Australian Government

IP Australia

A guide to applying for your patent

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Disclaimer

This application guide should not be regarded as an authoritative statement on the relevant law and procedure. Whilst we make every effort to ensure the information presented is accurate and up to date, you should check with us before relying on the information. Although our staff cannot give you advice about your particular circumstances, we can answer general questions about the Australian patent system. We recommend that you seek professional assistance before applying for a patent.

Contents

First, the basics

What is a patent?

A patent is an IP 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.

Seek professional advice

Patenting and commercialising an invention can be costly, time-consuming and requires a range of skills you may not currently have. Furthermore, as a first time applicant, you probably don't know what you don't know.

We strongly recommend you seek advice from a patent attorney. Most people would not purchase a home without professional assistance, and yet obtaining a patent is more complex. If you get it wrong from the outset, it can be impossible to correct an error, resulting in a lost opportunity to protect your invention.

Keep your invention a secret

Your invention should be kept secret until you have applied for patent protection. If you demonstrate, sell or discuss your invention in public before you apply, you may lose the opportunity to patent it.

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 should use written confidentiality agreements, particularly when negotiating with potential business partners.

Priority date - an important concept

The date you first file a patent application for your invention establishes what is known as a priority date. Potential competitors who file an application at a later date for the same invention will not be entitled to patent it due to your earlier priority date.

Don't replicate something already patented

You don't want to apply for a patent for an invention that isn't new. Before investing large amounts of time and money, search patent databases, sales brochures and the internet. This will help you determine if your invention has already been thought of by someone else.

Searching the Australian patent databases

You can search Australian patent documents for free via our website using our AusPat search system. Data from AusPat dates back to 1904.

AusPat is the search system for Australian patent data and provides a single point of enquiry for information on Australian patents. AusPat provides quick, structured or advanced search options to search several bibliographic fields including:

- Document number
- International Patent Classification mark
- Applicant/Inventor name
- Title

Searching patents worldwide

Our website provides links to a range of patent databases, including those of the major overseas IP offices. Most of these databases are free to search, but using them effectively is a specialised skill. You may want to contact a patent attorney or professional searcher to search for you.

What next?

Now you know the basics, there are some important decisions ahead. They are:

- Decision 1: Can I patent my invention?
- Decision 2: Should I patent my invention?
- Decision 3: What type of patent?
- Decision 4: What type of application?

Decision 1: Can I patent my invention?

A patent may be granted for a device or machine, a substance, a process or 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 patent may be granted only for a tangible invention. No matter how ingenious or unusual they may be, you cannot patent artistic creations, mathematical models, theories, ideas, schemes 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, either by yourself or another party. 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. The invention must not be an obvious thing to do to someone with knowledge and experience in the technological field of the invention.
- Involve an innovative step for an innovation patent. 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.
- Not have been secretly used by you or with your consent.

Valid patents must also meet other requirements of the *Patents Act 1990*, in particular:

- A sufficiently clear and complete description. It is extremely important that you put into the description all the necessary information (including any drawings) about the technical details of your invention so that others can make or perform your invention once your patent is no longer in force.
- Claims and the description are for the same invention. The question asked is: are the claims supported? For example, if your application described a solar cell, claims that make no mention of light being converted to energy could be said to be not supported by the description because they might cover other types of energy generators that were not part of the solar cell invention.
- Claims must define only one invention.

Patents or Designs – what's the difference?

If you want to protect the way your invention works then patenting may be the most appropriate option, but if the appearance of your product is important and innovative (rather than how it works), then a registered design may be more appropriate.

For more information on registered designs our website.

Decision 2: Should I patent my invention?

It's futile patenting an invention unless you have a plan for commercialisation and can defend it against infringement. A patent should be considered simply as a 'barbed wire fence' around your property. It's not bullet proof and requires maintenance, but it does send a strong signal to potential trespassers.

You should strongly consider patenting if:

- the possibility of commercial returns outweighs the time, effort and money required to acquire and maintain a patent
- the limited monopoly a patent offers would help mitigate the risks of IP theft in the markets you are interested in
- you have the resources to manage your intellectual property
- a thorough search reveals no other similar technology
- you own the invention and have kept it a secret.

Filing your application via a patent attorney can greatly reduce the risk of serious mistakes and improve the commercial value of your patent.

There are several reasons why you may not want to file a patent. Being first to market may be worth more to you than a patent. Lodging a patent tells the whole world what you're working on. Some inventors of products with short life-cycles often seek to establish a market leader position before competitors can react. In these cases a trade mark may be a valuable asset as it protects the name of the product and the values consumers relate to that name.

For inventions with a limited market value, the cost of getting and maintaining a patent may not be justified. Your invention may have a limited market or may only be useful in countries where it's difficult to secure patent protection.

Even if your invention is patentable, keeping a trade secret via confidentiality agreements can sometimes be a better strategy. The main benefit of trade secrecy is that it can exist for as long as the information remains confidential, whereas patents and designs have a limited monopoly term. This type of strategy is only worthwhile if the product is difficult to reverse engineer (which means that it is difficult to find out exactly how it is manufactured).

If your invention is new, not publicly disclosed and has commercial potential, then you are ready to consider what type of patent will suit your needs.

Decision 3: What type of patent?

There are two types of patents in Australia:

- A standard patent gives long-term protection and control over an invention. It lasts for up to 20 years (or up to 25 years for pharmaceutical substances).
- An innovation patent is a relatively quick and inexpensive way to protect an incremental advance on existing technology rather than a ground-breaking invention. Protection lasts for a maximum of eight years.

Please note that you are required to pay annual maintenance fees if you want to keep your patent in force.

