

Patent Statistics in the Agrochemical Sector in Vietnam

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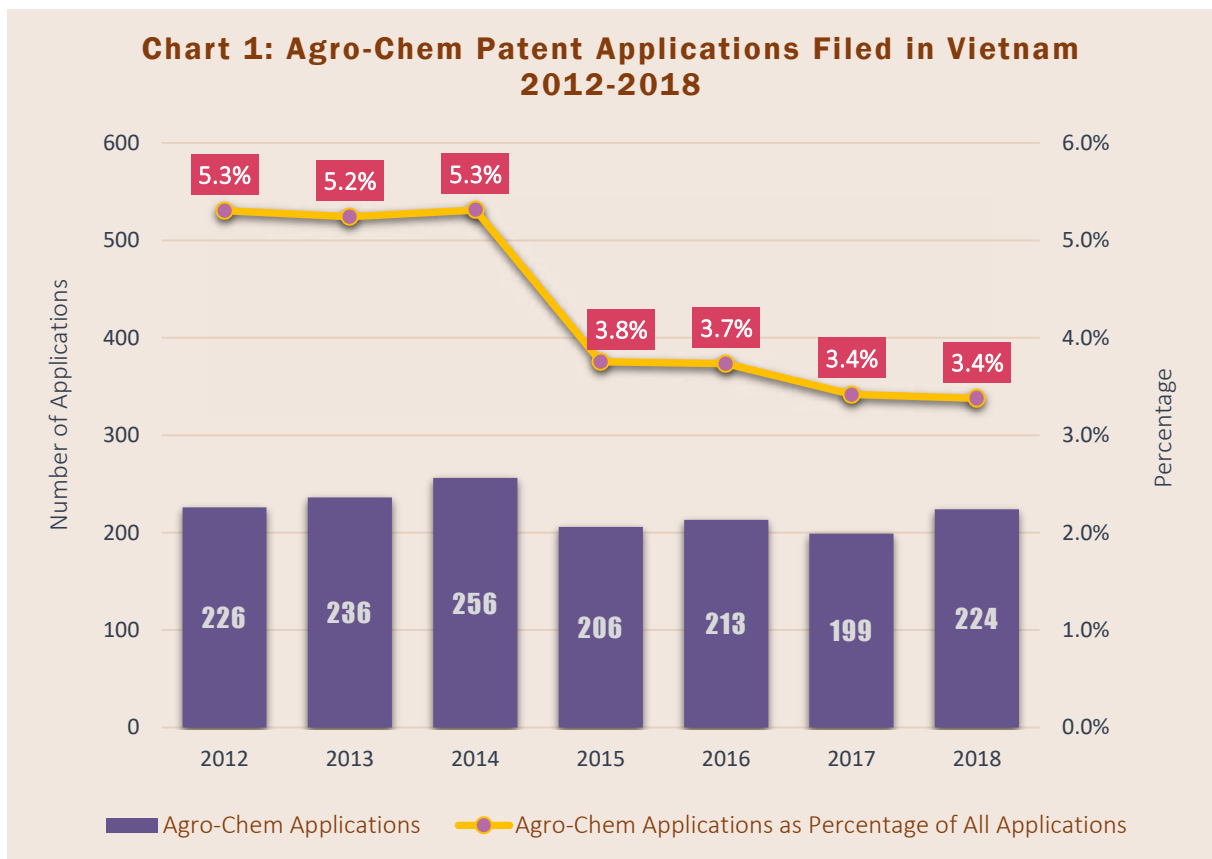
Despite rapid economic development over the past two decades and an increasingly urban population, Vietnam remains a primarily agricultural country. According to 2018 statistics from the Ministry of Industry and Trade, 70% of the population (67.5 million) was living by agriculture, with agricultural land (including forests) covering 26 million hectares—an area about the size of the country of New Zealand.

Such large-scale agriculture is clearly attractive to global agrochemical companies, who have been increasing their investment and production in Vietnam in recent years. For these companies, whose business is driven by scientific and technological breakthroughs, such activities are naturally associated with the protection of intellectual property rights, and especially patent protection.

A study of patents granted and applied for in the agrochemical field can therefore be useful in assessing the trends and opportunities of the Vietnamese market. The charts below provide a summary of the statistical data on agrochemical patents in Vietnam.



