

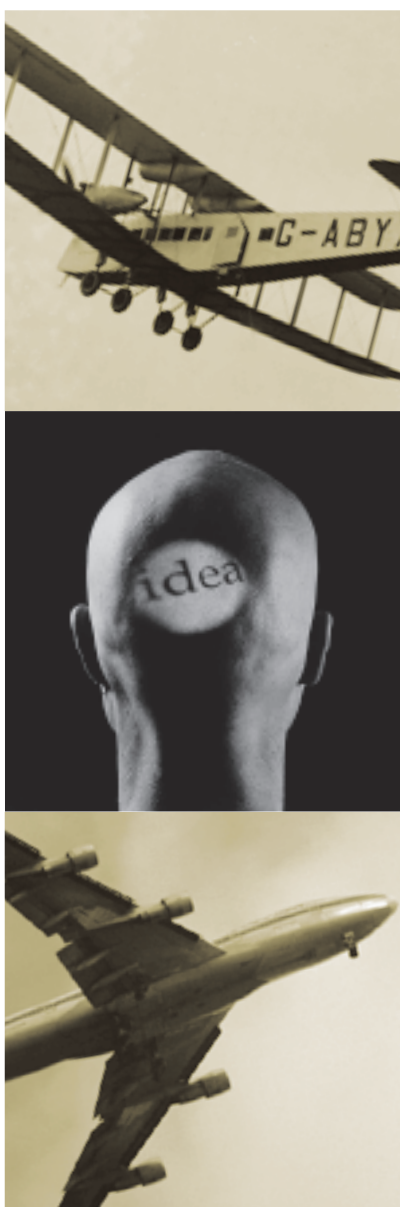


Australian Government

IP Australia

## THE PATENTS GUIDE

The basics of the patent system in Australia explained



[www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)



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This guide is designed to help you understand the Australian patent system and how to seek patent protection. It complements IP Australia's other publications such as *The Patent Application Kit* and the *International Patent Application Kit*. This guide does not cover every issue that may be relevant and you should not regard this guide as an authoritative statement on the relevant law and procedure. You should also note that the requirements may change from time to time and while we make every effort to ensure the information presented is accurate, you should check with IP Australia before relying on the information. Although our staff cannot give you advice about your particular circumstances, we can answer general questions that you may have about the Australian patent system. We recommend that you seek professional assistance before applying for a patent.

IP Australia has a series of fact sheets which are referenced throughout this guide. These fact sheets can be downloaded from the IP Australia website [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)



## First the *basics*

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### *What is intellectual property?*

Intellectual property (IP) represents the product of your mind or intellect. Intellectual property rights, such as patents, trade marks, registered designs or plant breeder's rights, provide protection for your creativity or innovation in the marketplace.

### *What is a patent?*

A patent is an intellectual property right granted for new technology you have invented. It is legally enforceable and gives you the exclusive right to commercially exploit your invention in Australia for the term of the patent. You can also obtain patent protection overseas. See *Patenting Here and Overseas* on page 13 for more information.

### *Develop an IP strategy*

You should develop an IP strategy that suits your business needs, but it is important to note that not every innovation can or should be covered by a patent. Other forms of intellectual property rights such as trade marks, registered designs, copyright, circuit layout rights, and plant breeder's rights may complement or even replace patents in your strategy—see *Other Intellectual Property Rights* on page 23.

If you want to go to market quickly an effective strategy might be to keep your innovation a trade secret.

For general information about intellectual property rights and strategies, our publication *Intellectual Property—Don't Give Away Your Most Valuable Asset* as well as our *Smart Start* guide are available online or through any of our state offices. These will provide you with a useful introduction to intellectual property and ways in which you can protect it.

### *Obtaining assistance*

It is important to think about the business viability of your invention **before** you spend money seeking patent protection. Patenting and commercialising an invention can be costly, time-consuming and require a range of skills you may not currently have, such as



manufacturing, running a small business and marketing. Consider whether you are prepared to begin what could be a long and complex process. Apart from a patent attorney, talk to a business adviser, accountant, local small business advisory service (under “Small Business Advisory Services” in the Yellow Pages), AusIndustry and perhaps your local inventors association (under “Patent Development, Marketing and/or Investigation” in the Yellow Pages).

