracts that fulfill the needs of patent searchers
- Duty to disclose prior art also in Europe
- Omission of any Language that does not form part of the invention during Prosecution

The patent information community might lobby for this goal to make the live easier for all of us.

The Linguistic Freedom and the Pain of Searching

