

# Obtaining Global Technology Exclusivity By Strategic Utilization Of Intellectual Property

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# Intellectual Property Comes In Many Forms

- Patents (Utility and Design)
- Trade Secrets
- Trademarks/Trade Dress
- Copyrights

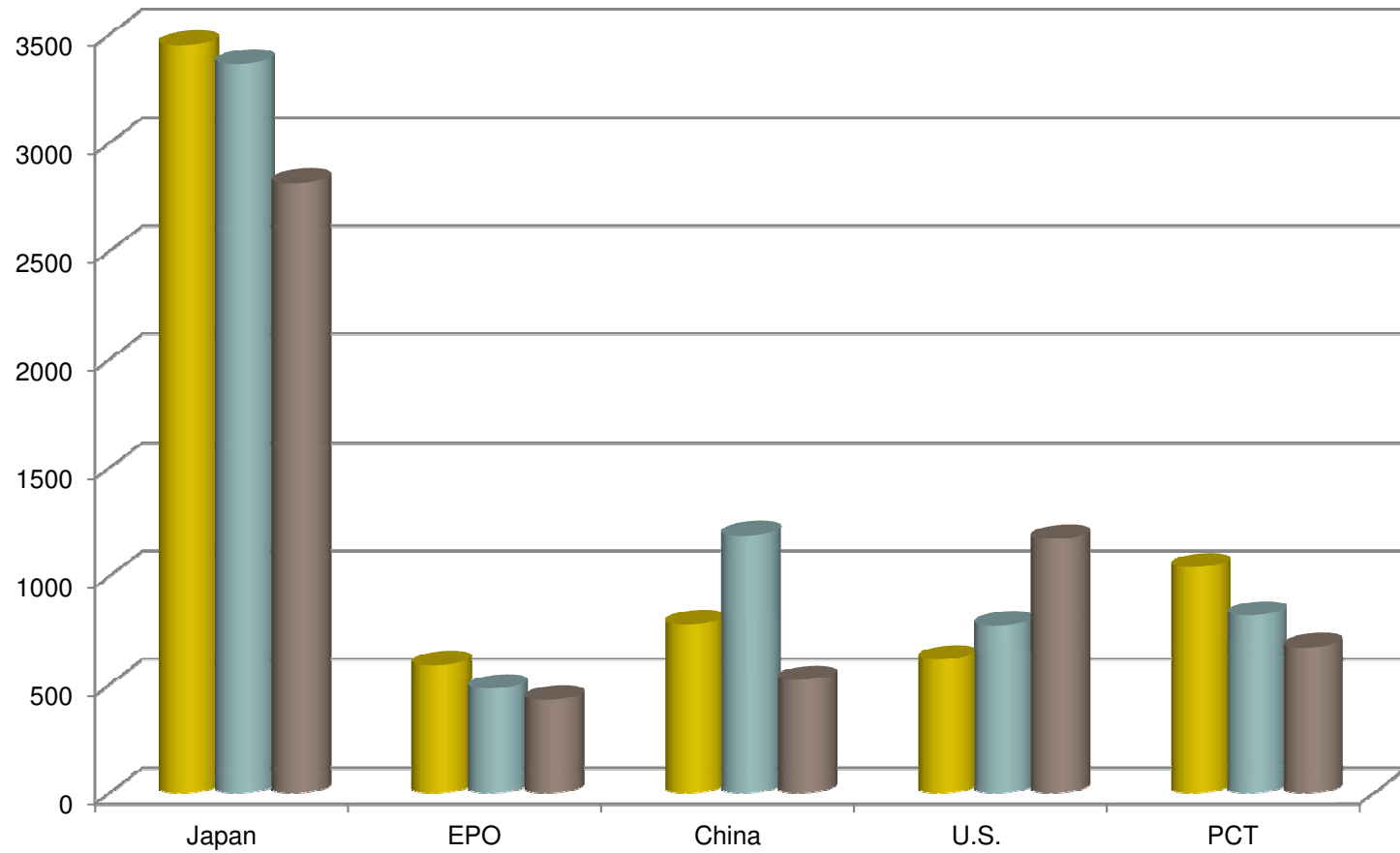
# Utility Patents

- Utility patents provide the most effective manner of preserving exclusivity for fuel cell technology, but a worldwide patent program can be cost-prohibitive
- A filing of one utility patent application in developed countries can easily exceed \$100,000
- Prosecution and annuities increase this cost

# The Patent System

- An effective fuel cell patent portfolio provides flexibility of design:
- You need to bear in mind that a patent application is usually filed early in the product development cycle
- It is not uncommon for the final product configuration to fall outside of the scope of a single patent application, so
- Having a family of patents allows you to make product changes and stay within your space

# Key Country Fuel Cell Patent Filings



# Navigating the Patent System

## Standards of Patentability

- Patentable subject matter
- Utility
- Novelty
- Non-obviousness (Inventive Step)

## Design Patents

- Design patents protect ornamental, non-functional aspects of a design (auto parts, tire treads)
- Primarily of use in the US
- Easier to obtain than utility patents, easier of competitors to avoid infringement.

## Trade Secrets

- Where reverse engineering not possible (i.e., production methods, “modified” components), trade secret protection can be useful
- Think of Coca-Cola, Oreo cookies

# Copyrights

- Copyrights can be used to protect software, such as control software
- Other forms of expression (advertising, operation manuals, etc.) can also be protected by copyrights in many instances

# Trademarks

- Based on the need to protect the public from being misled as to the nature and source of the products they buy
- Secondary concern is the need to protect the property rights of a business to identify itself and its products to the public

# Trademarks

- Trademarks can protect words:
- FAITH HILL
- SUN RECORDS
- COCA-COLA
- INGRAM
- OREO
- GIBSON
- MAGNETEK
- THOMAS NELSON
- TANYA TUCKER

# Trademarks

- Trademarks can protect logos:



# Trademarks

- Trademarks can protect sounds:
- NBC owns a trademark registration on the NBC chimes
- Intel owns a trademark on the “Intel chimes”
- Microsoft owns a trademark registration on the snippet of music played when Windows boots up
- Harley Davidson attempted to register what they termed the distinctive sound of a Harley

# Trade Dress

- A subset of trademark law
- Protects shape/color/other distinguishing feature of a product (Coca-Cola bottle, John Deere green; Owens-Corning pink)
- Protected feature must be ornamental and non-functional

## IP Can Be “Mix and Match”

- The most effective, and cost effective approach for protecting fuel cell technology is to combine the different forms of IP
- Protection in any individual country or region can be tailored to achieving effective protection
- The judicious use of utility patents can be combined with the other types of IP to keep competitors at bay

## IP Can Be “Mix and Match”

- With care, the patent system can be used to keep your fuel cell technology yours
- Other forms of IP can buttress patent protection
- The system works, worldwide, and should be an important part of your strategy

Thank you!