### *The role of IP Australia*

IP Australia is the Australian Government agency which administers the patents, trade marks, designs and plant breeder’s rights systems within Australia. IP Australia has the responsibility for examining and granting Australian patents, and we are happy to help you with general enquiries or to access our free range of resources. However we are **not** permitted to provide legal or business advice.

### *Beware of the publicity trap*

It is vital that you apply for patent protection before you reveal any information about your invention to someone else. If you demonstrate, sell or discuss your invention in public before you apply, you can lose the opportunity to patent it. However *grace period* provisions in Australia and some other countries allow an invention to be publicly disclosed without affecting the validity of a subsequent patent application under certain conditions—see *What if I unintentionally disclose my invention before applying?* on page 4.

### *Who can you disclose your invention to?*

You can still talk to your employees, business partners or advisers about your invention, but make it clear that the information is to be kept **confidential**. You can minimise the risk by using written confidentiality agreements, particularly when negotiating with potential business partners. Solicitors and patent attorneys can design a written agreement for you. Some inventors associations also have ready-made confidentiality agreements available for members.

### *What if I unintentionally disclose my invention before applying?*

If you have told someone about your invention before applying for a patent, this will not prevent a valid patent from being granted in Australia provided you file a complete application within 12 months of going public with your invention.

This *grace period* may help a patent application succeed in cases where disclosure of an invention has been made by mistake or is ill timed. However not all countries recognise this grace period and, even if they do, their national requirements can vary considerably. For these reasons you should always plan to apply for a patent before you disclose your invention.

### *Basic research*

The last thing you want to do is spend a great deal of time and money on an invention that doesn't provide a competitive advantage. Similarly, you don't want to apply for a patent for an invention that isn't new.

Before committing yourself, look around and make sure your invention can compete with similar products already in the market. Searching patent databases, sales brochures and magazines will help and may tell you if your invention has already been thought of by someone else.

### *Warning—bogus IP services*

You should be on the lookout for organisations offering fraudulent patent protection or promotion services. As a rule of thumb, unsolicited letters from unknown sources on the subject of patent registration and maintenance, such as offers to register, for a fee, your patent in international registers, should be treated with extreme caution.

For more information relating to suppliers of bogus IP services, call 1300 651 010 or visit our website [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au).



## Nuts and bolts

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### *What can be patented?*

A patent may be granted for a device or machine, an industrial, chemical or biochemical product or process, computer hardware and software, and even some business methods—in short, almost anything commercially useful. For a patent to be granted an invention must:

- ▶ be a **manner of manufacture**, a legal term used to distinguish inventions which are patentable from those which are not. No matter how ingenious or unusual they may be, you cannot patent artistic creations, mathematical models, theories, ideas or purely mental processes;
- ▶ be **new** (the legal term is “novel”), which means that the invention has not been publicly disclosed in any form, anywhere in the world. Examples of disclosures that could show your invention is not new include published patent specifications (both Australian and foreign), textbooks and technical journals, internet sites, or the sale or use in a public area (including demonstrations) of a product in Australia;
- ▶ involve an **inventive step** for a *standard* patent, that is to say the invention must not be obvious to someone with knowledge and experience in the technological field of the invention;
- ▶ involve an **innovative step** for an *innovation* patent, that is, there must be a difference between the invention and what is known about that technology, and this difference must make a substantial contribution to the working of the invention;
- ▶ be **useful**, your invention should do what you say it will do; and
- ▶ not have been **secretly used** by you or with your consent.

### *What IP Australia looks at*

We are not required to assess your patent application against every one of these criteria before we grant you a patent. For example we do not investigate whether any earlier disclosure of your invention has occurred through secret use or the public use of a product in Australia. However a third party may raise these issues later if they want to challenge your patent.

