



Australian Government
IP Australia

Economic Considerations for Utility Models Protection: The Australian Experience

Regional Seminar on the Legislative, Economic and Policy Aspects of the Utility Models Protection System, Kuala Lumpur September 3 and 4, 2012

PATENTS

TRADE MARKS

DESIGNS

PLANT BREEDER'S RIGHTS

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PBR

Robust intellectual property rights delivered efficiently



The role of Patents

- Patents are recognised as creating incentives for innovation by giving inventors a limited exclusive right in exchange for a full disclosure of their invention.
- They also play an important role in further innovation since the information about an invention is published and can be used by others.
- In Australia the value of the patent system has been estimated as being in the order of \$12 billion per annum.



- Applicants and the public benefit from the grant of robust and enforceable patents. Government policy attempts to balance the interests of all parties by setting the inventive threshold of patents at an appropriate level.
- Australia recently undertook a review of the patent system, including a comparison of the level of inventiveness required in Australia compared with other major trading partners.
- Changes have been made as a result of this review that will bring Australian standards for patentability into alignment with those of our trading partners.



The role of 2nd tier rights

- Post-war redevelopment of industry in some nations and the recent industrial development of some nations has been attributed to utility model patents.
- In Australia the stated purpose for providing 2nd tier rights is to stimulate innovation in Australian small and medium enterprises.
- Innovation patents are not suited to all applicants – for example, companies with a global strategy are more likely to rely on standard or PCT applications.



Some features of 2nd Tier Rights

- May have a lower threshold of inventiveness – easier to obtain
- Granted after a formalities check and without formal examination – a cheap entry into the system
- Provides sufficient time for the patentee to develop and market the product (most countries provide an 8-10 year term)
- Generally can only be enforced once it has been examined.