I. Agrochemical Patent Applications Filed

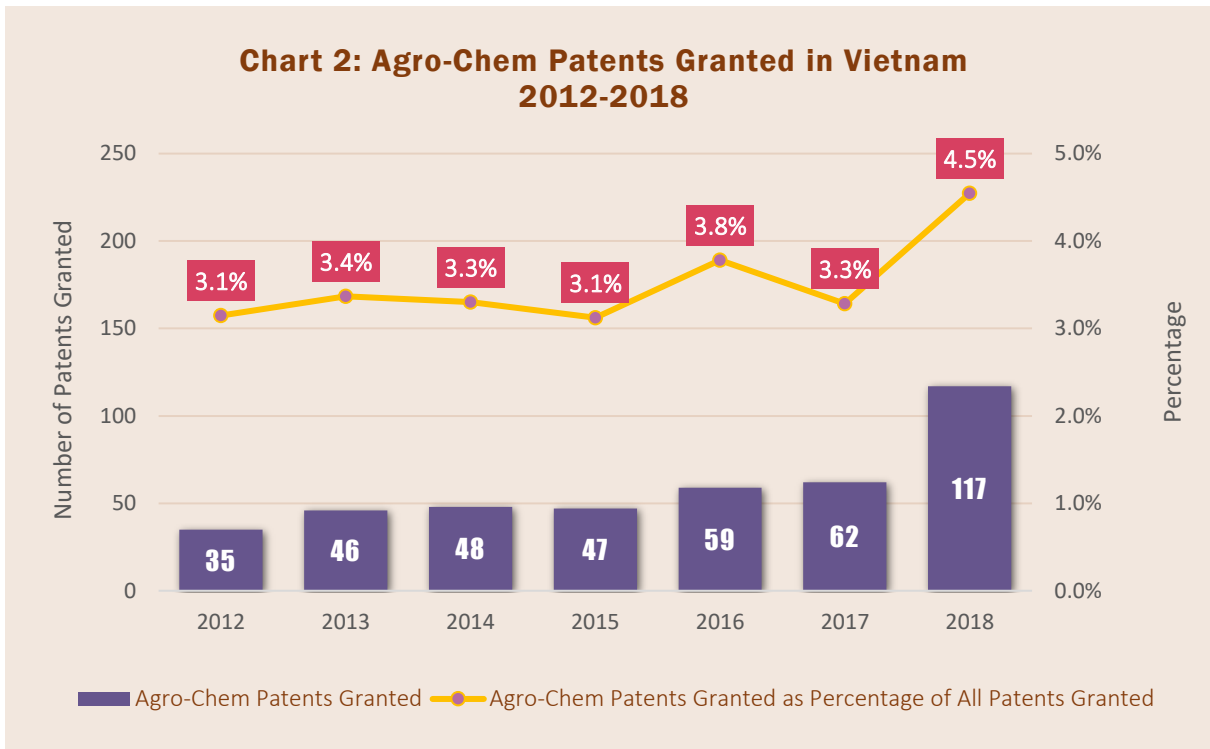


Since 2012, agrochemical applications have accounted for approximately 4.2% of all patent applications filed in Vietnam, which is much higher than the global share in this field of less than 2% (per WIPO statistics, based on PCT applications). This reflects the importance of agriculture in Vietnam’s economy.