### *Am I entitled to patent protection?*

Only the person who owns an invention can be given a patent for it. The owner is the inventor, or a person who has legally obtained rights to the invention from the inventor (eg. by assignment) or an intermediary. Employers usually own their employees' inventions if made during the course of their normal duties.

A company or organisation that is recognised as a legal person can own a patent, but not a firm, partnership or trading name. However the partners in the firm or partnership can obtain a patent jointly in their own names.

### *How do I get patent protection?*

Patent protection is not automatic. You have to file a patent application which IP Australia's examiners will assess to see whether your invention can be patented.

If you intend to expand into overseas markets, you will need to consider whether to obtain patents overseas and in which countries. Your decision should be based on your assessment of the market potential in each country. Seek the advice of a patent attorney at an early stage in order to make the right decisions and to help you integrate patents into your overall business strategy.

### *How much does it cost?*

To enable IP Australia to process your application, and to keep your application or patent in force, you will have to pay certain fees. The main fees for each type of patent application are set out in our fact sheet *Patent Fees* at the back of this publication. Patent attorneys also have their own schedule of fees. Patent costs vary from case to case and increase significantly if you seek protection overseas. Gather this information together as soon as possible so that you know how much you can expect to pay to protect your invention initially and over time.

### *Priority date—an important concept*

The date you first file a patent application for your invention establishes what is known as a *priority date*. This date will give you priority over potential competitors who file an application at a later date for the



same invention, and is extremely important when considering whether an invention is new. If your invention has been publicly disclosed by you or another person before your priority date, you may not be entitled to patent it.

### *How do I file a patent application?*

Patent applications are complex documents best handled by a patent attorney. A patent attorney will prepare and file your application and monitor all activity and fee dates, ensuring you don't inadvertently lose your patent protection. Some patent attorneys will not charge for the first consultation, but a schedule of fees will apply after your initial meeting. Obtain a list of the fees up front and be sure that you fully understand the nature of the services provided. Patent attorneys are listed in the Yellow Pages and on our website.

If you decide to prepare and file your own patent application in Australia, our publication *The Patent Application Kit* is designed to help you.

### *What happens after my patent is granted?*

You need to pay the annual maintenance fees if you want to continue to protect your invention by keeping your patent in force.

We do not send out reminders for maintenance fee payments. However you can make arrangements for an annuity firm or patent attorney to keep track of the anniversary date and forward your payment to us.

### *How do I enforce my patent?*

IP Australia cannot help you do this. It is your responsibility to take legal action to enforce your rights in Australia. This could include beginning infringement proceedings against another party in the Federal Court. Patent matters however are often resolved without resorting to court proceedings. If you find that someone has been making, using or selling your invention without your permission the next step is to seek legal advice.

### *Patent pending?*

You are not required to mark a product with the words “patented” or “patent pending” or refer to your application or patent number. However these markings will put potential infringers on notice and may prevent them from using innocent infringement as a defence in subsequent court proceedings.

It is an offence to falsely represent that an article is patented or the subject of a patent in Australia. You should not use the words “Provisional Patent” and only use “Patent No. ...” or “Patented” when a patent has actually been granted. “Patent applied for”, “Patent pending” or “Patent Application No. ...” should only be used if you have filed a patent application in relation to the product.

### *How do I challenge another person’s patent or patent application?*

In Australia there are a number of ways of challenging the grant of a patent or a person’s entitlement to it. For example, the validity of a patent can be challenged in court or the Commissioner of Patents can be asked to re-examine the patent on the grounds that the invention is not new or is obvious.

During the application and examination process, third parties are permitted to file information that can be considered by IP Australia’s examiners.

The grant of a standard patent may be opposed in proceedings before the Commissioner of Patents. When an opposition is filed, the patent applicant and the opponent each have an opportunity to submit evidence. After hearing the matter, the Commissioner makes a decision on whether or not the opposition succeeds with the patent applicant usually given an opportunity to amend their patent application to overcome any deficiencies. If either party disagrees with the decision, they can file an appeal with (depending on the nature of the decision) the Federal Court or the Administrative Appeals Tribunal.