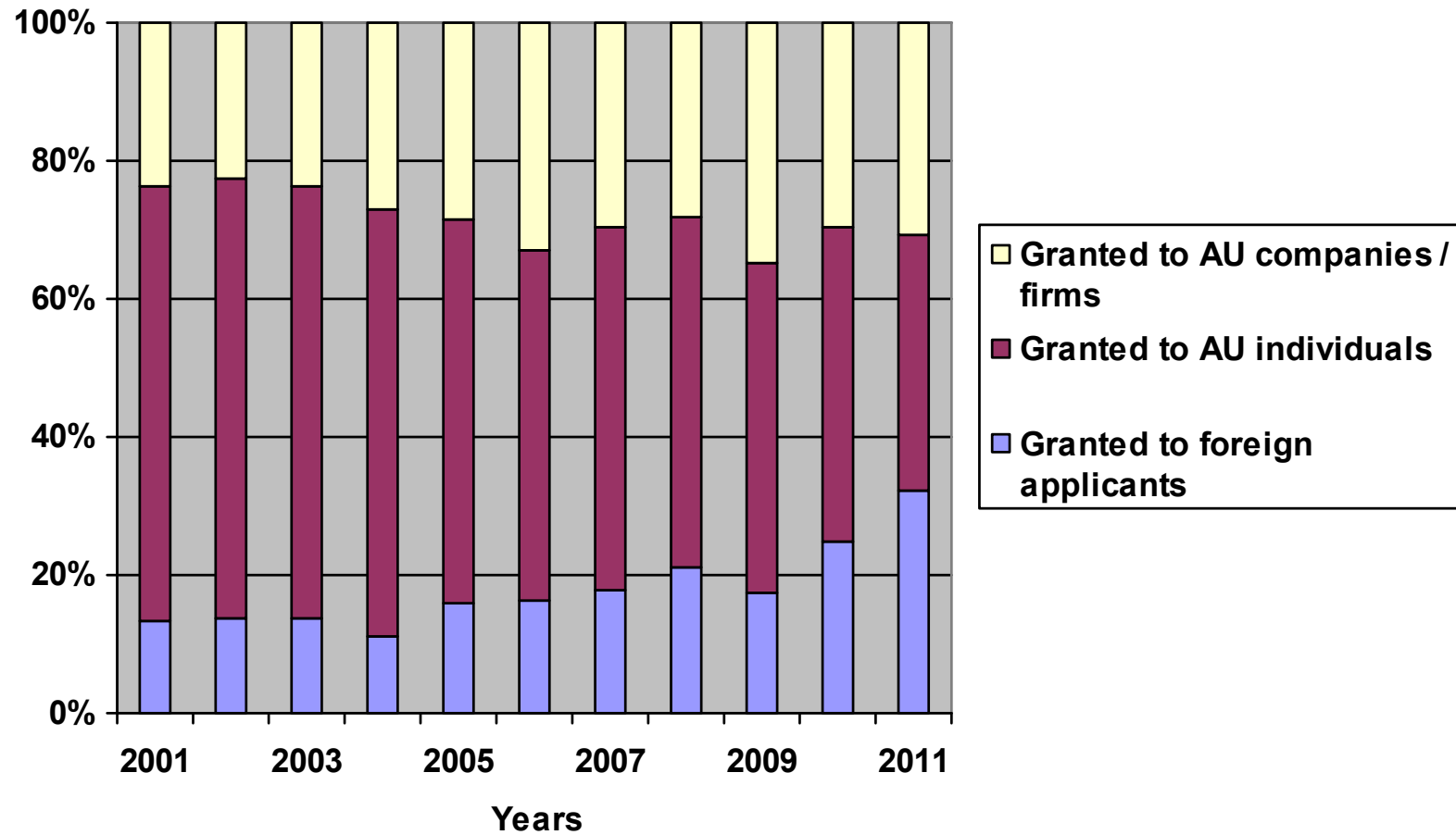


Use of the Innovation System

- The Advisory Council on Intellectual Property (ACIP) is currently undertaking a review of the Innovation Patent system in Australia.
- They note there is little economic analysis of the innovation patent system.
- Most conclusions are based on studies of the applicants and nature of inventions being applied for.