The following table provides a quick overview of the major differences between a standard patent and an innovation patent.

	Innovation Patent	Standard Patent
Your invention must:	Be new, useful and involve an innovative step	Be new, useful and involve and inventive step
The application should include:	A title, description, up to five claims, drawings (if applicable), an abstract and forms	A title, description, any number of claims, drawings (if applicable), an abstract and forms.
A patent is granted if:	The application satisfies formalities requirements (note a 'granted' innovation patent cannot be enforced)	The application is examined and found to satisfy the requirements of the Patents Act.
Examination:	**Optional:** Examination can be requested by you or a competitor to clarify your legal rights	**Mandatory:** as certain requirements must be met before patent is granted
Certification:	Must comply with certain requirements as determined by an examiner. Only after certification can the patent be enforced.	N/A
Publication in the Australian Official Journal of Patents:	At grant and again at certification	18 months from priority date and again at acceptance
Protection period:	Eight years, if annual fees paid	20 years, if annual fees are paid (or up to 25 years for pharmaceuticals)
How long does the process take?	One month for grant. Six months if you request examination.	Six months to several years depending on circumstances
How much does it cost? (Fees are subject to change)	Approximately $1500 including maintenance fees over 8 years (not including advisor fees)	Approximately $9000 including maintenance fees over 20 years (not including advisor fees)

Innovation patent vs standard patent

There is no simple rule for determining whether your invention is more likely to be suited for standard patent or innovation patent protection. This depends entirely on the nature of the advance made by your invention over what is already known in the same field of technology. For example, the invention of a new substance that re-grows hair may be appropriate for a standard patent, whereas a treadmill adjusted to be an automated dog walker may be more suitable for an innovation patent. The following are the three main differences explained.

1. The innovation patent has a lower inventive threshold

The innovation patent aims to provide business with a relatively inexpensive form of IP protection, which is quick and easy to obtain, for inventions having a short commercial life (e.g. simple tools, utensils, machinery or equipment).

Because the inventive threshold has been lowered compared to a standard patent, an innovation patent is also suited to inventions demonstrating comparatively minor advances over existing technology which may not qualify for standard patent protection. This will help you to acquire rights for incremental inventions and start to recoup your investment at each stage of development.

2. The standard patent provides longer protection

For inventions that have a longer development and commercialisation cycle, such as pharmaceuticals, or inventions involving more complex technological advances, a standard patent may be more suitable.

An innovation patent may be granted for the same subject matter as a standard patent, except plants and animals or the biological processes for their generation, but has a shorter term of protection than a standard patent - eight years as opposed to 20 (which can be extended to 25 years for inventions relating to pharmaceutical substances).

3. Examination is mandatory for standard patents

Both innovation and standard patents must be examined before you can enforce your rights. However, by default, innovation patents are not examined unless specifically requested. This may save you time and money by delaying examination until you really need it, for example if you need to enforce your patent. Standard patents must be examined. There is a fee that needs to be paid for examination to happen. If you don’t pay the fee when asked you will lose your rights.

Once you have identified the best patent type, you need to determine the right type of three application options.

Decision 4: What type of application?

There are three types of patent applications: provisional applications, complete applications and international applications.

Provisional applications

This is the easiest way to get the earliest possible priority date, however, it does not give you patent protection on its own. If you decide to pursue patent protection then you need to file a complete application within 12 months of your priority date.

Provisional applications are only optional, but useful if you operate in a highly competitive industry where constant innovation demands the earliest possible priority date. You may also appreciate some time to determine if your invention is worthy of further time, money and effort.

If you don't file a complete application before the 12 months is up then you lose your earlier priority date.

Complete applications

Applications for standard or innovation patents are called complete applications. A complete application is necessary to actually have a patent granted. Complete applications should be considered 'the real thing', whereas a provisional gets you a priority date and signals your intention to lodge a complete application in the near future.

We publish details of your patent application in the Australian Official Journal of Patents (AOJP).

