

---

# Kluwer Patent Blog

## Patent case: Eli Lilly and Company vs. Fresenius Kabi Nederland B.V., Netherlands

Bart van Wezenbeek (Hoffmann Eitle) · Thursday, July 18th, 2019

The scope of a patent is to be interpreted according to Art. 69 EPC and the Protocol. If the literal text is limiting, the question is how the skilled person would understand this limitation. If the limiting wording is due to a technical consideration, the limitation may be considered differently from when the limitation can be deemed to be without a purpose. In principle, the consequences of a lack of clarity on the scope of the claim shall be for the patentee.

In the present case, it appeared from the prosecution file that the limitation had been introduced with a purpose, and the patentee had accepted the limiting examiner's amendments. Taken together with the fact that the patentee could be considered a professional party with sufficient knowledge in the field of patents, this means that the scope of the claim was determined more by the literal interpretation of the claim than by the concept of the invention behind it.

Case date: 19 June 2019

Case number: C/09/54 1424 / HA ZA 17-1097

Court: District Court of The Hague

A full summary of this case has been published on [Kluwer IP Law](#).

---

*To make sure you do not miss out on regular updates from the Kluwer Patent Blog, please [subscribe here](#).*

### Kluwer IP Law

The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how [Kluwer IP Law](#) can support you.

---

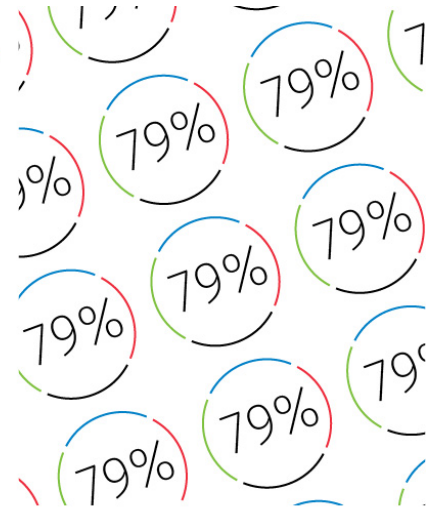
79% of the lawyers think that the importance of legal technology will increase for next year.

**Drive change with Kluwer IP Law.**

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT  
The Wolters Kluwer Future Ready Lawyer  
Leading change



This entry was posted on Thursday, July 18th, 2019 at 2:43 pm and is filed under [Case Law](#), [Netherlands](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Both comments and pings are currently closed.