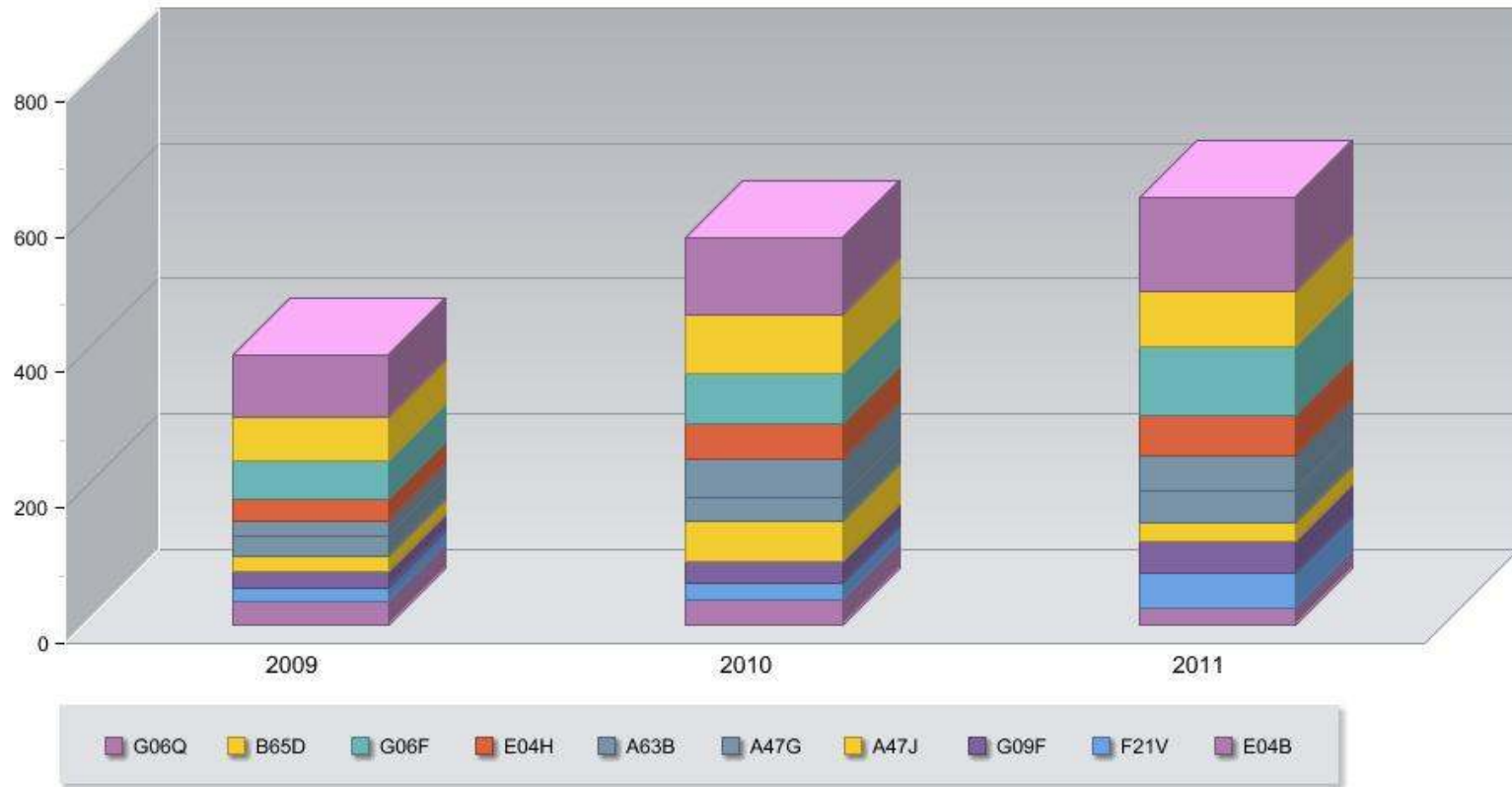


Granted innovation patents according to applicant





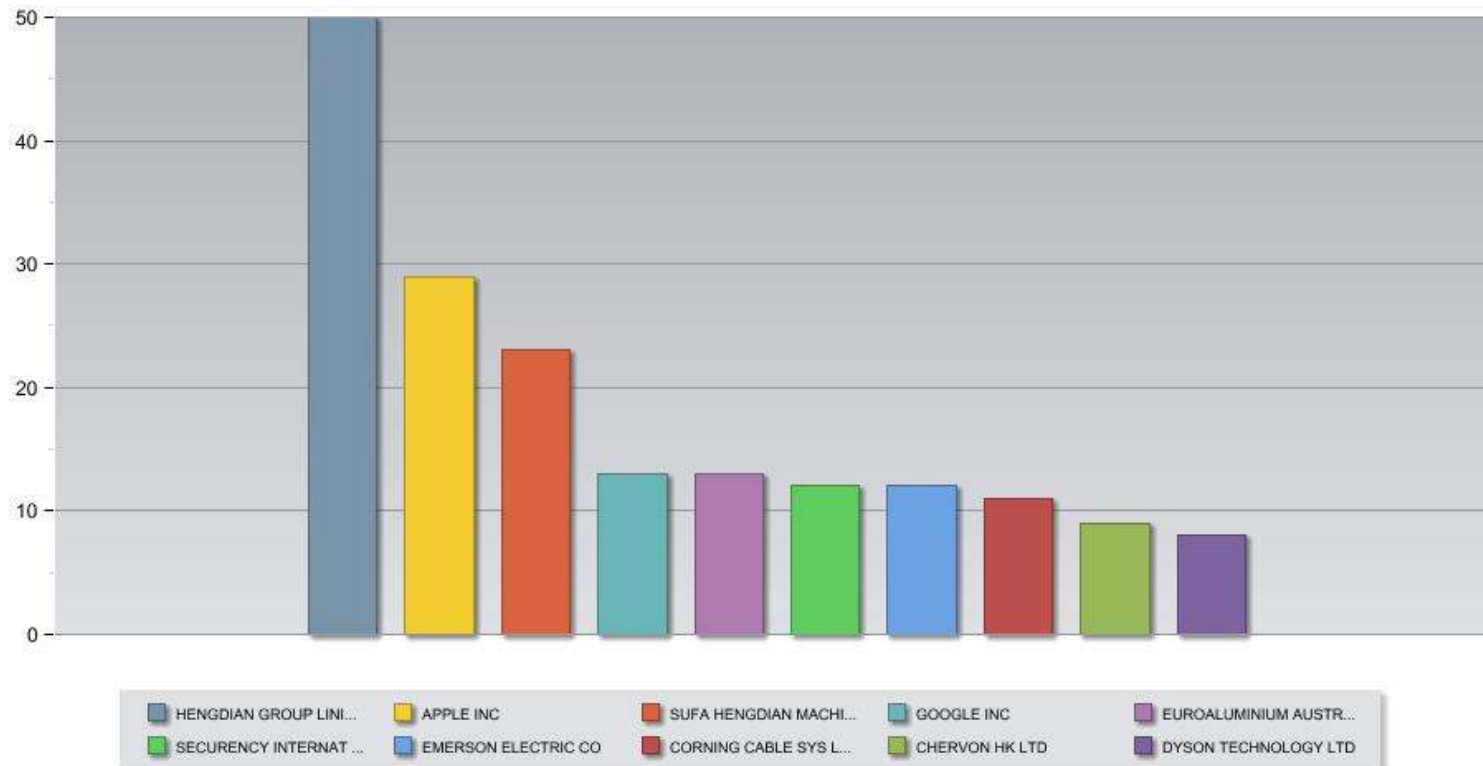
