Using patent information for policy and business analysis

William Meredith
Head, Global IP Information Service
WIPO

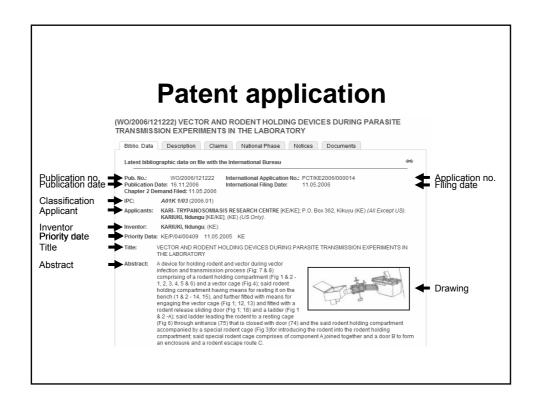
New Technical Information Worldwide Scientific and technical journal articles — New patent filings 900 000 800 000 700 000 600 000 100 000 100 000 100 000 100 000 100 000 Source: WIPO Statistical Database (patent families); World Bank, World Development Indicators (journals)

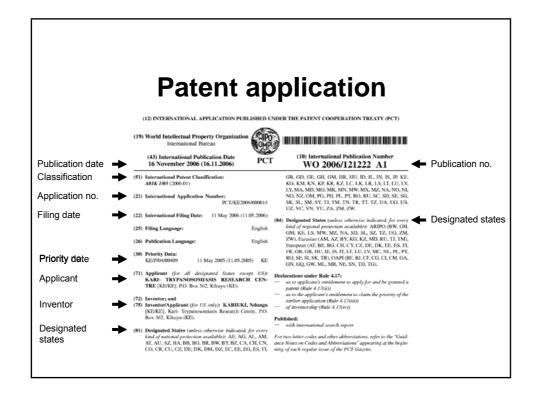
What is patent information?

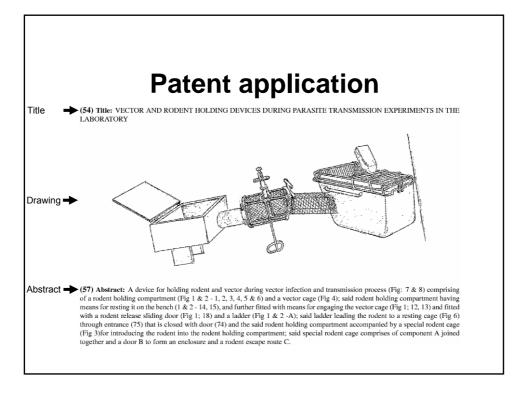
- The patent system grants property rights to inventors in exchange for the disclosure of their invention for the benefit of the public.
- ► The disclosure includes:
 - Business information
 - Legal information
 - Technical information
 - Policy-relevant information
- Almost all patent applications are published (18 months from priority date/first filing date)

What is disclosed in a patent document?

- ▶ Business Information:
 - Applicant details
 - Inventor details
- Legal Information:
 - Status (application, grant, opposition,...)
 - Patent claims
- ► Technical Information:
 - Background of the Invention
 - Summary of the Invention
 - Detailed description of the Invention
 - Method for carrying out the Invention







Opportunities for exploiting patent information

- ► A patent is territorial, but disclosure is global.
- ► Patent protection is time-limited.
- ➤ The scope of the patent is limited by its claims.
- ▶ Patents give the owners a right to prevent others from carrying out the invention (manufacturing or marketing) but not from learning from the invention.

Opportunities for exploiting patent information

- Many patent collections are now digitised.
- Internet tools and databases make exploitation more cost-effective.
- Opportunities exist to open patent information to new categories of users -SMEs, researchers, general public.

Potential uses of patent information

- Target research resources more effectively avoid re-inventing the wheel.
 - Experience from the Republic of Korea shows that a large proportion of R&D funding may be approved for work that is already patented
- Learn from the research work of others.
- Adapt technologies for local conditions.
- Identify opportunities and potential partners for licencing, technology transfer, etc
- Patent strategy avoid infringement and litigation, improve patent drafting, reduce costs.

