

BLUE ENERGY IN THE PACIFIC:

Powering Innovation



Thursday 18 & 19 April 2013
Icon Room, Te Papa Tongarewa, Wellington



Intellectual Property Seminar

Anton Blijlevens - Partner



What is Intellectual Property?

- Non-tangible property that is the result of creativity
- Can be worth more than all your tangible assets.
- Can be cheap to implement.
 - Trade secrets and copyright are free IP.

What is Intellectual Property?

Registered Rights

- Trade Marks
- Patents
- Designs
- Plant Variety Rights

Unregistered rights

- Copyright
- Layout Designs
- Trade Secrets

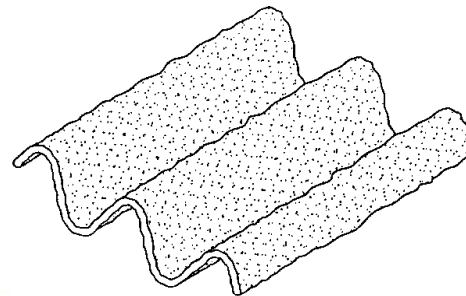
What is a Trade Mark?

Marketing Definition

- A trade mark is a name, term, sign, symbol, brand or design which is intended to identify the goods or services of one seller or group of sellers and to differentiate them from those of competitors



What can be protected?



Patents

- Protect inventions
- Gives a right to exclude others from making, using, selling your invention
- Must be novel and inventive
- Term is 20 years from filing
- Patent is only enforceable in the country where it is granted
- Compare to Trade Secret route of protection
 - Risk of reverse engineering and independent design

What is patentable?

- Products and processes
 - Mechanical devices
 - Electric devices
 - Electronic devices
 - Computer software
 - Chemical formulations
 - Manufacturing processes
 - DNA molecules
 - Modified plants/animals
 - Medical treatment

Patents

- Eligibility
 - Novel and Inventive
 - Gauged by conducting prior art searching
 - Judged against the prior art (including own prior art)
- Threshold to get a patent is not high in many countries.

Should we file a patent?

- **Consider:**

- Strength of protection / enforceability
- Can it be kept a trade secret for longer than 20 years ?
- Market value of the invention
 - Is it worth copying and for how long
- Translate the idea into reasons why the idea may generate revenue or reduce costs e.g.
 - Environmental impact will be reduced compared to current tech.
 - Cost/yield ratio is better than current tech.
- Opportunity to sell or license the IP
- Cost of not protecting
- Litigation bargaining tool
- Cross licensing tool
- Prevent others from patenting the same idea

Patents – Ball park costs

- Year 1 - \$4-8K
- Year 2 - \$8-10K
- Year 3.5 - \$4-8K per country
- Years 4-8 - \$4-8K per country
- Years 8-20 - \$1000 per annum per country.