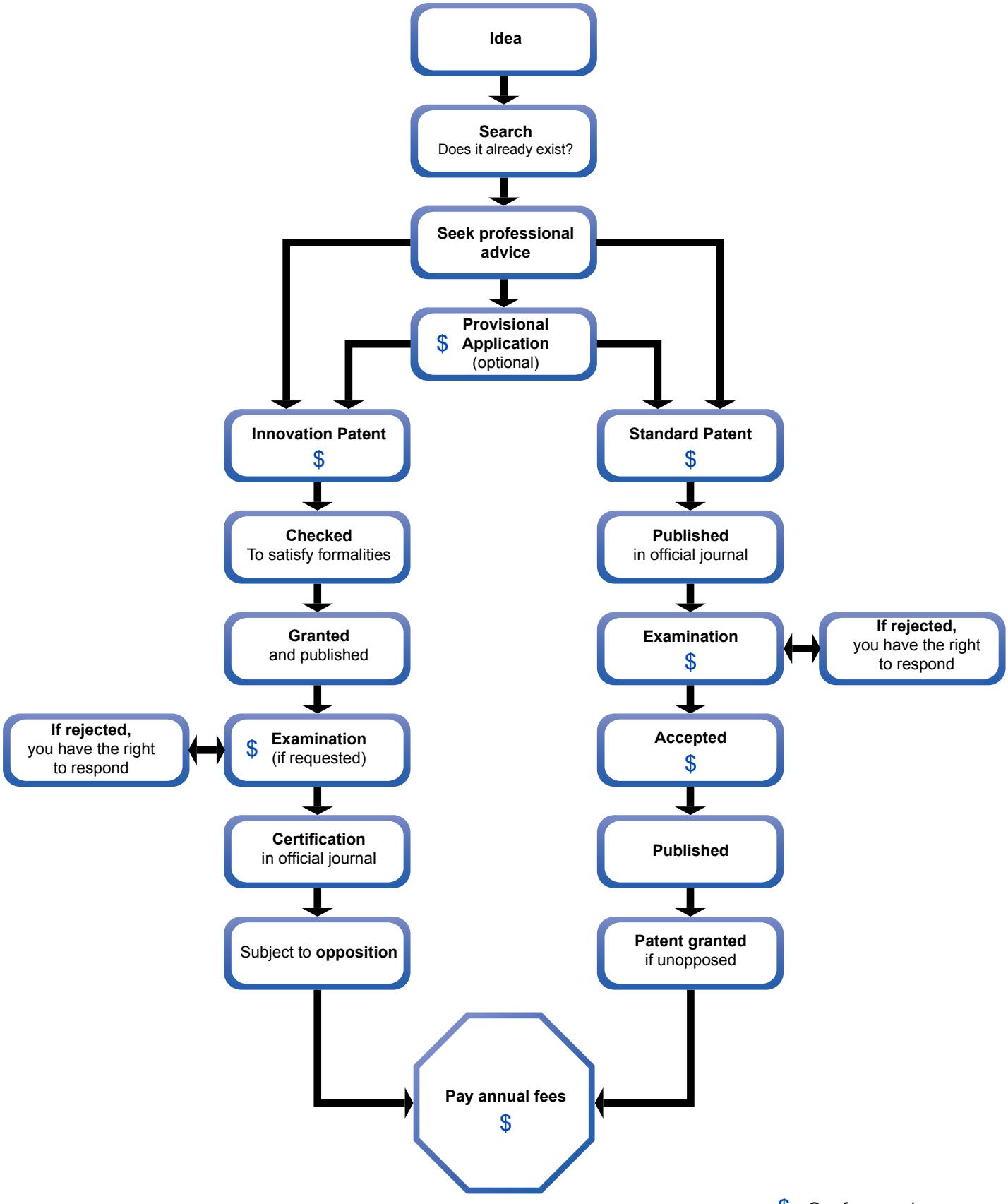
Publication is an important step for two reasons. First, the contents of your standard patent application or innovation patent are no longer confidential which means that your invention becomes part of the knowledge of the general public and may therefore subsequently assist in advancing industry and technology. For example your invention may inspire others or be used to help solve other problems.

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

International applications

An international application is a useful way to apply for patents in a number of different countries simultaneously and protect your potentially important export markets. These applications are also known as PCT (Patent Co-operation Treaty) applications. For more information on international applications see our publication *'A Guide to applying for your patent overseas'.*

Flow chart of an application



$ - Our fees apply.

How to file a provisional patent application

There are several ways you can file, you can

- use the services of a patent attorney
- apply online using eServices via our website
- download a form from our website, or request a paper form by phoning us on 1300 651 010; then post your application to:

The Commissioner of Patents
IP Australia
PO Box 200
Woden ACT 2606 Australia

If you apply online you need to separate your application into parts and attach each part separately. Due to international patent standards these files must be in a PDF, JPEG, TIFF, PNG, TXT, DOC or DOCX format.

What do I need to file?

Your provisional application should include:

- a completed Patent Request: Provisional Application form
- a provisional specification
- the filing fee.

For online filings, each attached the file cannot exceed 20MB in size. Total attachments cannot exceed 100MB in size.

Preparing your provisional application

Patent request form

If you apply online you can complete the form through eServices. The eServices portal can be accessed through our website.

If you do not want to apply online the patent request form can be downloaded from our website. Please read the instructions carefully before filling in the patent request form, and keep a copy of the completed form for your own records (Please note that it is more expensive to apply on paper than through our eServices portal).

Provisional specification

The purpose of a provisional specification is to describe your invention. It should include as much detail as possible, especially if you intend to use it to establish a priority date. This is also important as you may find that you are not allowed to add new material to your complete application that was not included in your provisional application. Keep a copy of the provisional specification for your records. The specification should include a Title and Description.

Title

Start the specification with the same invention title you used in the Patent Request form.

Description

After the title you should identify the technical field of your invention. If your invention was made as a result of problems that you are aware of with other products, you should briefly note those problems.

The next part is a statement of those technical features you consider essential to the way your invention works (see lines 10 to 13 of the ‘shaker can’ example). After this statement, list the various preferred or optional features of your invention (see line 23 to page 2 line 4 of the example).

The remainder of the description sets out the best way or ways you know of putting your invention into effect. This description must have enough clear detail so that someone with knowledge of the technology could reproduce your invention from the information given. You may include examples and drawings to help describe your invention, but it is not necessary to include manufacturing details such as dimensions if they are not critical to the way your invention works. It is optional whether the provisional specification also includes claims that define your invention.

The example specification describes in detail an improved ‘shaker can’ with reference to Figures 1 to 4. The figures are listed and a few words are given against each figure in the list to explain what it illustrates. The features of the ‘shaker can’ illustrated in the figures have been given their own reference numeral which is used when referring to those features in the description. Only one example of a ‘shaker can’ according to the invention is described, but where an invention can take different forms it may be desirable to describe several examples of the invention.

Note how the specification describes the material to be used in the “shaker can”. It makes it clear that a range of materials could be used to make the invention work. Obviously some materials would be more suitable than others, and certain specific examples are given on lines 2 to 4 of the sample specification.

The feature of a ‘container’ is an essential feature of the invention as the invention would not work without it, while the use of sheet metal, for example, for the container is a preferred choice of material.

The example specification illustrates the importance of including a full description of your invention when you file a provisional application.

