



INSIDE TECHNOLOGY

## High-Tech: How to Boost Your Patent Licensing Strategies

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2:30-3:30 P:M

Session 9: IPR Portfolio Management



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## Panelist introduction

- Gary Dauser, Senior Director, Licensing, Infineon Technologies AG
- Jako Eleveld, Senior Director, Innovation and Emerging Businesses, Philips Intellectual Property & Standards
- Harald Röggl, Senior Director IP Licensing & Claims, Intellectual Property & Licensing, NXP Semiconductors
- Terry Ludlow, CEO and Founder, Chipworks Inc. (Moderator)

# Agenda

- Introduction
- Panel discussion – key themes
  - Conducting winning negotiations
  - Breaking through patent thickets
  - Examining royalty levels – IP as a profit center
- Summary

# Introduction



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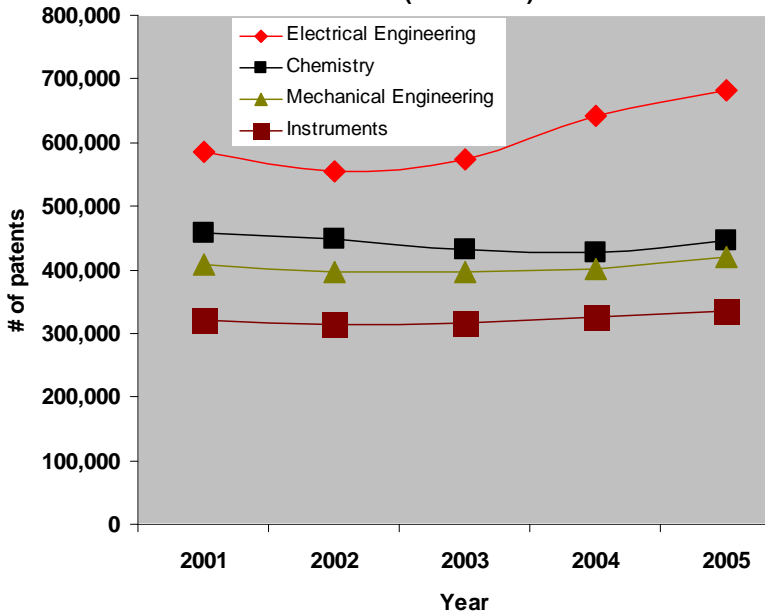
# High tech companies are the top patent owners, having the most to gain from licensing programs

U.S. Patents Issued By Company, 2006-2007			
Rank	Company	# of Patents (2007)	# of Patents (2006)
1	IBM	3,148	3,651
2	Samsung Electronics	2,725	2,453
3	Canon	1,987	2,378
4	Panasonic (Matsushita)	1,941	2,273
5	Intel	1,865	1,962
6	Toshiba	1,549	1,717
7	Microsoft	1,637	1,463
8	Micron	1,476	1,612
9	HP	1,470	2,113
10	Sony	1,481	1,810

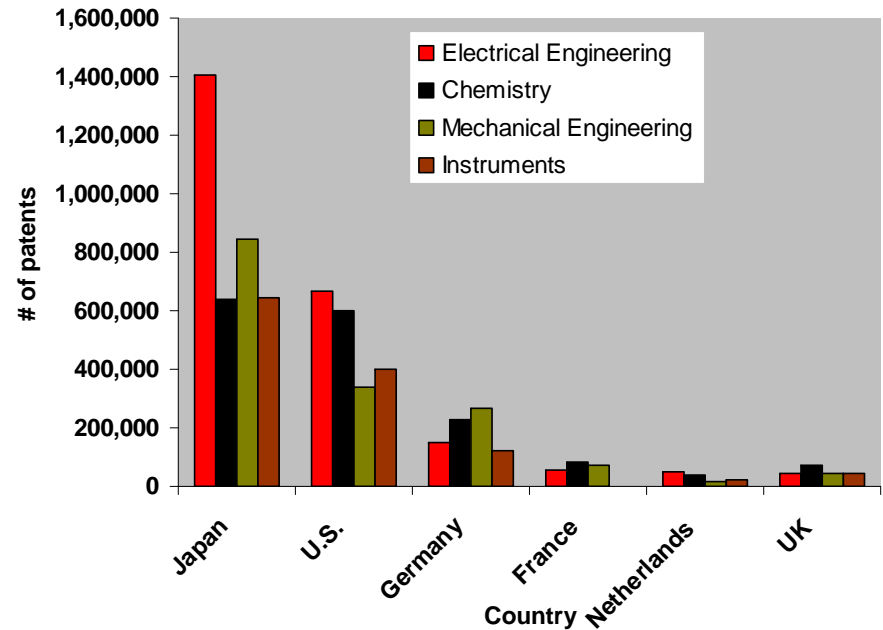
Source: IFI Patent Intelligence, 2008

# High-tech companies file the most patents; Japanese and U.S. companies dominate in high-tech patent filing

Total number of patents filed by technology field (2001-2005)



Patent applications by field of technology and country of origin (2001-2005)



Notes:

1. Source: WIPO, 2008
2. Total number of patents filed by technology field is compiled from aggregate data from the top 30 countries worldwide.