Other considerations and pitfalls

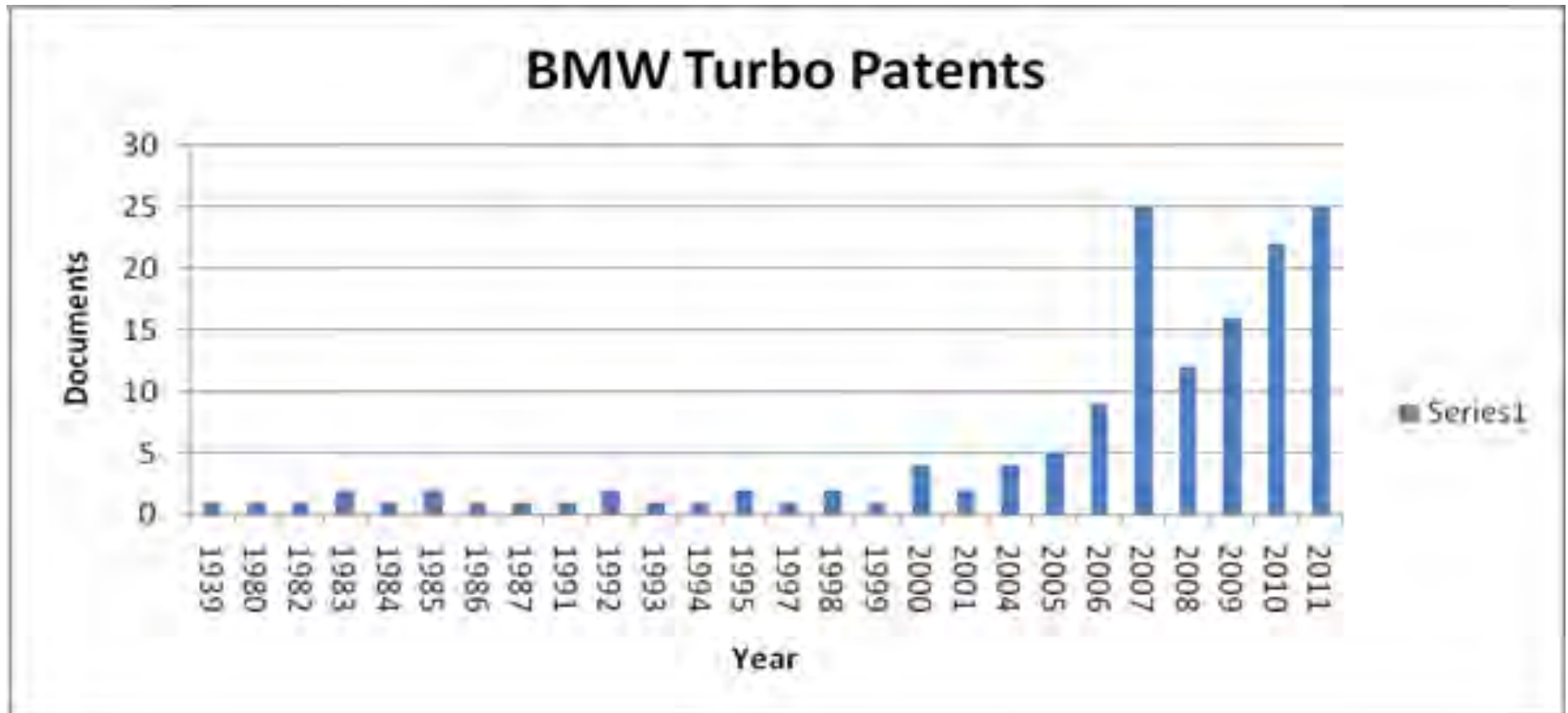
- Ownership !!!
- Prior disclosure
- Collaboration
- R&D research and Freedom to Operate research

Reasons for looking

- Market intelligence
- Tactical reasons
- Cost saving and speed to market reasons
- Value adding reasons
- Head hunting
- FTO
- Where.
 - USPTO.GOV
 - IPONZ.GOV.NZ

Reasons for looking - Market intelligence

- BMW is known for its naturally aspirated engines.
- The 2012 M5 has a Turbo V8 - Predictable



Quick Search: Patent Text printer Go ?

Patent Result Set

17,410 records found out of 88,184,891 searched (Display Limit 30,000)

Help

Advanced Subsearch | Highlight | Display & Sort Options | Retrieve INPADOC Family

11734 INPADOC Families | 0 record(s) selected

Hide Refine & Subsearch

Show Filters

Edit Query: CTB=(wave adj energy)

Search

Subsearch Results: Text Fields

(printer AND scanner)

Subsearch

Save | Alert | Mark List | Download | Charts | Print

<input type="checkbox"/>	<input type="checkbox"/>	Publication Number	Assignee/Applicant	Publication Date	Current IPC
<input type="checkbox"/>	<input type="checkbox"/>	EP2577049A2	Sea Power Limited	2013-04-10	F03B 13/20
		Title: WAVE ENERGY CONVERSION DEVICE			
<input type="checkbox"/>	<input type="checkbox"/>	EP2386748A3	Gimsa Dr. Andreas	2013-04-10	F03B 13/18
		Title: Wave energy converter with generator having high revolutionary speed			
<input type="checkbox"/>	<input type="checkbox"/>	WO2013049590A1	RESOLUTE MARINE ENERGY INC.	2013-04-04	F03B 13/18
		Title: WAVE-POWERED DESALINATION SYSTEM			
<input type="checkbox"/>	<input type="checkbox"/>	WO2013048915A1	OCEAN POWER TECHNOLOGIES INC.	2013-04-04	F03B 13/14
		Title: ANCHORING APPARATUS FOR WAVE ENERGY CONVERTERS			
<input type="checkbox"/>	<input type="checkbox"/>	US20130081388A1	PURENCO AS	2013-04-04	F03B 13/14
		Title: WAVE POWERED BUOYANCY CONTROL SYSTEM FOR FLOATING WAVE POWER PLANTS			