Patent Information and the Public Domain

Patent Information and Public Domain

- ➤ Technology disclosed in a patent document may be in the public domain if:
 - The patent application has not been filed in a given country
 - The patent has not been granted
 - The patent term has expired, or the patent has not been renewed
 - The disclosed information is not covered by the claims
- ► In any case, the "INFORMATION" is always in the public domain

Use of public domain information

China's high-speed train system

"Our technology is a reinnovation on the basis of assimilating advanced technologies of foreign countries"



Source: The Economist, March 23, 2006

Profile of Patenting in South Africa and ARIPO

Top International Patent Applicants (PCT):

- 1. MATSUSHITA ELECTRIC INDUSTRIAL CO., LTD.
- 2. KONINKLIJKE PHILIPS ELECTRONICS N.V.
- 3. SIEMENS AKTIENGESELLSCHAFT
- 4. HUAWEI TECHNOLOGIES CO., LTD.
- 5. ROBERT BOSCH GMBH

Top patent applicants at ARIPO:

1.PFIZER INC

2.GLAXO GROUP LIMITED

3.BASF AKTIENGESELLSCHAFT

4.JANSSEN PHARMACEUTICA N.V. 4.BASF AKTIENGESELLSCHAFT

5.RHONE-POULENC AGROCHIMIE 5.NOVARTIS AG

Top patent applicants in South Africa:

1.UNILEVER PLC

2.THE PROCTER AND GAMBLE COMPANY

3.ASTRAZENECA AB

Profile of Patenting in South Africa and ARIPO

- ► Many international companies are not patenting in southern Africa
- Many technologies may be in the public domain already

Profile of Pharmaceutical Patenting in South Africa and ARIPO

- ► 127,522 international patent applications (PCT)
- ► 17% of that number in South Africa
- ▶ 1% of that number in ARIPO
- Significant freedom to operate?

Office	8	Main IPC		
Name +	No ÷	Name +	No ÷	
PCT	127532	A61K	129370	
Australia	33634	C07D	13000	
Korea	25603	A61P	3680	
South Africa	21939	C07K	2667	
Singapore	4528	C12N	2193	
Vietnam	4044	A01N	1941	
Argentina	3289	C07C	1842	
Mexico	2063	A23L	1730	
ARIPO	1174	C07H	773	
Cuba	130	A61F	722	

Patent Information and Technology Transfer

What is Technology Transfer?

Several distinct processes:

- ► Public private technology transfer
- ► Technology transfer for development and the environment
- ► Embedded technology transfer via trade, licensing, FDI, etc
- ► In all cases, information is critical to the process

Public-Private Technology Transfer

- Example: US Bayh-Dole Act.
 - Recognises the fundamental role of the patent system in promoting innovation and technology transfer

Information needs:

- · Avoid duplication of effort state of the art searches
- Avoid infringement freedom to operate searches
- Check patentability
- Identify potential partners

Technology Transfer for Development and the Environment

Examples:

- UN Framework Convention on Climate Change Kyoto protocol
- Montreal agreement
- Convention on Biodiversity (CBD)

▶ Information needs:

- · Identify trends in relevant technologies
- Identify the major entities, countries, companies developing a technology
- Investigate the patent landscape of a technology legal status, ownership, geographical coverage
- · Find appropriate technologies for transfer

Embedded Technology Transfer

- Technology transfer by market mechanisms
- Countries can gain access to new technologies via
 - Trade in products and capital goods
 - Licensing
 - Direct investment

Information needs:

- · Identify potential business partners
- Validate legal status, ownership, legal scope of patent rights
- Estimate the market value of a technology

Embedded Technology Transfer

Example: Use of mobile phones in Indian fisheries in Kerala

Between 1997 and 2001, mobile phone service was introduced throughout Kerala. The adoption of mobile phones by fishermen and wholesalers was associated with a dramatic reduction in price dispersion, the complete elimination of waste, and near-perfect adherence to the Law of One Price. Both consumer and producer welfare increased.



Source: Jensen, R. In The Quarterly Journal of Economics, August 2007

Case Study: Anti-retrovirals

Case study: Anti-retrovirals

- ▶ UNICEF project in Cameroon
- Aim: Deliver a fixed dose combination of Lamivudine+Zidovudine+Nevirapine for HIV treatment
 - Available from generic companies about \$120 per year per person
 - Known GlaxoSmithKline patent for Combivir (Lamivudine + Zidovudine 300mg + 150mg)
- Question: What is the status of the GSK patent and does it prevent UNICEF from purchasing and delivering similar generic products?