Top IPCs by Year



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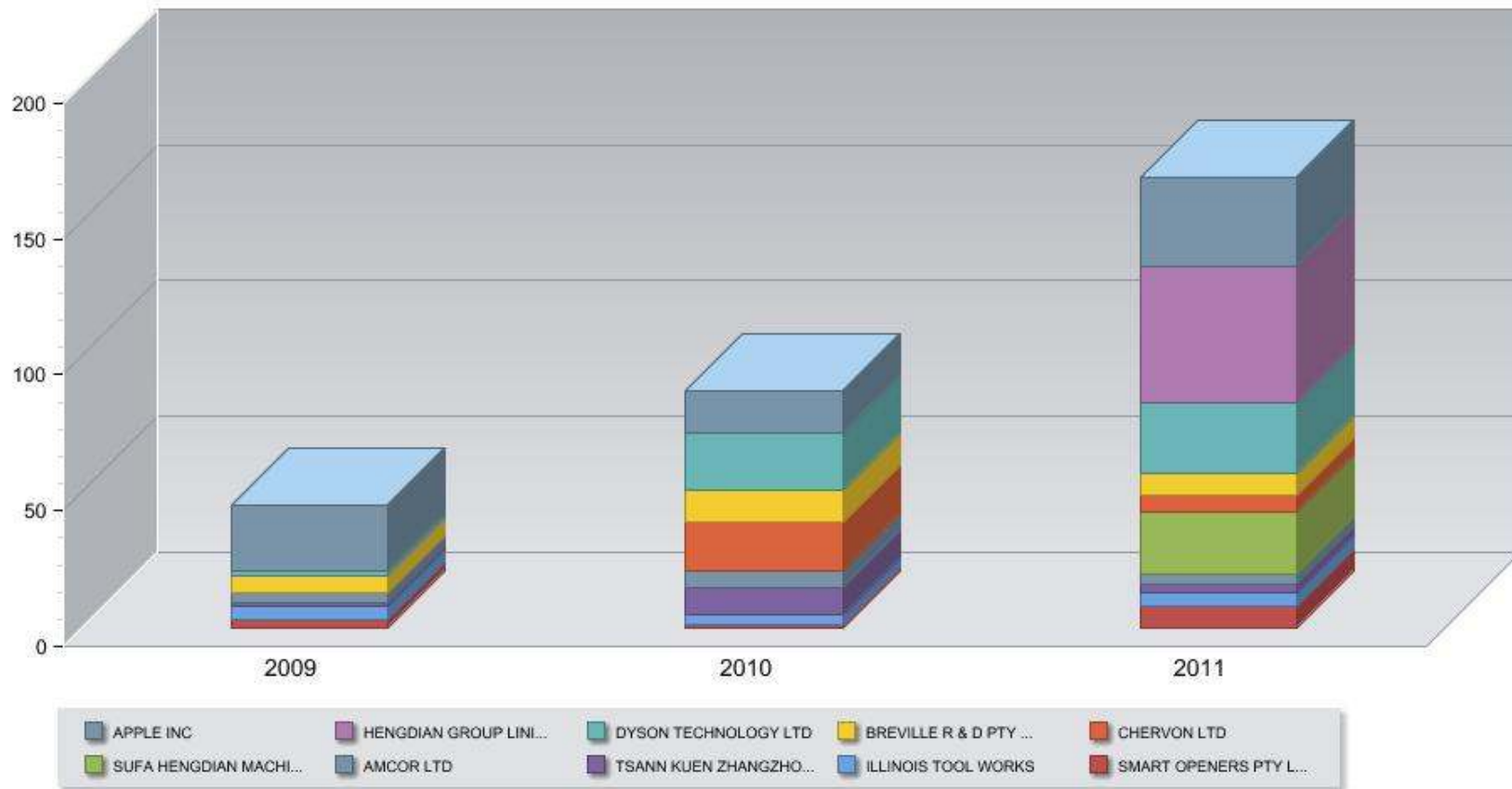
Top Assignees