The certification of an innovation patent may similarly be opposed.

Opposition and related processes are potentially complex and costly and you should seriously consider engaging professional assistance such as from a patent attorney. Further information is provided in our *Patent Oppositions* and *Innovation Patent Oppositions* fact sheets.



## Types of *Patents* and *Patent applications*

### *There are two types of patents in Australia*

- ▶ a **standard** patent which gives long-term protection and control over an invention because it lasts for up to 20 years (or 25 years for pharmaceutical substances).
- ▶ an **innovation** patent which is a relatively quick and inexpensive way to protect innovations that may not qualify for standard patent protection. Protection lasts for a maximum of eight years.

The following comparison is a guide only and we recommend that you seek professional advice from a patent attorney before making a decision about which type of patent is appropriate to your circumstances.

	Innovation Patent	Standard Patent
To obtain a valid patent your invention must	Be new, useful and involve an innovative step	Be new, useful and involve an inventive step
The application should include	A specification including title, description, up to five claims, drawings (if applicable) and an abstract, and forms	A specification including title, description, no limit to the number of claims, drawings (if applicable) and an abstract, and forms
A patent is granted if	The application satisfies formalities requirements	The application is examined and found to satisfy substantive requirements
Examination	Optional. Examination requested only if certification of granted patent is sought	On request. Must be examined for compliance with substantive requirements before a patent can be granted
Certification	After grant. Must be examined for compliance with substantive requirements and certified before it can be enforced	N/A

	Innovation Patent	Standard Patent
If examined and substantive requirements not satisfied	Granted patent ceases	Application lapses
Search	Only if examined	At time of examination
Publication	At grant and again at certification	18 months from priority date and again at acceptance
Maintenance fees	Annual maintenance fees after second anniversary	Annual maintenance fees after fifth anniversary
Protection period	Eight years maximum, if annual fees paid	20 years maximum, if annual fees paid (up to 25 years for pharmaceuticals)
How long does the process take?	Two-three months for grant	Can be as short as six months depending on the options you choose

## There are four types of patent applications

### 1. Provisional applications

It is not essential that you file a *provisional* application. However, the real value of this type of application is that it establishes a priority date and gives you up to 12 months to determine if your invention is worthy of further time, money and effort. **It does not give you patent protection on its own.** If you decide to pursue patent protection for your invention then, some time before the 12 months is up, you can file:

- ▶ a *complete* standard patent application or innovation patent application in Australia associated with the provisional application;
- ▶ an *international* patent application claiming priority from your provisional application; and/or
- ▶ separate *convention* patent applications in one or more overseas countries claiming priority from your provisional application.



## 2. Complete applications

Applications for standard or innovation patents are called *complete* applications. A complete application is necessary to actually have a patent granted.

There are two special types of complete applications that are useful only in particular circumstances where you already have a patent or a patent application. These circumstances are:

- ▶ **Patents of addition.** These are used to protect an improvement or modification that you have made to the invention of your earlier patent or patent application without changing its essential character. An innovation patent cannot be a patent of addition.
- ▶ **Divisional applications.** Each patent must be for a single invention. If your earlier patent application described more than one invention, you can use a divisional application for each extra invention without losing the priority date of your earlier application.

For more information see our fact sheets *Patents of Addition* and *Divisional Applications*.

## 3. International applications

An international application is a useful way to apply for patents in a number of different countries simultaneously and protect your export markets. These applications are also known as *Patent Cooperation Treaty* or PCT applications.

## 4. Convention applications

If you want to patent your invention in only a few countries it may be cost effective to file separate *convention* patent applications in each country.



## ***Publishing details*** of your application or patent

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IP Australia publishes application details (eg. application number, filing date, applicant name and application title) of provisional applications in the *Australian Official Journal of Patents* (AOJP), which is made available to the public through our website.

