

An email-discussion between Blaise Mouttet (USPTO) and Erich Bieramperl (inventor) about the recent [peer-to-patent-project](#) (see: <http://dotank.nyls.edu/communitypatent/>)

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04. Juni 2006 14:50
Erich Bieramperl wrote:

Dear Sir,

I am Erich Bieramperl, a small Austrian inventor and holder of some US-patents.

I heard of an USPTO experiment: Involving the internet community into the patent proof and review process (regarding prior art, PHOSITA and so on).

My opinion is: Its too late. In wide fields (electronics, IT, computer-implemented concepts, biotech etc) the patent system is indeed broken. It cannot be resurrected by the help of the internet community.

The ONLY way possible IMO is as follows: re-instate old patentees (1970 - 1990) who invented the base technologies. Put them into the former legal position, let them file new applications based on their old patent claims, and encourage them giving licenses to the industry. Dont laugh:

Those patentees were mostly small inventors, and NO global players like Apple, Amazon, Microsoft, Philips, Sony and others. Often their patents got stolen, the inventors got fooled and deceived.

Its high time to reinstate these inventors and to give them the legal power necessary to renew the product-protection system all around the world.

If it not happens, the entire industry and economy system will tumble down. The new economy did it 2000, it will do it again soon, and the old economy will follow.

With kind regards
(and the hope to hear from your side)

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05. Juni 2006 03:42

Blaise Mouttet answered:

What exactly do you mean by "reinstate old patentees"? Are you referring to extending US patent terms beyond twenty years from the filing date? I'm not sure how that could possibly help promote innovation which is what the US patent system was designed for. I'm in favour of peer-to-patent and related initiatives because they would seem helpful to extend public awareness of the realities of the patent system. It seems to me that patent attorneys currently have too much influence on how the system is regulated and the large increase in filing rates seems due to the self-interested actions of patent attorneys (writing overly broad initial claims, filing excessive continuations, etc.). If the public becomes more aware these bad practices may soon be discouraged.

-Blaise

05. Juni 2006 11:13

Erich Bieramperl wrote:

Dear Mr. Mouttet,

many thanks for your answer.

Let me point out again, please (sorry, English is not my native language, and so I will always write only a short statement; it takes too much time to write a novel;-)

First:

Why is the patent system broken? The answer is simple.

The system is broken through exhausting-phenomenons. In many technological fields we border on limitations, barriers and ceilings nobody ever will be able to overcome or excel, since there are mathematical/logical limitations, not man-made. (Same as Goedels Incompleteness-theorem, for example).

I tell you one example:

1) - There will never be invented a technology smarter than digital time data acquisition via sensors.

Not now, not in 10 years, not in 10 000 years.

(Nowadays, 90% of all IT-inventions are using this technology).

2) - There will never be invented a technology smarter than

autocovariance analysis (same happens in our brain!). see, e.g.

<http://www.sensortime.com/time-e.html> (US 6172941)

Not now, not in 10 years, not in 10 000 years.

3).. I could set forth with many, many examples....

So, let me explain once more:

It makes no difference whether a patent attorney writes a broad initial patent claim, or a narrow initial patent claim, - if the base technology is always the same.

Fact is: "smart" products cannot be protected, and the Hitech-industries in the western hemisphere (USA, Europe, Japan etc.) will suffer under insufficient patentability more and more.

This fact is the reason why I would favor a reform-process that reinstates the "old" patentees (of the seventies and eighties) into the former legal position, by extending their patent rights on their base inventions and core-patents UNLIMITED.

The USPTO should EVALUATE the importance and worth of those patents, they should judge all old patents once more thoroughly, and they should publish a list of those important patents online in the internet.

Most patentees were mostly small inventors, and NO global players like Apple, Amazon, Microsoft, Philips, Sony and others, and often their patents got stolen; the inventors got fooled and betrayed. The US-administration and the courts should investigate what really had happened. Promptly please.

With kind regards
(hope to hear from your side again)

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06. Juni 2006 02:27
Blaise Mouttet answered:

I strongly disagree that an upper limit to technology is even close to being reached. For example, reconfigurable molecular electronics, an emerging field being pioneered at Hewlett-Packard and others, is offering capabilities in pattern recognition and neural networks beyond what any prior technologies have achieved. Also the emergence of new materials (electroluminescent polymers, quantum dot films, etc.) is enabling a new

generation of flexible electronics, sensors, and displays beyond what has been achieved before.

Also, I am well versed in the background of the inventions of many small inventors such as Farnsworth (electronic television) and Gould (laser). No one "stole" these inventors inventions. The problems these inventors faced was mainly due to their lack of understanding of the patent process. More savvy independent inventors avoid such mistakes and in some cases (such as Lemelson) actually exploit the system.

I also disagree with your statements to the effect that large corporations do not come up with fundamentally innovative technologies. IBM developed the atomic force microscope, a groundbreaking tool for nanoscale research. Texas Instruments developed the integrated circuit which revolutionized electronics. Without the support and research and development provided by these and other large corporations scientific and technical development would go nowhere beyond the mind of a few inspired individuals.

-Blaise

06. Juni 2006 22:27
Erich Bieramperl wrote:

Dear Mr. Mouttet,

many thanks for your answer.

I know it would be a hard work to convince you. But time will tell.

I never `d doubt the fact of sufficient patentability and innovation in fields of nano-technology, molecular technology, metallurgy, polymers, fine mechanics, bio- and gen-technology etc. But these fields are relatively small, compared to the others. And besides, the technological results in these branches are often controversial. Customers often reject nanotech or gentech products. Sometimes nobody knows subsequent complications or impacts on the environment.

The problem I see, is, that the (patentable) advance in these branches cannot compensate the loss of patentability and monopolibility in the more important computer-, robotics-, IT- and other electronic-related branches.

Note: The present turbo-capitalistic economy (better called: debitism) needs too much "PATENTABLE technological advance per time-unit" to survive. If the patent offices are not able to provide enough strong, worthy, incontestable and unappealingly core-patents promptly(!) -, then the western economy cannot grow enough; though globalization. Result:

unemployment, stagnant stock markets (Nasdaq), crime and depression, and youth without future; though high degrees and education.

The modern concept of debitism and monetary economics bases on the technological advance of the late 20ieth century, which was characterized by innovation of high novelty and inventiveness. An example: The evolution of recording systems. Or TV, or mobile phone, or computers....

But what has happened in the last decade?

A wearable CD-Player - which base-technology many researchers and engineers had developed under greatest efforts years before - had cost in the year 2000 the price of about two portions steak in a fine restaurant, say 40 dollars. And now, in 2006: You can buy it for 10 dollars! Reason for this decay: Too less improvability, too less patentability. The old patents (e.g. Philips) had expired, the western industry sourced the production out to Far East.

The subsequent following chip-recorder bases on pure semiconductor technology and digital time data acquisition (MP3, MPEG4), and has NO patentable technology feature anymore. Because there is no - and there will be no - such an "improvement" that deserves the term "invention" . Not today, and not in future. All products base on the same core-technology (invented already in the 70ies!) and show the same technical characteristics - now, in 10 years, and in 1000 years too. It does not make any difference, if you minimize the size of such a product. You can place it between the synapses of your brain or elsewhere: it will always measure, store and play time-domain data, and will not perform or do anything beyond. Therefore: too less improvability, too less patentability, too less monopolibility. Infinitely.

**With kind regards
(hoping to hear from your side again)**

Erich Bieramperl

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