Anti-retrovirals: Assumptions

- Any pharmaceutical product introduced onto the world market will have already been introduced onto the US market
- All patents related to pharmaceuticals introduced onto the US market will be disclosed to the US Food and Drug Administration (and published by the FDA)
- ➤ The US FDA "Orange Book" will show all of the relevant US patents

Anti-retrovirals : US FDA "Orange Book"

▶ Zidovudine

Appl <u>TE</u> No <u>Code</u>		Active Ingredient	Dosage Form; Route		Proprietary Name	.,,
021205	Yes	ABACAVIR SULFATE; LAMIVUDINE; ZIDOVUDINE		EQ 300MG BASE;150MG;300MG	TRIZIVIR	GLAXOSMITHKLINE
020857	Yes	LAMIVUDINE; ZIDOVUDINE	TABLET; ORAL	150MG;300MG	COMBIVIR	GLAXOSMITHKLINE
078128 AB	No	ZIDOVUDINE	CAPSULE; ORAL	100MG	ZIDOVUDINE	AUROBINDO PHARMA LTD
078349 AB	No	ZIDOVUDINE	CAPSULE: ORAL	100MG	ZIDOVUDINE	CIPLA LTD
019655 AB	Yes	ZIDOVUDINE	CAPSULE; ORAL	100MG	RETROVIR	GLAXOSMITHKLINE
019951	Yes	ZIDOVUDINE	INJECTABLE; INJECTION	10MG/ML	RETROVIR	GLAXOSMITHKLINE
077268 AA	No	ZIDOVUDINE	SYRUP; ORAL	50MG/5ML	ZIDOVUDINE	AUROBINDO
077981 AA	No	ZIDOVUDINE	SYRUP; ORAL	50MG/5ML	ZIDOVUDINE	CIPLA LTD

Anti-retrovirals : Orange Book

► Lamivudine

Appl No	TE Code	RLD	Active Ingredient	Dosage Form; Route	Strength	Proprietary Name	Applicant
021652		Yes	ABACAVIR SULFATE; LAMIVUDINE	TABLET: ORAL	EQ 600MG BASE;300MG	EPZICOM	SMITHKLINE BEECHAM
021205		Yes	ABACAVIR SULFATE; LAMIVUDINE; ZIDOVUDINE	TABLET; ORAL	EQ 300MG BASE;150MG;300MG	TRIZIVIR	GLAXOSMITHKLINE
020596		Yes	LAMIVUDINE	SOLUTION; ORAL	10MG/ML	EPIVIR	GLAXOSMITHKLINE
021004		Yes	LAMIVUDINE	SOLUTION; ORAL	5MG/ML	EPIVIR-HBV	GLAXOSMITHKLINE
021003		Yes	LAMIVUDINE	TABLET; ORAL	100MG	EPIVIR-HBV	GLAXOSMITHKLINE
020564		No	LAMIVUDINE	TABLET; ORAL	150MG	EPIVIR	GLAXOSMITHKLINE
020564		Yes	LAMIVUDINE	TABLET; ORAL	300MG	EPIVIR	GLAXOSMITHKLINE

Anti-retrovirals : Orange Book

► Nevirapine

Appl No	TE Code	RLD		Dosage Form; Route	Strength	Proprietary Name	Applicant
020933		Yes	NEVIRAPINE	SUSPENSION; ORAL	50MG/5ML	VIRAMUNE	BOEHRINGER INGELHEIM
020636		Yes	NEVIRAPINE	TABLET; ORAL	200MG	VIRAMUNE	BOEHRINGER INGELHEIM

Anti-retrovirals : Disclosed US patents

Product approved by FDA

Active Ingredient: LAMIVUDINE, ZIDOVUDINE
Dosage Form:Route: TABLET; ORAL
Proprietary Name: COMBIVIR
Applicant: GLAXOSMITHKLINE
Strength: 150MG;300MG
Application Number: 020857
Product Number: 001
Approval Date: Sep 26, 1997
Reference Listed Drug Yes
RX/OTC/DISCN: RX
TE Code:
Patent and Exclusivity Info for this product: View