We also publish the contents of an innovation patent at grant and again at certification, and the contents of a standard patent application about 18 months after its priority date and again after acceptance.

Publication is an important landmark for two reasons. First, the contents of your standard patent application or innovation patent are no longer confidential which means that your invention becomes part of the knowledge of the general public and may therefore subsequently assist in advancing industry and technology. For example your invention may suggest to others that further improvements could be made.

The second reason concerns possible action you can take if someone else infringes your invention. Once you have a granted standard patent or a certified innovation patent you may be entitled to take legal action for any infringements that occurred from the date we published your application or patent.



## Patenting *here and overseas*

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No matter where you want to patent your invention it is often a good idea to start with a provisional application. Remember if you want to claim priority from an earlier provisional application, you must file any subsequent application within 12 months.

After that you have a number of choices.

### *Patenting in Australia only*

If you only want to patent in Australia the choice is simple. You can file a *complete* application for an *innovation* or a *standard* patent.

### *I want patents in other countries*

An Australian patent provides protection only in Australia. There is no such thing as a “world patent”. To obtain similar protection in other countries you generally have two choices:

- ▶ File separate convention patent applications with the patent office in each overseas country; or
- ▶ File a single international application under the Patent Cooperation Treaty (PCT) with a Receiving Office (RO) which gives you the choice of over 100 countries in which to seek patent protection.  
IP Australia is the RO for international applications made by Australian nationals or residents.

Whichever option you choose, you will still end up with separate patent applications in each country. The PCT is simply a streamlined way of applying in a number of countries (including Australia) at the same time since it enables you to file a single international application that has the same effect as a separate filing in each of those countries.

If you want more information about applying for an international application, you should obtain a copy of our publication *The International Patent Application Kit*.

### **Foreign patent office requirements**

Patent attorneys can advise you of the patent requirements in other countries and can also arrange representation in each country as required. There can be differences between countries in terms of the patent granted, its legal effect, cost and application procedures.

In countries which do not use English as an official language, all documents must be translated into the language required by the patent office concerned. This may add considerably to the costs involved.

### *How we can assist you to make a choice*

If you have filed a provisional application, you can, for a fee, get a patentability search carried out by IP Australia on your invention. This is called an *international-type search* or an *Article 15(5) search*, and must be requested within ten months of filing your provisional application. The results of the search are not made public and will assist you to decide at an early stage whether you want to pursue patent protection in Australia and/or overseas countries.

### *Choose carefully*

Some options may limit your ability to obtain foreign patent protection unless you act quickly. For example, if you apply for an innovation patent in Australia based on a provisional application, and intend to patent your invention in other countries, it is extremely important that you file an international application or a convention application within 12 months of filing the *provisional* application. If you do not file overseas in this period, you will lose the priority date established by the provisional application and not be able to patent your invention in other countries due to the publication of your innovation patent at grant.



# The *importance of searching* patent information

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## *Why use patent information?*

- ▶ Don't reinvent the wheel. Searching patent information worldwide can help you avoid wasting time and money duplicating work already done by someone else.
- ▶ Look for technology that is available for licensing or is in the public domain because it was not patented in Australia or patent protection has expired.
- ▶ Monitor your competitors' research activities. Technical information about your competitors' products or processes might be published in a patent document years before they appear on the market.
- ▶ Keep an eye on trends in technology and emerging key players.
- ▶ Avoid infringing someone else's patent. Searching patent information before setting up to manufacture or import a product can help you avoid costly legal disputes.

## *What information is available?*

More than 40 million patent documents have been published worldwide with almost a million new disclosures added each year.

Each patent document has a unique identifying number and includes a detailed description of an invention, usually with drawings, and information about the inventor and applicant. Patent documents are not manufacturing specifications so you may not find exact dimensions or operating parameters if they are not critical to the way the invention works.

We recommend that you obtain professional advice before significant business decisions are made based on published patent documents, or if assistance is needed in searching Australian or worldwide patent databases or in interpreting the results of patent searches.