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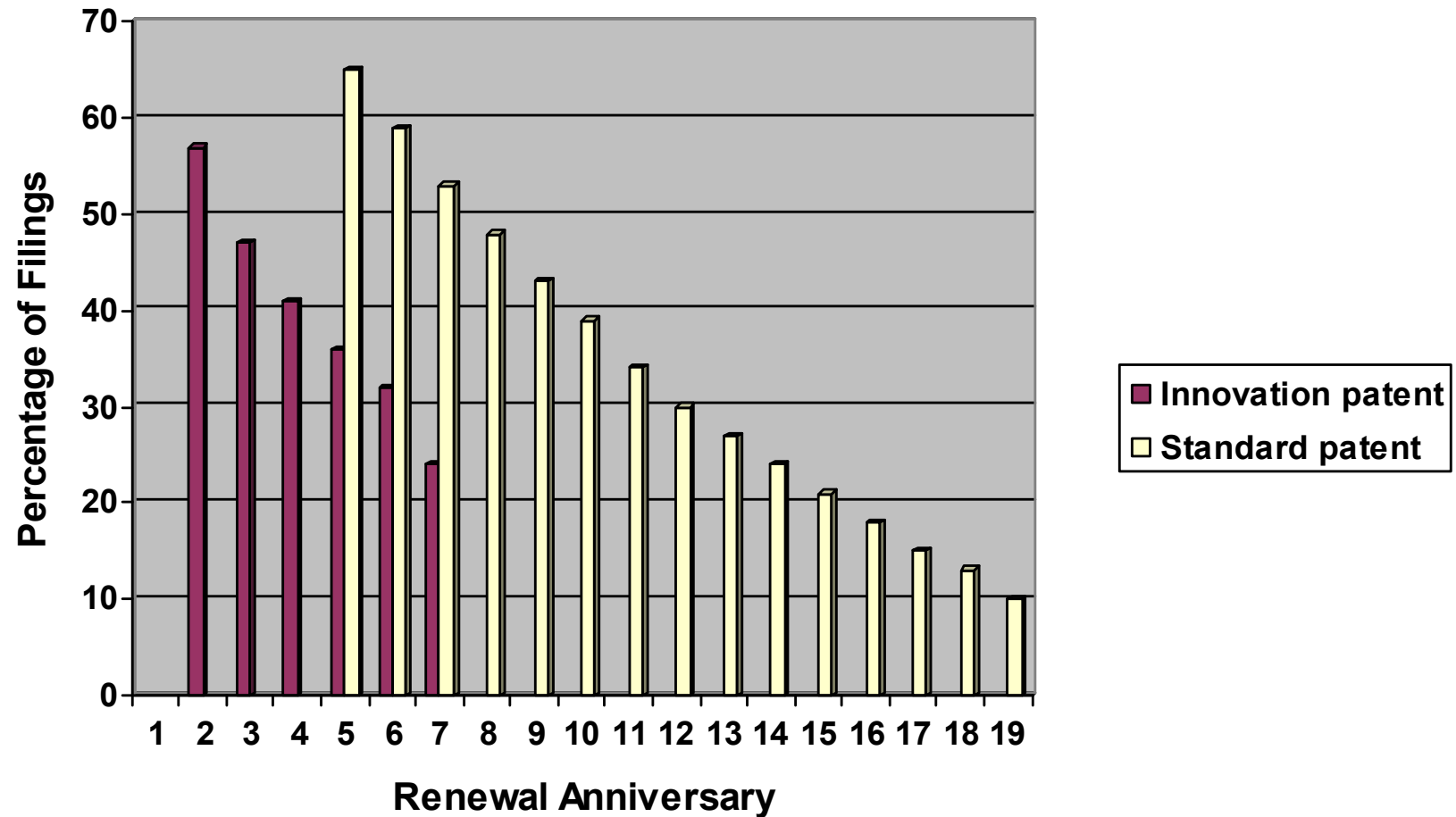
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Renewals of standard and innovation patents





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Thank you



IP Australia has achieved certification for its quality and environmental management systems.



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