A faint, stylized illustration of a virus particle, likely representing COVID-19, with a grey, textured core and red, spiky outer layers. It is positioned behind the title text.

# **Intellectual Property in a Post Pandemic World**

**Tales From The Front Lines**

Sharon R. Barner – VP, Chief Administrative  
Officer & Corporate Secretary

# Agenda

**01** | Cummins 2020 Pandemic Experience

**02** | Patent Innovation in a Covid-induced “work from home” Environment

**03** | Managing Trade Secrets in Remote Work Environment

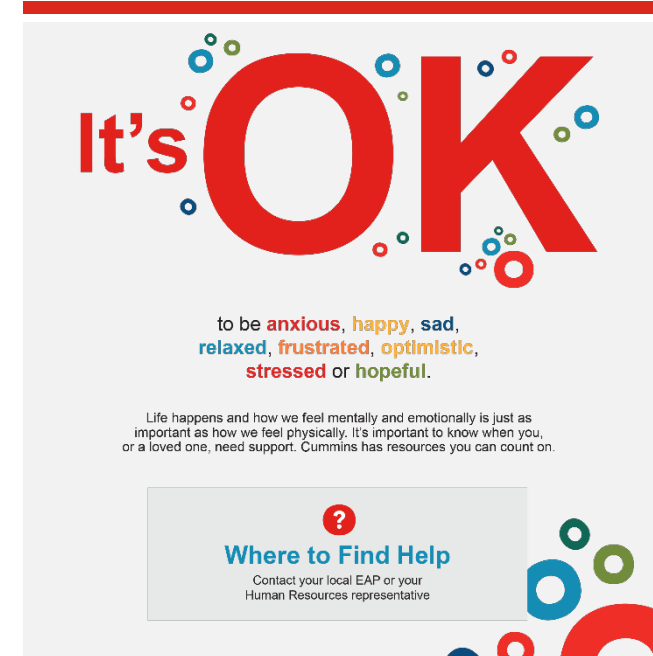
# TOP Priority—Employee Health and Safety



**Redesigned facilities and enhanced safety protocols**



**Developed and shared a Safe Work Playbook**



**Expanded healthcare programs and promoted wellness initiatives**

# Flexing Technology To Aid The Public

Cummins leveraged existing technology and inventions to supply masks during PPE shortage

Early in the pandemic, the IP legal team renegotiated a license agreement enabling Cummins to use our nanofiber filter media to produce face masks

Converted a manufacturing line from making filtration products to creating PPE (i.e., face masks)





