

Is There a Global Warming of Patents?

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The worldwide surge of patent applications has recently been called “global warming of patents”. In this article an attempt is made to test this equation with a clearly negative connotation by analyzing the multilayered reasons for that surge and its future perspectives. Solutions are sought for the resulting backlog of some three million worldwide pending patent applications.

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The Patent System and its Public Perception

Traditionally, the patent system with rare exception has been accepted and praised as a market–economy tool used to promote the society’s technical, economic and social progress. In this tradition, however, the level of economic and social acceptance of patents has varied, depending not only on a country’s developmental status but also on the prevailing general economic and legal circumstances. Times of critical attitude towards the patent system were followed by sudden waves of enthusiasm, only to start losing momentum and ending up in an anti-patent sentiment. In many parts of the world, including even the United States, the present public perception of the patent system is, to say the least, anomalous. On the one hand, it is viewed as a pillar and safeguard of innovation and competitiveness in micro- as well as macroeconomic terms. On the other hand, it has been exposed to harsh criticism, regarding it as an instrument creating patent thickets, further resulting in royalty stacking and opening the doors to misuse primarily by patent trolls. The virtually exponential growth in the number of patent applications worldwide has been labelled by some as a “*global warming of patents*”. The clearly negative connotation implies the necessity of proactive measures against this “warming” process. In other words, patent applications and the patents themselves seem to be viewed by some as pollution of the economic environment, in other words, they are equated with greenhouse gases whose exhaust (patent filings) must be contained.

World Intellectual Property Organization (WIPO) statistics of the top 20 patent offices revealed an increase in patent filings in 2005 in the United States (9.5%), China (32.9%), the Republic of Korea (14.8%), the European Patent Office (4.1%), the Russian Federation (6.8%), Mexico (9.4%), Hong Kong, China (17.6%) and Thailand (18%).¹ Do these statistics indicate a “global warming of patents”, which should be fought like the exhaust of greenhouse gases because of its apparent lack of real