Example: Provisional Specification

(Example front page)

AUSTRALIA
Patents Act 1990

PROVISIONAL SPECIFICATION

IMPROVED SHAKER CAN

The invention is described in the following statement

IMPROVED SHAKER CAN

For many years shakers for salt and like granular materials have consisted of a container having holes through which the material can be shaken. This invention has been specially devised in order to provide an improved shaker can of simple, cheap, effective and readily reusable construction and whereby the contents are protected from air and may be readily shaken or sifted therefrom when desired, and unintentional or wasteful escape of said contents is prevented.

A shaker can in accordance with this invention comprises a container having an open top and a perforated shaker area in its wall near said top, and a close fitting cover revolvable about said top and having corresponding opening in its wall.

The opening in the cover is of such a size and in such a position that when said opening and the shaker area are juxtaposed by revolution of the cover upon the container the contents of the latter may be shaken or sprinkled from the can through said perforated area, and upon revolution of the cover so that the opening therein is beyond said area the can is closed thus preventing waste of the contents or deterioration of the same by access of air thereinto.

For revolvably retaining the cover upon the container, the cover and the container preferably have in its wall a corresponding inward or outward annular corrugation.

The cover is preferably removable so that the can may be recharged and reused as often as desired. The cover wall may additionally have a short cut inwardly from its edge to permit it to be sprung down upon the container top until the corrugations engage one within the other.

The shaker can is preferably made from sheet metal, however other materials can also be used. For example glass containers having sheet metal cover are found very suitable. The shaker can may also be made of a suitable food grade plastics material.

The invention may be better understood with reference to the illustrations of embodiments of the invention which:-

Figure 1 is an elevation of an improved shaker can with parts separated and the co-acting position of the cover dotted,

Figures 2 and 3 are diametrical sectional elevations of the top of a can showing the co-acting retaining means, and

Figure 4 is a similar view of the upper part of a cover having a flanged or beaded gripping rim.

The container shown which is cylindrical with open top 5 has in its wall near said top, perforations which form a shaker area 6, and the cover 7 which is made to fit upon the container somewhat tightly has in its wall a corresponding opening 8. To prevent unintentional removal of the cover 7 there is provided in the walls of the container and of the cover 7 complementarily positioned co-acting outward or inward annular corrugations 9 which will engage one with the other when the cover is pressed down upon the top of the container and to facilitate assembly, the wall of the cover may be cut inwardly from its edge as at 10. If desired the cover may have a gripping rim or bead 11 formed thereon or some bulbous projection of partial vertical and outwardly disposed ribs or corrugations may be formed in the cover wall to provide a secure grip when grasped by a hand.

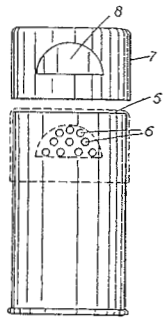


FIG. 1.

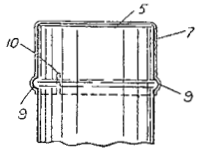


FIG. 2.

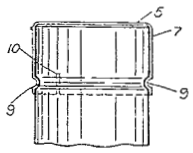


FIG. 3.

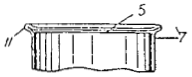


FIG. 4.

How to file a complete patent application

How to file a complete application

Remember ‘complete’ simply refers to a standard or innovation patent application that’s ready to go. When filing you can:

- use the services of a patent attorney
- apply online via eServices accessed through our website or mail your application to:

The Commissioner of Patents
IP Australia
PO Box 200
Woden ACT 2606 Australia

If you apply online you can electronically attach files to your application. Due to international patent standards these files must be in a PDF, JPEG, TIFF, TXT, DOC or DOCX format.

What do I need to file?

Applications for standard patents or innovation patents (i.e. complete applications) should include:

- either a Patent Request: Standard Patent form or, a Patent Request: Innovation Patent form
- a complete specification including an abstract
- the filing fee.

For online filings using eServices, each attached file cannot exceed 20MB in size, with a total of 100MB per cart.

How to pay

File your completed application with the correct fees:

Using eServices

By Visa or MasterCard when you submit your application through eServices.

For paper applications

By cheque, money-order or credit card (Visa or MasterCard only) using the ‘Payment Form for Credit Cards, Cheques and Money Orders’ available from our website. Post the completed form, along with your money-order or cheque, made payable to:

IP Australia
PO Box 200
Woden ACT 2606 Australia

By Electronic Funds Transfer (EFT) – by prior arrangement only. To arrange payment please contact 1300 651 010, and download the EFT form.

Preparing your complete application

Patent Request form - standard or innovation patent

If you apply online you can complete the form through eServices.

If you do not want to apply online a fillable copy of the patent request form for standard patents together with instructions for filling it in is available from our website. Please read the instructions carefully before filling in the patent request form, and keep a copy for your own records.

The patent request form for an innovation patent is made up of three parts and must include all applicants and the nature of the invention. All completed parts must be signed by the same person and filed at the same time.

What is a complete specification?

A complete specification is made up of Title, Description, Claims, an Abstract and Drawings (optional). The specification should be drafted carefully. This is the document on which a patent, if granted, is based.

Title

The title should appear on the first page as shown in the example on page 17. If the patent is based on a provisional application then you should use the same title.

Description

The example specification shown on is written for an innovation patent, although the level of detail required when describing your invention is the same for a standard patent or a provisional specification. Remember that it is important to include a full description of your invention when you file a complete application.

Claims

Claims are an important concept and function like mining rights. In the early days of a gold rush, miners staked claims in the ground where they wanted exclusive rights to dig for gold. Patent ‘claims’ work in a similar way, except they’re based on exclusive rights to an invention rather than a piece of land.