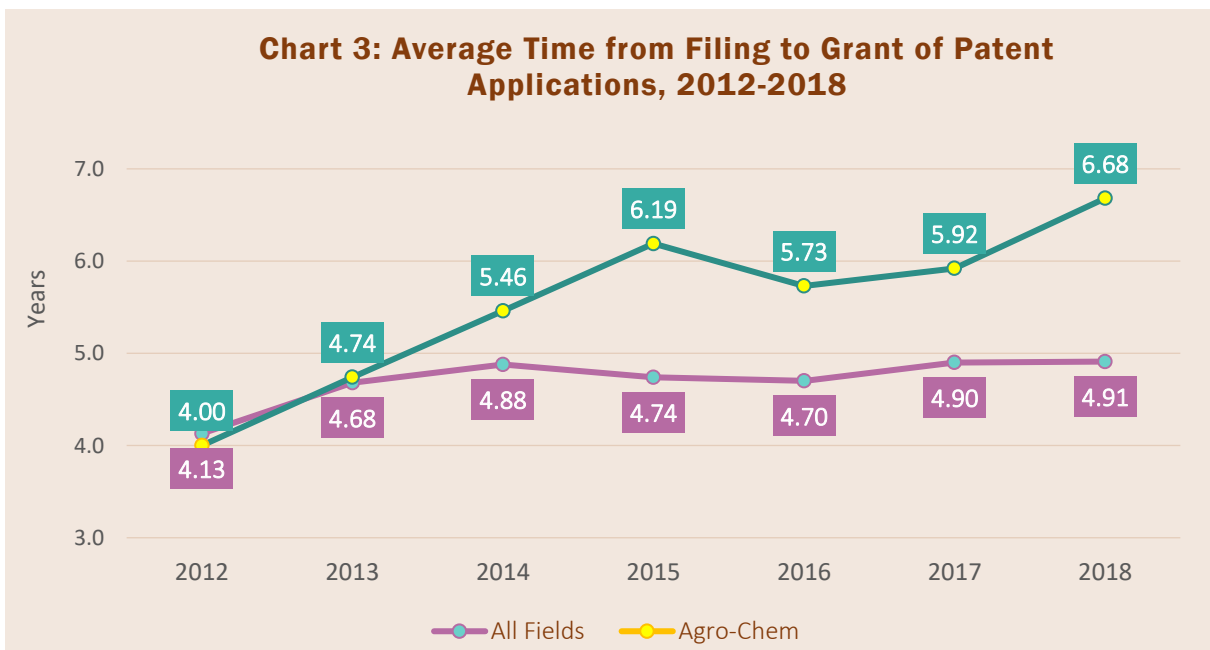
While the number of agrochemical applications filed each year has remained relatively steady, the total number of applications filed across all fields grew by more than 50% over the observed period, from 4,260 in 2012 to 6,630 in 2018. Hence, as a percentage of total applications filed, agrochemical applications have shown a steady decline.

This is probably a reflection of the long-term stability of the agricultural market, which is no longer an “emerging” field, but one which has settled into a pattern of steady development. In comparison, the number of applications in the electronics field – where innovation is pursued much more aggressively – nearly doubled over this period.

II. Agrochemical Patents Granted



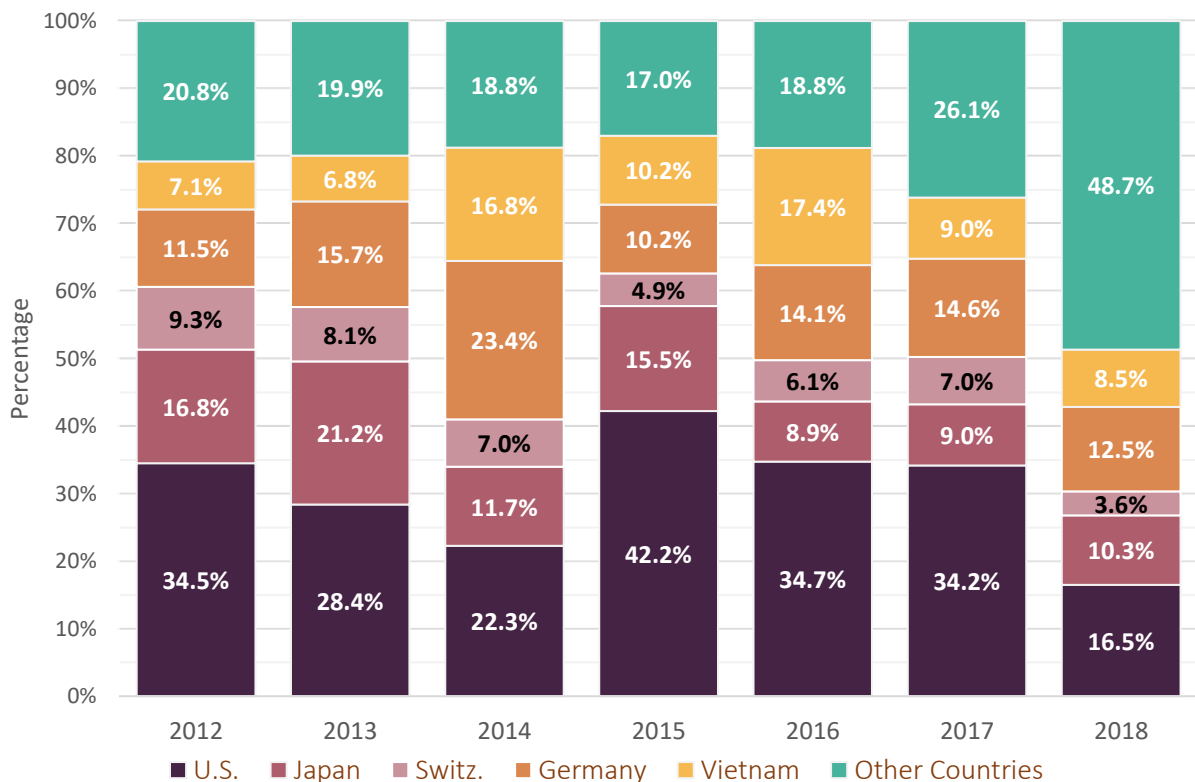
Since 2012, the number of agrochemical patents granted each year had been growing slowly but steadily, until a sudden spike in 2018. This spike was the result of the patent office's active efforts to expedite the examination of pending applications to reduce its backlog. The delay in patent examination and granting has been an ongoing issue in the Vietnamese patent system for many years, and the impressive increase in 2018 is hopefully an indication that this problem is being solved, and the number of patents granted will remain high in the coming years.