## *Searching patents worldwide*

Patent information can be searched worldwide using a variety of patent databases and searching techniques depending on the information of most interest to you. Using these databases effectively is a specialised skill and can be time consuming and costly so you may want to contact a patent attorney or search service to carry out a search for you.

Our website provides handy worldwide links to a range of patent databases, including those of the major overseas IP offices.

## *Australian patent information*

Searching Australian patent documents reflects only a small percentage (approximately 7%) of world patenting activity and so will not necessarily tell you if your invention is new. But it does provide up-to-date information about Australian patents not available elsewhere.

It can even be a good place to start searching if you have limited resources. You may immediately find something identical or similar and, as a result, avoid the cost of additional searching. If not, it may help you decide on the technical areas in which to concentrate your search effort.

## *Searching our databases*

You can search Australian patent documents without charge at our state offices or via our website using the databases listed below. You should however first read our disclaimer regarding use of these databases.

**Australian Published Patent Data Searching (APPS)** contains abstracts of Australian patent applications from 1975 onwards in image (not text) format, and some bibliographic data for pre 1975 applications going back to 1920.

**AU Patent Specifications** allows you to search full copies of Australian patent documents in image format by application number or patent number.

**Patsearch (online patent searching)** is accessed via our Online Services facility and contains bibliographic information of Australian patent applications filed after 4 July 2002 or those having the number format YYYYNNNNNN.



### *Patent mainframe bibliographic databases*

**Patent Administration System (PatAdmin)** contains bibliographic information about Australian patents and patent applications filed from January 1979 until 4 July 2002. In some cases, details of patents filed before that date are also available. Note that only a limited number of the data fields can be used for searching.

**Patent Indexing System (PatIndex)** allows you to search bibliographic information about published Australian patents and patent applications using one or more International Patent Classification marks. The International Patent Classification (IPC) is used worldwide to classify patent applications according to the technology of the invention.

### *Search service*

You can request a computer print out of application details and status for a specific Australian patent, or patent application free of charge by contacting your nearest IP Australia state office. Australian and foreign patent specifications can be purchased from the IP Australia Examination and Support Sales team in Canberra.



## **Where to** from here?

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You should explore all the options available and obtain professional advice before seeking patent protection. Searching patent information can help you make this decision.

If you decide that pursuing patent protection is worthwhile:

- ▶ Remember the importance of keeping information about your invention confidential before you apply for a patent.
- ▶ Consider engaging the assistance of a patent attorney to prepare and file your patent application.
- ▶ Obtain a copy of our publication *The Patent Application Kit* if you decide to prepare and file your own application in Australia.
- ▶ If you only want to patent in Australia, you can file a complete application for an innovation or a standard patent.
- ▶ To obtain similar protection in other countries you can file separate convention patent applications in each country, or file a single international application under the PCT—for further information see our publication *The International Patent Application Kit*.
- ▶ No matter where you want to patent your invention it is often a good idea to start with a provisional application. Remember that a provisional application does not give you patent protection on its own, but it does give you up to 12 months to decide whether to continue before the major costs of patenting are encountered.

You should try to get as much information about the patent system as you can before you consult a patent attorney or file a patent application. Please contact us if you need assistance in gathering this information.



## Contacting **IP Australia**

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IP Australia staff are happy to help you and answer your queries. However we cannot assist clients on legal matters or provide business advice. You may wish to consult a patent or trade mark attorney, a solicitor experienced in intellectual property matters, or your business advisor.

IP Australia subscribes to the **Telephone Interpreter Service**. If you need help communicating in English, you can phone the interpreter service on 131 450 for the cost of a local call from anywhere in Australia.

All written correspondence regarding patents should be directed to The Commissioner of Patents.

**Postal address: PO Box 200, WODEN ACT 2606**

**Phone: 1300 651 010**

**General Enquiries**—contact our **Customer Service Network** for general information relating to patents, trade marks, designs or plant breeder's rights and for assistance with subscriptions, sale of publications and electronic communication.