# Cummins utilized labor and equipment typically used for producing diesel engine filters to make masks

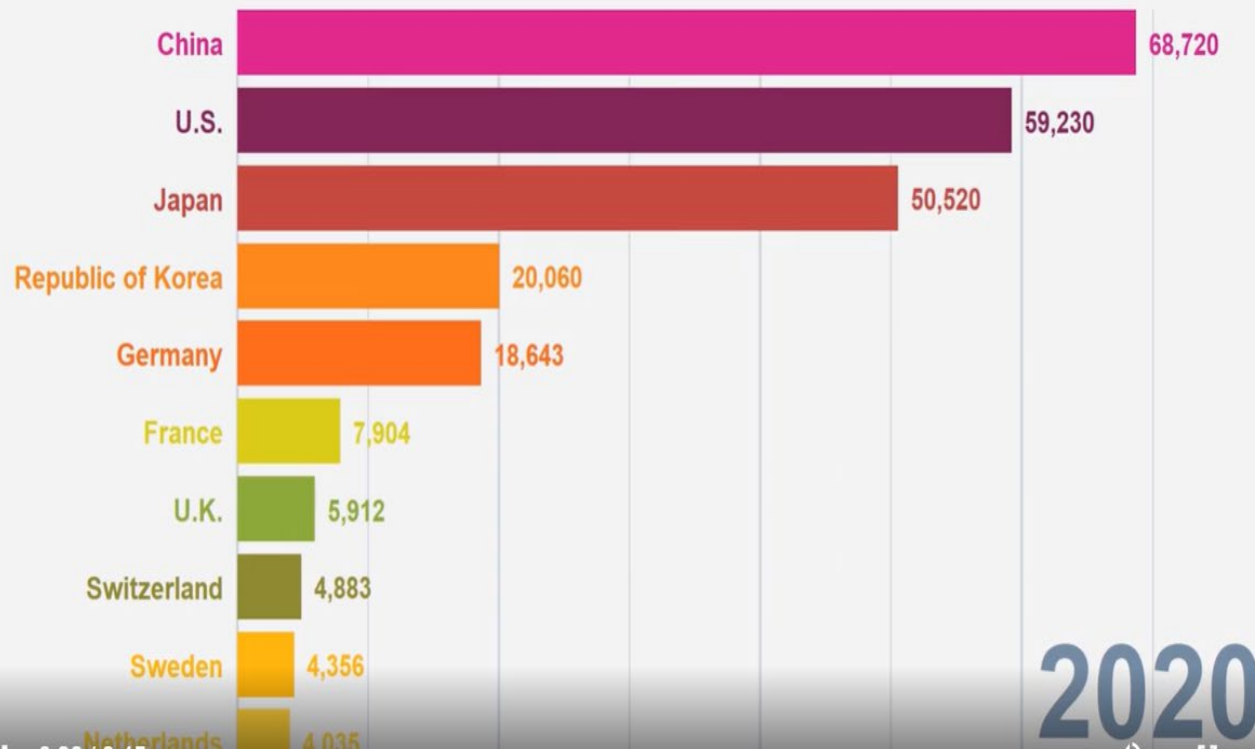


**146 tons** of filtration media provided to mask manufacturers that have been used to produce more than **108 million masks**