If you try to claim too much, it may be difficult to obtain or at least defend those rights. However, if you claim too little you may miss out on valuable opportunities. Poorly worded claims can be confusing and completely miss the true ‘inventive step’ in your technology. Patent attorneys are experts at writing claims, which is why you are strongly advised to use their services.

Claims are important because they determine the scope of the monopoly given by a patent. The claims must:

- be clear and concise
- distinguish your invention from what is already known
- set out all the essential technical features of your invention
- be consistent with the description.

Statements about advantages of your invention are not suitable as claims.

A standard patent can have any number of claims (note: additional fees apply at the time of acceptance if the number of claims exceeds 20). An innovation patent can have up to five claims.

You should also be aware that you may lose the priority date established by an earlier provisional application for any claims that include a feature which you did not describe in the provisional specification.

The example of a complete specification gives examples of well written claims. It defines only those features that are essential to the operation of the ‘shaker can’.

In a complete specification, it is common to use the same words in Claim 1 as in the statement of the essential features of the invention in the description (this is shown in the example). Claim 1 states that the container has an open top and perforations in its wall. The construction of the cover is not explicitly specified, other than that it must be able to revolve about the top and must have any opening in its wall corresponding to the perforations. These are the essential features of the shaker can, and the applicant would hope that those features alone would be sufficient to distinguish the claimed invention from existing shaker cans.

A complete specification for a standard or an innovation patent can include more than one independent claim but they must all relate to the same invention. For example, if your invention is a new product, you may be able to include independent claims for the product, a new process specifically adapted to make the product, and perhaps a new apparatus to carry out that process.

Claims 2 to 5 of the example specification make explicit reference to one or more previous claims by using such phrases as “The shaker can as claimed in claim 1”. The purpose of this approach is to define features that you consider to be desirable or optional—such as the use of sheet metal in Claim 3 of the example specification - but not essential to your invention.

Abstract

Patent applications can be lengthy, technical documents. You must include an abstract at the back of your specification to act as an executive summary. This will help the reader quickly identify the key features of your invention. The example includes an abstract for the ‘shaker can’. Note: drawings are optional but recommended if they help explain your invention.

If you leave things out

It’s important to include all the necessary information about your invention when you file a complete application. If you leave something out it is unlikely that you will be able to add it to the specification later. However, in some circumstances you may be able to get patent protection by filing another type of patent application.

Example: Complete Specification

(Example front page)

AUSTRALIA
Patents Act 1990

COMPLETE SPECIFICATION
INNOVATION PATENT

IMPROVED SHAKER CAN

The following statement is a full description of this invention, including the best method of performing it known to me:

1

IMPROVED SHAKER CAN

For many years shakers for salt and like granular materials have consisted of a container having holes through which the material can be shaken. This invention has been specially devised in order to provide an improved shaker can of simple, cheap, effective and readily reusable construction and whereby the contents are protected from air and may be readily shaken or sifted therefrom when desired, and unintentional or wasteful escape of said contents is prevented.

A shaker can in accordance with this invention comprises a container having an open top and a perforated shaker area in its wall near said top, and a close fitting cover revolvable about said top and having corresponding opening in its wall.

The opening in the cover is of such a size and in such a position that when said opening and the shaker area are juxtaposed by revolution of the cover upon the container the contents of the latter may be shaken or sprinkled from the can through said perforated area, and upon revolution of the cover so that the opening therein is beyond said area the can is closed thus preventing waste of the contents or deterioration of the same by access of air thereinto.

For revolvably retaining the cover upon the container, the cover and the container preferably have in its wall a corresponding inward or outward annular corrugation.

The cover is preferably removable so that the can may be recharged and reused as often as desired. The cover wall may additionally have a short cut inwardly from its edge to permit it to be sprung down upon the container top until the corrugations engage one within the other.

The shaker can is preferably made from sheet metal, however other materials can also be used. For example glass containers having sheet metal cover are found very suitable. The shaker can may also be made of a suitable food grade plastics material.

The invention may be better understood with reference to the illustrations of embodiments of the invention which:-

Figure 1 is an elevation of an improved shaker can with parts separated and the co-acting position of the cover dotted,

Figures 2 and 3 are diametrical sectional elevations of the top of a can showing the co-acting retaining means, and

Figure 4 is a similar view of the upper part of a cover having a flanged or beaded gripping rim.

The container shown which is cylindrical with open top 5 has in its wall near said top, perforations which form a shaker area 6, and the cover 7 which is made to fit upon the container somewhat tightly has in its wall a corresponding opening 8. To prevent unintentional removal of the cover 7 there is provided in the walls of the container and of the cover 7 complementarily positioned co-acting outward or inward annular corrugations 9 which will engage one with the other when the cover is pressed down upon the top of the container and to facilitate assembly, the wall of the cover may be cut inwardly from its edge as at 10. If desired the cover may have a gripping rim or bead 11 formed thereon or some bulbous projection of partial vertical and outwardly disposed ribs or corrugations may be formed in the cover wall to provide a secure grip when grasped by a hand.

The claims defining the invention are as follows:

1. A shaker can comprising a cylindrical container having an open top, a region in the wall of the container adjacent the open top of the container having a series of perforations, and a close fitting cover having an opening, wherein the cover can be revolved about the open top between a first position where the perforations are covered by the cover and a second position where the cover's opening is aligned with the perforations.

2. The shaker can as claimed in claim 1 further comprising complementary retaining means on the container and cover.

3. The shaker can as claimed in claim 1 formed using sheet metal.

4. The shaker can as claimed in claim 2 where the complementary retaining means is an outward annular corrugation on the container and an inwardly extending lip on the cover.