The average prosecution period for patent applications in the agrochemical field is relatively long compared to other fields, and has grown even longer in recent years. However, there are signs that this number will improve in the future, as the backlog of applications has been reduced.

III. Agrochemical Applications Filed and Patents Granted by Country of Origin

Chart 4: Agro-Chem Applications Filed by Country of Origin 2012-2018



The United States, Japan, Germany, and Switzerland have been the leading foreign filers of agrochemical applications in Vietnam in recent years, with the number of applications from the United States typically accounting for the largest share. In 2018, the Netherlands (12) and China (10) both passed Switzerland (8) in number of patent applications filed.

There is not really a giant in this field. The U.S. has filed the most applications, especially in 2015, but it does not show the clear dominance that exists in other fields, such as automotive, in which Japan typically accounts for more than 50% of applications filed annually.

Chart 5: Agro-Chem Patents Granted by Country of Origin 2012-2018

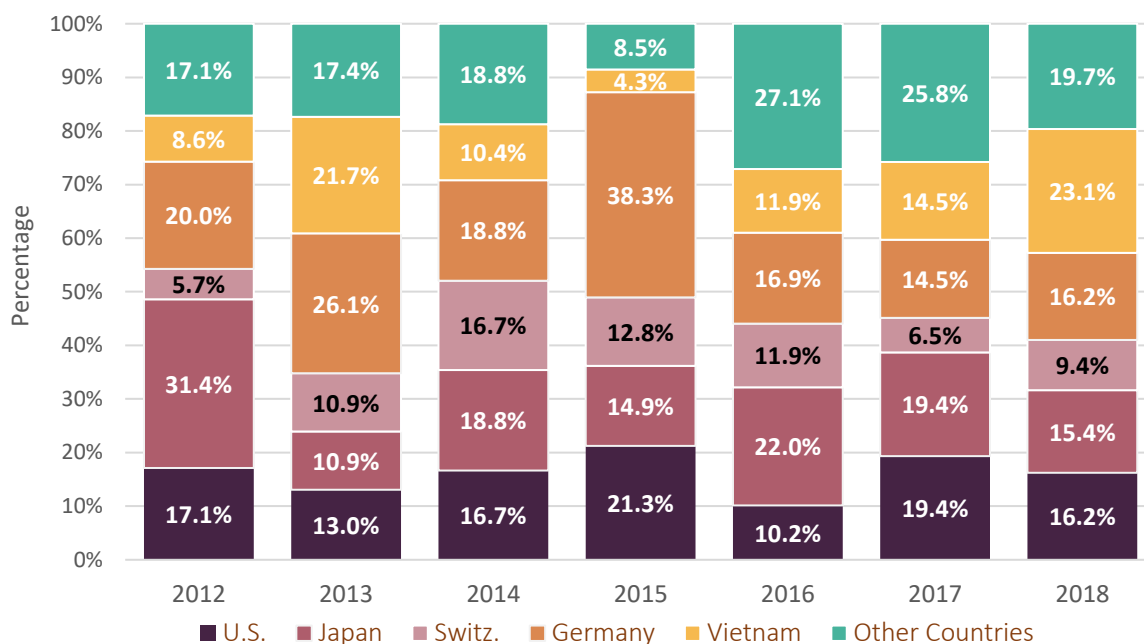
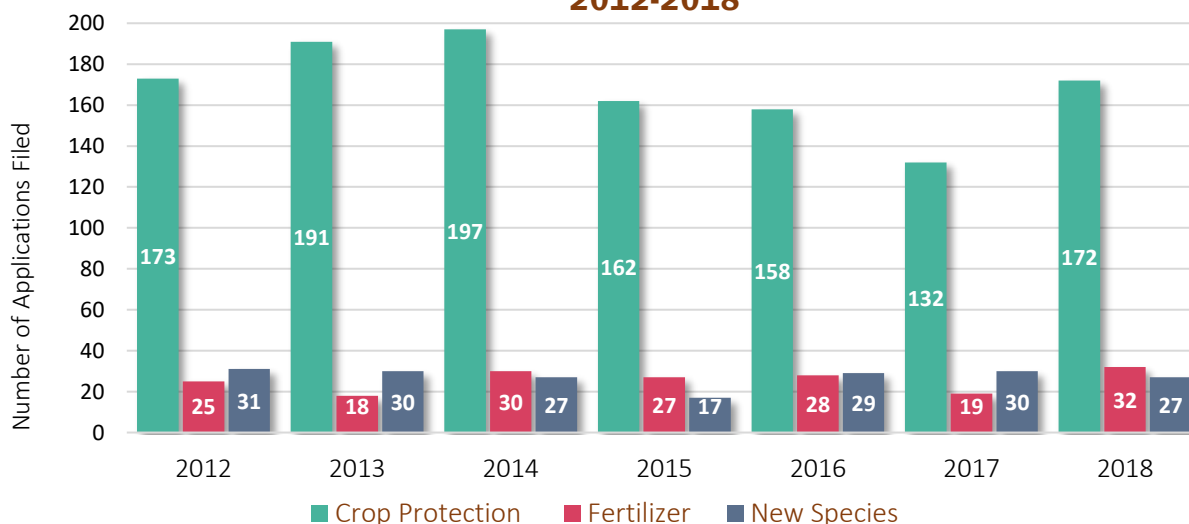