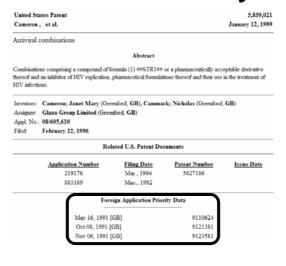
Disclosed US patents

Appl No	Prod No	Patent No	Patent Expiration	Drug Substance Claim	Drug Product Claim	Patent Use Code	Delist Requested
020857	001	5047407	Nov 17, 2009	Υ	Υ	U-248	
020857	001	5047407*PED	May 17, 2010				
020857	001	5859021	May 15, 2012	Υ	Υ	<u>U-248</u>	
020857	001	5905082	May 18, 2016	Υ	Υ	U-248	
020857	001	5905082*PED	Nov 18, 2016			<u>U-248</u>	
020857	001	7119202	Feb 8, 2009	Υ			
020857	001	7119202*PED	Aug 8, 2009				

Anti-retrovirals : Unexpired US patents disclosed in Orange Book

- ▶ Lamivudine
 - 5,047,407 (IAF Biochem)
 - 6,004,968 (Glaxo Wellcome)
 - 7,119,202 (Glaxo Wellcome)
- ▶ Nevirapine
 - 5,366,972 (Boehringer Ingelheim Pharmaceuticals)
- ► Lamivudine + Zidovudine
 - 5,859,021 (Glaxo Group)

Anti-retrovirals: Priority claims



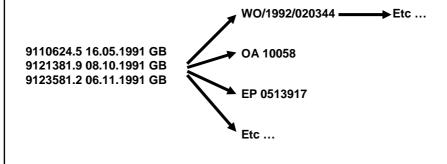
Anti-retrovirals: Priority claims

- Lamivudine
 - 07/308,101 (US)
 - 97 06295 (GB)
 - 39 45/90 (HU)
 - 90 310335 (EP)
 - 07/308,101 (US)
- ► Lamivudine + Zidovudine
 - 91 23581 (GB)
 - 91 21381 (GB)
 - 91 10624 (GB)

- Nevirapine
 - US 08/091,418 (US)
 - US 07/740,828 (US)
 - US 07/600,390 (US)
 - US 07/579,001 (US)
 - US 07/438,923 (US)
 - US 07/372,974 (US)
 - US 07/340,970 (US)

Anti-retrovirals: Patent families

▶ Patent families : All documents based on the same priority application



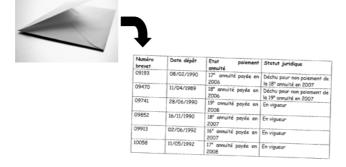
Anti-retrovirals: Legal status

Some patent offices provide online access to legal status data



Anti-retrovirals: Legal status

► But: Less than 1/3 of WIPO member states have electronic patent data



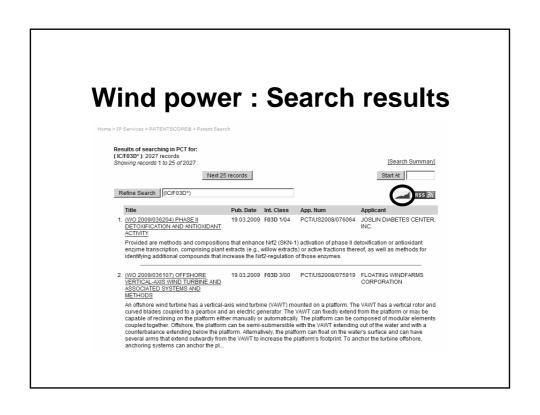
Anti-retrovirals - Conclusions

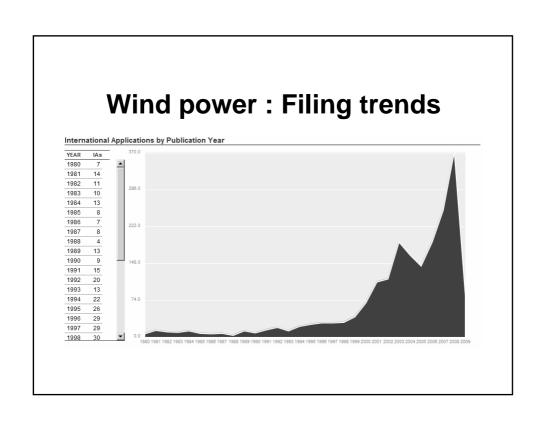
- ► Patent analysis helps to show what is patented and where
- ▶ But there are gaps in geographical coverage and in status information
- ► For more certainty, we need to contact individual patent offices for definitive status information