5. The shaker can as claimed in claim 4 where the cover can be removed to allow the container to be filled with material.

ABSTRACT

The disclosed shaker can is a cylindrical container with an open top 5 having in its wall near said top, perforations which form a shaker area 6 and a cover 7 which is made to fit upon the container somewhat tightly and having in its wall a corresponding opening 8 so that when the opening 8 and the shaker area 6 are juxtaposed by revolution of the cover 7 upon the container, the contents may be shaken or sprinkled from the can through the-perforations and upon revolution of the cover so that the opening 8 therein is beyond the area 6, the can is closed. To-prevent unintentional removal of the cover 7 there is provided in the walls of the container and of the cover 7 complementarily positioned co-acting outward or inward annular corrugations 9 which will engage one with the other when the cover is pressed down upon the top of the container.

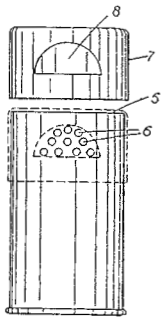


FIG. 1.

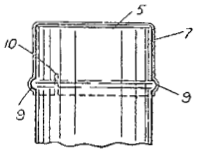


FIG. 2.

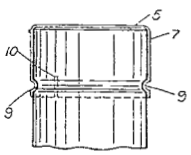


FIG. 3.

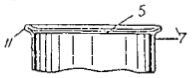


FIG. 4.

Processing your innovation patent application

After you have filed a complete application for an innovation patent, we will conduct a simple formalities check to make sure that your application is in order. Generally within one month you will receive notification from us formally granting you an innovation patent (provided you have paid the filing fee).

Please note that the innovation patent is granted without substantive examination. We have not assessed whether the patent is valid which may make it more difficult to sell or license.

If you wish to have a legally enforceable right, you must request examination of your innovation patent.

If your innovation patent is infringed, you can take legal action against the infringing party only if your innovation patent is examined and certified.

Examination and certification of innovation patents

If you apply for an innovation patent online, you can request examination of your innovation patent application when you apply. If you do not request examination when you apply, you can request it at a later date by completing a separate examination request.

You can request an examination online, or you can complete a Request for Examination form. You will also need to pay the required fee.

Your competitors can also request examination of your innovation patent. This commonly occurs when they own a patent that might be infringed by your invention. In these instances, the other party pays half of the examination fee, and you pay the other half (if your patent is certified you stand to benefit from this action). If you do not pay the balance, your patent will cease.

You will receive one of two possible replies to the request for examination:

- A notice that your patent has been successfully certified, in which case your rights are then legally enforceable.
- An adverse report explaining why your innovation patent, in its present form, does not meet the requirements of the Patents Act.

Please note that if another party requested examination, they are given a copy of any examination report sent to you (the reports are also publicly available).

If you receive an adverse report, the next step depends on the problems identified in that report. Sometimes inventions aren't properly described, or are indistinguishable from existing technology. Often you can resolve problems by responding with changes to your specification. This procedure of responding to a report and receiving an adverse report may be repeated several times. However, if all problems aren't resolved in time, your innovation patent will cease.

Once certified, your competitors may start opposition proceedings to show that your innovation patent is invalid - see Acceptance, Opposition and Grant. If opposition proceedings are successful, your innovation patent will be revoked.

Processing your standard patent application

Requesting examination of standard patent applications

When your application has reached the front of the queue, and if you have not already requested examination, you will receive a letter from us informing you that you have to request examination. You then have up to two months to request examination. If you don't request examination, your application will lapse.

For us to commence examination, you must complete a Request for Examination form, or request examination online, and pay the required fee.

Generally the time between when you request examination of your standard patent application and when it is examined is longer than the same time period for an innovation patent. You can request that examination of your complete application for a standard patent happens sooner (known as expediting), but you should be careful about initiating this action.

Early examination and grant of a patent can have unexpected results. For example, your application may be published too early for you to have time to file a separate application for protection overseas.

Remember that, when granted, your patent rights can be retrospectively enforced from the publication date of your complete application, so there is usually no benefit in finalising your patent quickly unless you need to take immediate legal action against an infringer or require a granted patent for licensing or financing negotiations.

Examination of standard patent applications

A complete application for a standard patent is assessed against the same substantive requirements of the Patents Act as an innovation patent, except that your invention must involve an inventive step.

The test for an inventive step requires a comparison of your invention as defined in the claims with the same information used to determine novelty in relation to innovation patents. In addition, your invention will also be compared against background knowledge in the technical field of your invention which is sourced from common work practices as well as standard texts and handbooks, technical dictionaries and other material widely consulted in the field.

The inventive threshold for standard patents is higher than that for innovation patents. In both cases your invention must differ in some way from existing technology. For an innovation patent this difference need only make a substantial contribution to the working of your invention. However for a standard patent, the difference, though contributing to the working, must have resulted from something more than the simple application of published information and/or standard background knowledge.

After examination you will be sent either an adverse report or a notice that your standard patent application has been accepted. If an adverse report is sent, you will be given the opportunity to make changes to your specification to try and correct the problems identified. However, if the problems cannot be overcome in time, your complete application will lapse.

Acceptance, opposition and grant

We will accept your application when we consider it meets the requirements for a standard patent. Other parties then have three months to start opposition proceedings to show that your standard patent, if granted, would be invalid.

Very few accepted standard applications or certified innovation patents are opposed, but if you become involved in an opposition you should seriously consider consulting a patent attorney.

After the opposition period, if no opposition is filed and the acceptance fees are paid, your accepted standard application is granted.