Chart 5, when viewed in tandem with Chart 4, shows that although the U.S. has consistently filed high numbers of applications, the numbers of patents granted to U.S. applications have not been directly proportional. The other countries show a trend of greater success. Based on our experience, we believe this is due largely to U.S. applications being abandoned at a higher rate.

IV. Agrochemical Applications Filed by Sub-Field

Chart 6: Agro-Chem Applications Filed by Sub-Field 2012-2018



Patent applications in crop protection were much higher in comparison with other sub-fields. This is due to the climate of Vietnam, a tropical country where the land is fertile but insects and pests are prevalent.

V. Outlook

Recently, Prime Minister Nguyen Xuan Phuc expressed his desire to take Vietnam into the top 15 developed agricultural countries in the world within the next decade. With a large and stable agricultural economy already in place, and the relatively slow development of domestic competition (as seen by the consistently low number of patents filed by Vietnamese entities), there is a great opportunity for foreign agrochemical companies looking to invest in Vietnam.

Also encouraging is the fact that the Vietnamese patent system is rapidly improving thanks to the recent efforts of the patent office, including the improved speed of patent examination and an increased focus on international cooperation, such as the Patent Prosecution Highway with the Japanese Patent Office. Vietnam is also a member of many progressive treaties, like the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), which emphasize the enforcement of intellectual property rights.

The country's patent enforcement regime, in fact, has made great strides in recent years. Tilleke & Gibbins assisted a multinational agrosience company in two of the first civil patent litigation cases ever heard in Vietnam, against local pesticide producers who had infringed the company's patent. The courts ruled in our client's favor in both cases, one in Ho Chi Minh City (2015) and one in Long An province in Vietnam's agricultural heartland (2017), and the infringers were ordered to cease their infringement as well as pay damages and attorney fees to our client. These rulings have set a strong precedent for future litigation in the sector.

With the low costs for registration and maintenance of IP rights in Vietnam, any agrochemical companies with an interest in Vietnam would be well advised to start filing (or to file more) agrochemical applications in Vietnam. And while the increase in agrochemical patents granted has naturally increased the chance of agrochemical patent infringement, the enforcement authorities have sent a strong message to local manufacturers that this behavior will no longer be tolerated.