Displaying 1 - 50 of 11734

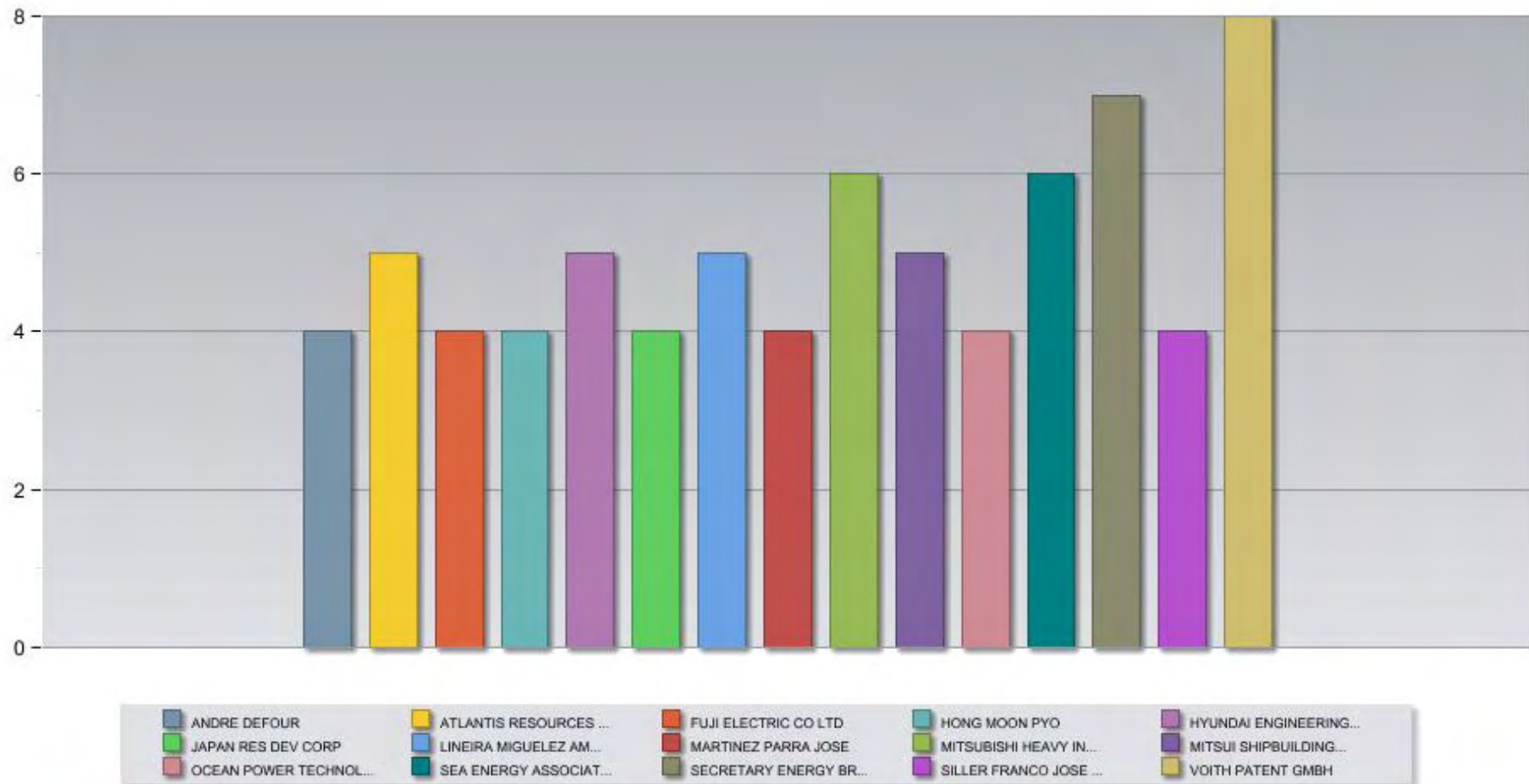
Page 1 of 235

Go to Page:

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Display: 50 Records per page

Major Assignees in class E02B 9/08 "Tide or wave power plants"



Source: Thomson Innovation®, www.thomsoninnovation.com

Reasons for looking - Freedom to operate

- Freedom to Operate (FTO) is the ability to commercialise a product or brand without infringing the intellectual property rights of others
- Determine if you are clear to launch
 - A new product or brand
 - An existing product or brand in a new market
 - An existing brand for new products or services

Reasons for looking - Freedom to operate

- FTO search costs should be proportional to total cost exposure
 - Cost of RnD
 - Lost opportunity costs
 - Cost of product launch
 - Cost of inability to sell
 - Cost of inability to fulfil orders
 - Company reputation costs

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