Extensions of time

You may need to apply for an extension of time to restore a patent or patent application that has lapsed because you unintentionally failed to pay a fee or take some other action in time. For example, perhaps you have lost your priority rights because you did not file a complete application within 12 months of your provisional application.

Before being given an extension of time you must explain in a declaration the chain of events that caused the unintentional mistake, and pay any unpaid fees.

What happens after my patent is granted?

You need to pay annual maintenance fees if you want to keep your patent in force. We **DO NOT** send out reminders for maintenance fee payments.

It is also your responsibility to take legal action to enforce your rights in Australia. You should seek legal advice if you wish to challenge another person’s patent or if your patent is being infringed upon.

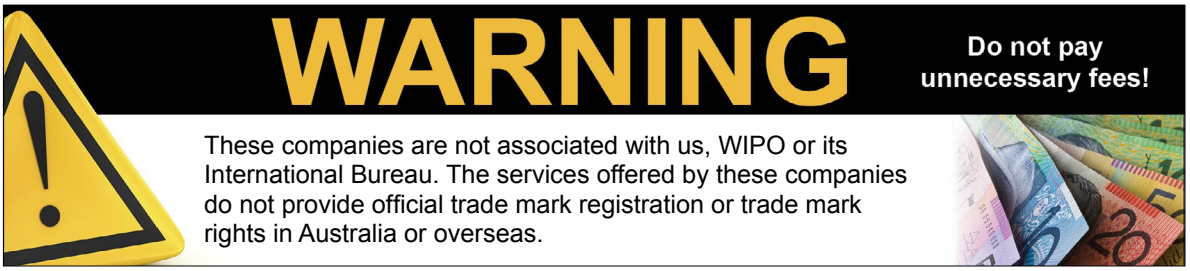
Be vigilant – check all letters and invoices

Information, including contact details, about patent applications and registrations is available online. Some people may use this information to send letters and invoices to you requesting payment for IP services that you have not requested. They may send you an invoice, or offer to provide a service, such as:

- registering your patent
- publishing your patent in an international register
- providing you with patent monitoring services.

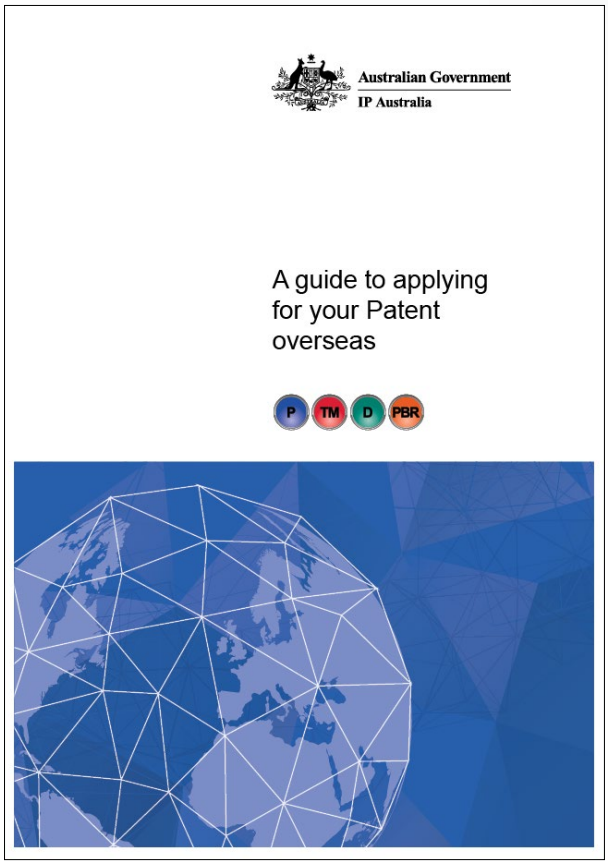
See our website for a current list of companies that send these unofficial invoices and offers, and for examples of the invoices they send. The World Intellectual Property Organization (WIPO) website also contains a warning about these companies.

Before paying a fee for any IP-related service, we recommends that you carefully consider what, if any, value the service will provide.



Patenting overseas

Please read our publication *'A Guide to applying for your patent overseas'* to learn more about obtaining protection for your patent in other countries.



Costs

To view the current patent application fees visit our website or contact us on 1300 651 010.

Please note: fees may vary depending on how applications are filed.

Contact us

Our staff will help you and answer your questions, however we cannot assist you on legal matters or provide business advice. You may wish to consult a patent attorney. See our website for information about how to contact an IP professional.

We subscribe 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 trade marks should be directed to:

Post	The Commissioner of Patents IP Australia PO Box 200, Woden ACT 2606 Australia
Phone	**1300 651 010** (within Australia); **+61 2 6283 2999** (International callers only)
Website	**www.ipaustralia.gov.au** - for comprehensive information relating to intellectual property, to access IP Australia's eServices, and to download publications and other documents

Communicating electronically with us

The date you provide information to us can be critical to the certainty of your IP rights.

We haves implemented a set of Electronic Business Rules that mean that when you communicate with us electronically (e.g. online), using our preferred method, the date and time of that communication will be Australian Eastern Standard/Daylight Saving Time.

Our preferred means of communication is through eServices - you can register and log in on our website.