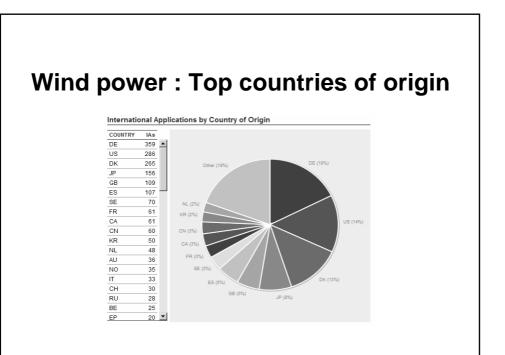
Patent Analysis Example : Wind Power

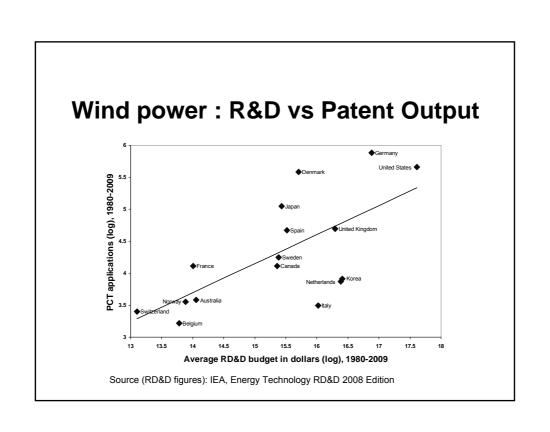
Example: Wind power

- Rapidly growing source of renewable energy
- ► Possibilities for small-scale distributed generation of power

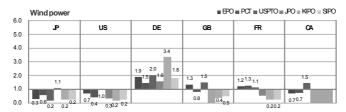






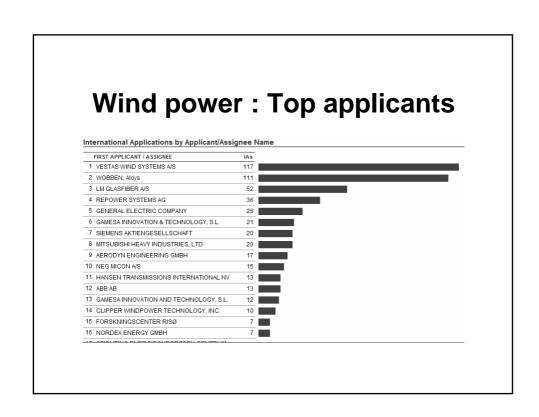


Wind power: Activity index



Source : WIPO, Patent-based Technology Analysis Report – Alternative Energy Technology (forthcoming)

- A country's degree of concentration of patent filings in a particular technology
- A positive value for a particular technology implies that the country has a relatively high share of patent applications published in that technology (i.e. it has a higher share in applications published in this technology relative to its share in all technologies).



Wind power: Bibliographic data (WO/2001/069081) BEARING FOR AN ADJUSTABLE ROTOR BLADE ON A WIND ENERGY PLANT

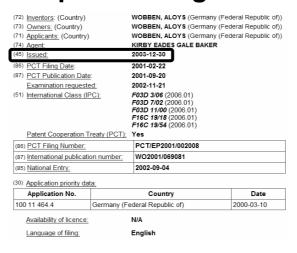


Wind power: National phase entries

(WO/2001/069081) BEARING FOR AN ADJUSTABLE ROTOR BLADE ON A WIND

Office Code	National Entry Date	National Reference Number	Status
ıU	02.09.2002	2001235488	Granted: 21.10.2004
CA	04.09.2002	2402044	
P	26.09.2002	2001907550	Published: 18.12.2002 Granted: 11.08.2004
Р	10.09.2002	2001567934	
R	09.09.2002	1020027011801	Published: 20.12.2002
1Z	12.09.2002	521333	Published: 28.10.2005 Granted: 09.02.2006
JS	17.12.2002	10220950	
'A	02.09.2002	200207033	

Wind power: Legal status



Wind power: Technology transfer



"Our main production and R&D centre is in Germany but we are also focusing on developing countries like India or Brazil, for example. In these countries we also have production lines for complete turbines and/or blades. I think it is important to support these countries via technology transfer."

 Aloys Wobben (Interview with the European Wind Energy Association)