**Fax: (02) 6283 7999**

**Business Transactions Fax**—for lodgements, filings and business related correspondence such as financial and confidential material. Faxes received at this secure number are receipted at Australian Eastern Standard/Daylight Saving time.

**Email: [assist@ipaaustralia.gov.au](mailto:assist@ipaaustralia.gov.au)**—for general enquiries.

However, filing of documents is not available through this address.

**Website: [www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)**—for information relating to intellectual property, to submit online applications, and to download forms, fact sheets and other documents.

## *State offices*

Our state offices are open from 9.00am to 5.00pm weekdays (except local public holidays) and can provide assistance, resources including computers to search our databases, and published reference materials.

### **Canberra**

Ground Floor  
Discovery House  
47 Bowes Street  
PHILLIP ACT 2606  
Fax: (02) 6283 7999

### **Hobart**

Level 4  
AMP Building  
27 Elizabeth Street  
HOBART TAS 7000  
Fax: (03) 6235 6307

### **Adelaide**

Level 10  
Origin Energy House  
1 King William Street  
ADELAIDE SA 5000  
Fax: (08) 8239 4507

### **Melbourne**

Level 6  
OCBC House  
565 Bourke Street  
MELBOURNE VIC 3000  
Fax: (03) 9612 9807

### **Brisbane**

Level 1  
Grant Thornton House  
102 Adelaide Street  
BRISBANE QLD 4000  
Fax: (07) 3007 1107

### **Perth**

Level 2  
Eastpoint Plaza  
233 Adelaide Terrace  
PERTH WA 6000  
Fax: (08) 9220 8907

### **Sydney**

Level 1  
45 Clarence Street  
SYDNEY NSW 2000  
Fax: (02) 9249 5807

We encourage you to use our business transactions fax number (02) 6283 7999 to obtain certainty of time and date lodgement of application and other correspondence.



## Customer Service Charter

IP Australia is committed to being a customer focused organisation. To help our customers, IP Australia has a Customer Service Charter outlining the standards of service you can expect from us. To obtain a copy of the charter, simply ring **1300 651 010** or visit our website.

## Communicating electronically with IP Australia

The date which you provide information to IP Australia can be critical to the certainty of your intellectual property rights.

IP Australia has implemented a set of business rules which establish that when you communicate with us electronically (eg. email, fax or online) using our preferred contact numbers and methods, the date and time of communication will be Australian Eastern Standard/Daylight Saving time.

Our preferred means of electronic communication are:

- ▶ the IP Australia website—**[www.ipaustralia.gov.au](http://www.ipaustralia.gov.au)**;
- ▶ our business transactions fax number—**(02) 6283 7999**; or
- ▶ email—**[assist@ipaustralia.gov.au](mailto:assist@ipaustralia.gov.au)**

Communications sent to other contact points electronically (eg. state office fax numbers) will be processed in accordance with the date and time at the place of receipt. These communications will not gain the benefits provided by the *Electronic Transactions Act* such as security and certainty of receipt.

The *Electronic Transactions Act* business rules address a range of issues including:

- ▶ identifying the appropriate form of electronic communication to use for different types of correspondence;
- ▶ choosing electronic payment options;
- ▶ receiving notifications; and
- ▶ utilising supported electronic formats.

Further details on IP Australia's electronic communication business rules can be found at **[www.ipaustralia.gov.au/pdfs/general/eta.pdf](http://www.ipaustralia.gov.au/pdfs/general/eta.pdf)**



## **Other** intellectual property rights

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Don't forget to protect the other aspects of your creativity or innovation. For example you may want to register the name of your invention as a trade mark (this is also true for a new business name) and if the way your invention "looks" is important to its success in the market, you may want to apply for a registered design.

IP Australia can give you more information about trade marks, registered designs and plant breeder's rights. For other intellectual property rights contact the following organisations direct or via our website.