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# Panel Discussion



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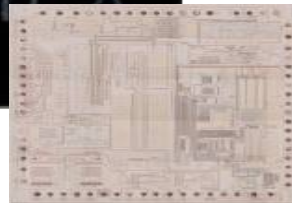
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## If anything, what do you think is unique about patent licensing for high technology companies?

- Standards are important, resulting in:
  - Many licensing-out programs, e.g., through patent pools
  - And also licensing-in
  
- Hardly any exclusive positions
  - Except perhaps for some lead-time on differentiating features



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# To what extent do you believe offensive versus defensive licensing strategies are deployed?

- The trend is that more companies are developing “offensive” licensing programs and strategies
- Offensive and defensive strategies must be different to achieve their desired objective
- Defensive
  - Tactical (reactionary) strategies to protect the company
  - Proactive strategies to position the company  
“best defensive is an offensive”
- Offensive
  - Goal driven (value, freedom of action, license)
- Economic downturn influencing forward strategies
  - Increasing pressure for offensive strategies
  - More patents for sale
  - More negotiations



## In your opinion, what are some of the major factors to consider when preparing for a negotiation?

- **Know** the other company
  - Portfolio – quantitative, qualitative, acquisitions, trends ...
  - R&D topics
  - Licensing/litigation history
  - Intercompany relationships (business and personal), customer, supplier, competitor, partner
  
- Know the risks and rewards
  
- Leverage your company
  
- Expectation management



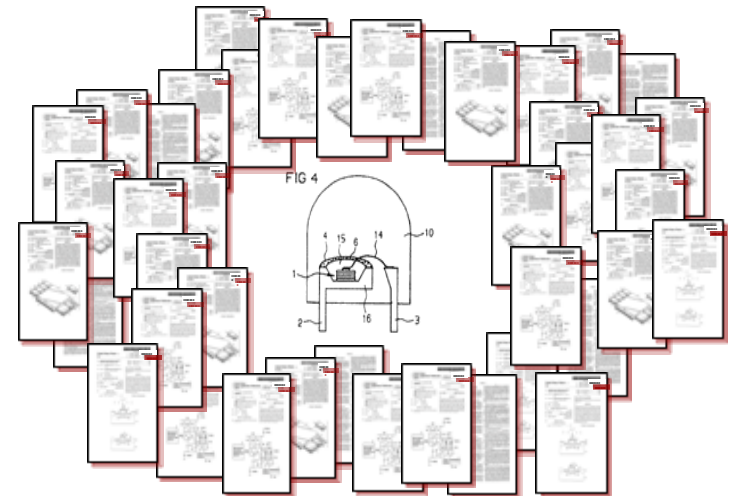
## In your opinion, how serious a problem is royalty stacking?

- Royalty stacking is becoming a serious problem because products use an increasing number of technologies
  - High transaction costs
  - High cumulative royalties
- So far only partial solutions have been proposed
  - Disclosure requirements during standard setting
  - Ex-ante maximum royalties
- Solutions should also address the high transaction costs
  - Formation of patent pools with as many licensors as possible (including those that were active in standardization)
  - Create product licenses that cover all standards used in a certain product



# In your opinion, do you believe a semiconductor or microelectronics company can design anything without using unlicensed patents?

- Electrical/engineering: 600,000 new patents filed/year
- Patents valid up to 20 years
- Short lifetime of technologies in that area
- Chance to prove infringement linked to effort taken



# Are you aware of patent pre-clearance studies? If yes, how thorough and what actions does it generate for an IP group?

- Different approach by different companies:
  - Wait and see – invest in extensive pre-clearance studies
- Checklist for pre-clearance study:
  1. New product based on an old product? IP claims received?
  2. New features added to old product?
  3. IP landscape search in that technology/feature area?
  4. IP agreements with companies that own relevant IP?
  5. New product complies with a standard?
  6. Basic patents known in the industry?



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## In your experience, how prevalent are work-arounds or design-arounds used to avoid patent claims?

- Design-arounds considered when:
  - Believe you are at risk to infringe
  - Scope of the patent claim enables design around solution
  - R&D capacity and time to market impact ability to work on solution
  - If design-around is cheaper to implement than license
  
- Design-around cautions:
  - Design-arounds increase product costs – business case still ok?
  - Design-arounds reduce technical performance – competitive product?



## Summary

- High-tech sector has a large investment in patents
  - Routine use of a large numbers of patents in new products requires extensive cross-licensing and creates exposure to infringement allegations
- IP Strategies usually require a mix of offensive and defensive licensing approaches utilizing a common skill set

## Thank you!

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