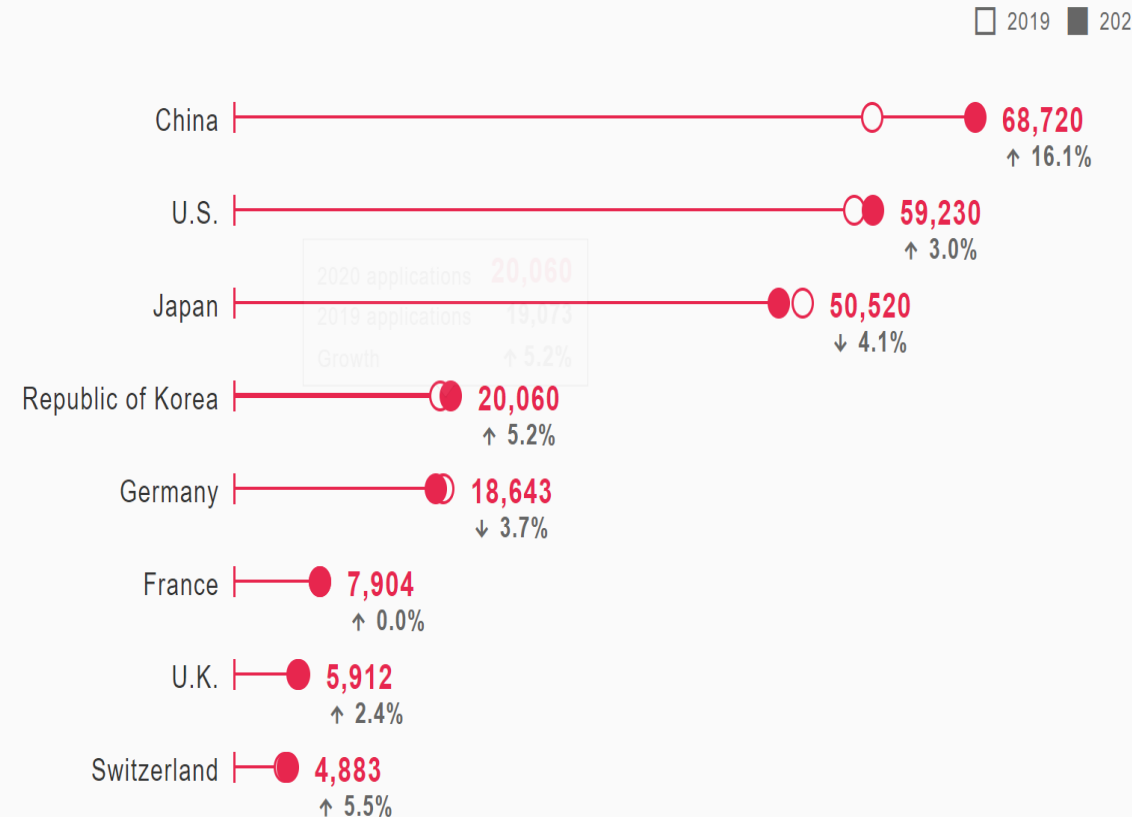


# PCT Top Country Filers - Patent and Utility Models 2020-2021\*

International patent applications by country



WHICH COUNTRIES ARE THE BIGGEST USERS OF THE PCT SYSTEM?



\*[https://www.wipo.int/pressroom/en/articles/2021/article\\_0002.html](https://www.wipo.int/pressroom/en/articles/2021/article_0002.html)

# New Technologies

Despite dramatic decrease in revenue, in 2020 Cummins invested \$903M in R&D and new technologies, including our hydrogen capabilities. Given our drop in revenues, in 2020 R&D spend was a greater percentage of overall revenue.

Year	R&D Spending	Revenue	R&D as % of Revenue
2020	\$903 MILLION	\$19.8 BILLION	<b>38.26%</b>
2019	\$1 BILLION	\$23.6 BILLION	<b>19.8%</b>



# Managing Trade Secrets and Confidential Information

- Since the pandemic and with many employees working remotely, employers have been forced to rethink how to protect company
- Significant challenges since employees are at home without in-person supervision and working outside of the companies network via their own personal WiFi.
- Managing trade secrets and confidential information has been at the forefront of all IP attorneys minds during the pandemic



# Examples of Trade Secret disputes during the pandemic



GE Accuses Siemens Energy of Trade Secret Theft  
January 2021

*GE claims that an account manager at Siemens Energy received secret GE information during a confidential bidding process and shared it with dozens of colleagues to alter a bid for a lucrative contract. GE is claiming Siemens used GE trade secret information to win at least nine contracts worth billions of dollars.*



Tesla Sues Rivian for Trade Secret Theft  
July 2020

*Tesla accused at least three employees of taking trade secret information while leaving to go join Rivian. In one example, Tesla says that an HR senior manager took confidential and proprietary documents from Tesla's network which included candidate names, where to find potential hires, and salaries.*

# DTSA Law

## Defend Trade Secrets Act 2016

- Provides a federal civil cause of action for misappropriation of trade secrets (similarly to patents, trademarks, copyrights)
- Allows trade secret owners to seek nationwide relief and avoid the challenges of differing state trade secret laws
- Provides additional remedies:
  - Seizure of property
  - Damages (actual, unjust enrichment, reasonable royalty), double damages if willfully and maliciously misappropriated
  - Attorney fees to prevailing party



# Examples of Cummins Trade Secrets

- Cummins product release processes
- Information contained in our engineering standards
- Product control software (software algorithms)
- Development and validation tools
- Marketing strategies
- Future product and pricing plans



# Protecting trade secrets based on lessons learned from the pandemic

- Involve Data Loss Prevention to ensure trade secret matters are being monitored and restrict access to certain information to employees on a need to know basis
- Restrict access to ensure company documents, files, and folders are accessible to only necessary individuals and only when needed
- Work with HR when handling a departure of a remote employee – in the **GE** and **Tesla** cases, alleged theft of trade secrets happened when an employee is offboarding. In this case, we want to make sure HR and IT establish specific procedures for handling the departure.
- Data Loss Prevention should examine and provide a forensic review after the departure of the ex-employee to assess file activity

Q+A