### *Copyright*

**Information, Law and Human Rights Division,  
Copyright Law Branch, Attorney-General's Department**

Robert Garran Offices  
National Circuit, Barton ACT 2600  
Ph: (02) 6250 6655  
Fax: (02) 6250 5929

**The Australian Copyright Council**

Suite 3, 245 Chalmers Street  
Redfern NSW 2016  
Ph: (02) 9318 1788  
Fax: (02) 9698 3536

### *Circuit Layout Rights*

**Information and Security Law Division,  
Intellectual Property Branch, Attorney-General's Department**

Robert Garran Offices  
National Circuit, Barton ACT 2600  
Ph: (02) 6250 6655  
Fax: (02) 6250 5900

*Other contacts***The Institute of Patent and Trade Mark Attorneys of Australia (IPTA)**

711 High Street, East Kew VIC 3102

Ph: (03) 9857 0311

Fax: (03) 9857 0411

Free call: 1800 804 536

**Licensing Executive Society of Australia and New Zealand (LES)**

PO Box 1051, Pakenham Upper VIC 3810

Ph: (03) 5942 7066

Fax: (03) 5942 7033

**The Australian Manufacturers of Patents, Industrial Designs, Copyright and Trade Mark Association (AMPICTA)**

Locked Bag 938,

North Sydney NSW 2059

Ph: (02) 9458 7416

Fax: (02) 9956 7004



## Patent Fees *November 2005*

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These are the main fees for a complete application in Australia, or to keep a subsequent standard or innovation patent in force. If you need more information ask about our comprehensive patents fee list or download it from our website.

### *Provisional application*

Filing	\$80
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### *Complete application—Innovation patent*

Filing	
(a) in paper form	\$180
(b) online	\$150
Request for examination of patent	\$290
If examination is requested by a 3rd party	
(a) fee payable by 3rd party	\$145
(b) fee payable by patentee	\$145

To keep an innovation patent in force, you must pay annual maintenance fees from the second anniversary of the filing date of the complete application for an innovation patent.

2nd anniversary	\$100
3rd anniversary	\$100
4th anniversary	\$100
5th anniversary	\$165
6th anniversary	\$200
7th anniversary	\$235

### *Complete application—Standard patent*

Filing	
(a) in paper form	\$320
(b) online	\$290
Request for examination	\$340
Request where there is an Australian IPER	\$240
Acceptance of application	\$140
Plus for each claim in excess of 20	\$20 per claim

To keep a standard patent application or standard patent in force, you must pay annual maintenance fees. Even if your patent has not been granted, you must pay maintenance fees from the fifth anniversary of the filing date of the complete application for a standard patent.



5th anniversary	\$180
6th anniversary	\$200
7th anniversary	\$250
8th anniversary	\$300
9th anniversary	\$350
10th anniversary	\$400
11th anniversary	\$450
12th anniversary	\$500
13th anniversary	\$550
14th anniversary	\$600
15th anniversary	\$650
16th anniversary	\$700
17th anniversary	\$800
18th anniversary	\$900
19th anniversary	\$1000
If term extended (pharmaceutical patents)	\$1200 for each anniversary during the period of extension

### **A rough guide to total costs**

The estimated cost of an Australian standard patent including attorney fees is about \$5,000 to \$8,000. Maintenance fees over a 20 year term would be a further \$8,000.

### **International (PCT) applications**

#### *General fees*

Transmittal fee	\$AU100
International search fee	\$AU1200
Preliminary examination fee (optional) where Australia conducted the international search	\$AU550

#### *Additional fees payable for the benefit of the International Bureau of the World Intellectual Property Organization (WIPO)*

International filing fee**	\$AU1525
Plus for each sheet in excess of 30	\$AU16 per sheet
Preliminary handling fee	\$AU218

**Note:** If you choose to pursue patent protection without professional advice you should take extreme care to understand the fees you will be required to pay and when you are required to pay them.

\*\* Any international application which meets the administrative requirements for filing associated with WIPO's "PCT-SAFE" software in "PCT-EASY" mode is subject to a reduction of \$AU109 from the total amount payable for filing the international application.