We provide these rules to outline the submission requirements for your IP, including:

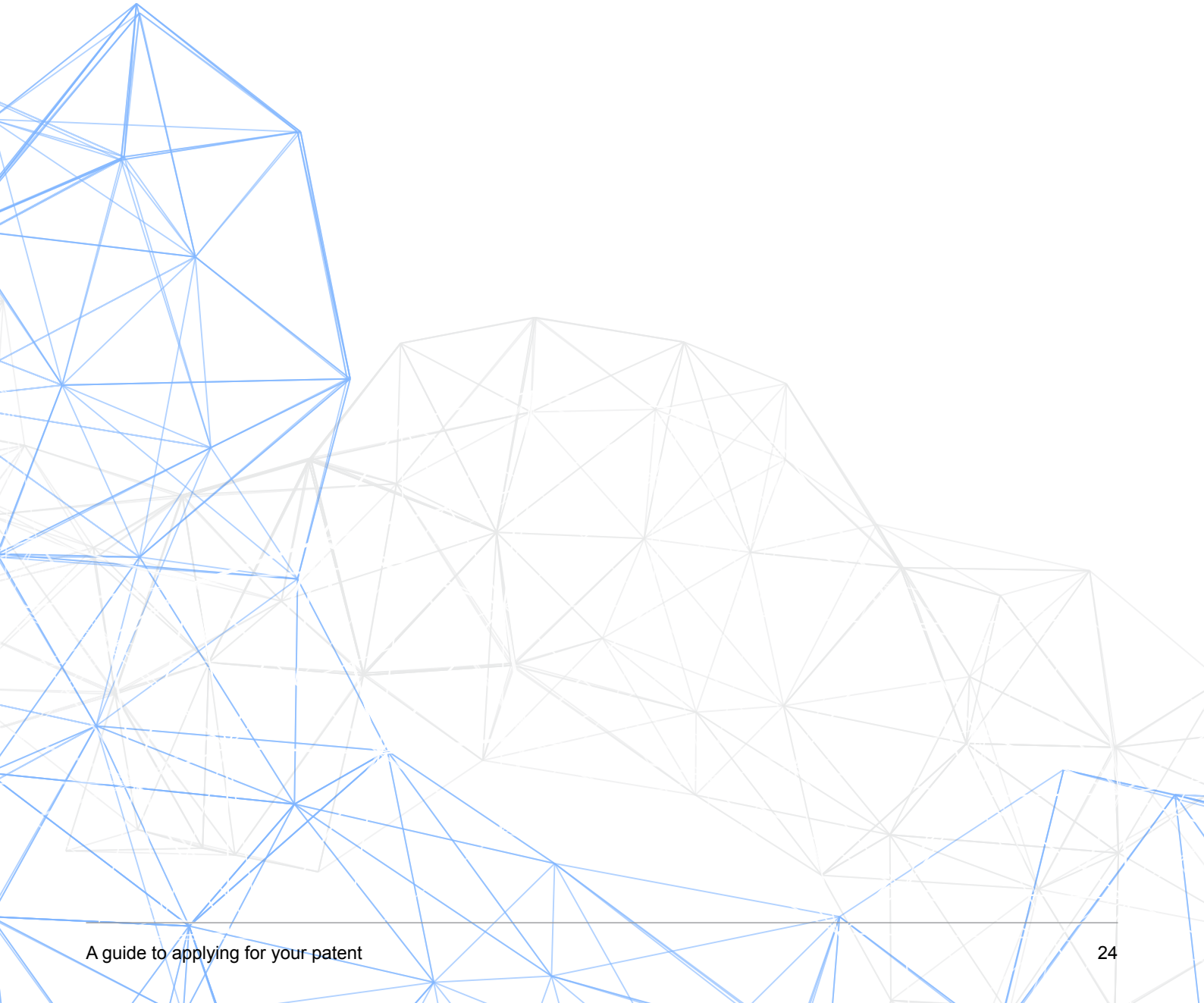
- identifying the appropriate file formats to submit your service request
- providing a list of electronic payment options.

Privacy of personal information

We are committed to handling personal information in accordance with our obligations under the *Privacy Act 1988*. Our Privacy Policy explains how we handle personal information, and is available on our website.

Customer service charter

We are committed to providing our customers with excellent customer service and high quality products and services. Our commitments are outlined in our Customer Service Charter, available on our website. We review our charter regularly and measure our compliance each quarter.



Glossary of terms

Address for Correspondence	An address in Australia where we can write to you. You should notify IP Australia if this address changes.
Address for service in Australia	An address for legal service, that is, an address in Australia where legal documents may be served. This can be a PO Box in Australia. You should notify us if the address changes.
AOJP	The Australian Official Journal of Patents. The journal issued by us listing patent applications awaiting approval. Publication in the journal indicates the beginning of the opposition period.
AusPat	AusPat is our comprehensive online search system for Australian patent data.
Certification	Certification of your innovation patent will occur if it is examined and found to meet the requirements of the Patents Act. Once it is certified, you can enforce your innovation patent.
eDossier	eDossier is a part of AusPat and is an electronic database of documents related to the filing and examination of your patent.
Extension of Time	If you miss a deadline during the process of applying for a patent or during examination you can in some circumstances request an extension of time. Please see our website for further information.
IB	The International Bureau of the World Intellectual Property Organization (WIPO).
Grant	An innovation patent is granted when it satisfies formality requirements. A standard patent is granted once it means more substantive requirements of the Patents Act. A granted standard patent can be enforced.
Infringement	Infringement occurs when someone knowingly or unknowingly uses your patent without your permission.
Innovative Step	An innovation patent must make an innovative step - the difference between your invention and existing inventions must make a substantial contribution to the working of your invention.
Inventive Step	A standard patent must make an inventive step - the difference between your invention and existing inventions must not be obvious to someone working in the same technical field.
Novel	Both standard patents and innovation patents require your invention to be novel - that is, your invention is different to existing products in the market.

PCT	Patent Cooperation Treaty. An international agreement used to file an international patent application. In your application, you need to select the countries in which you want a patent granted. Making an application under the PCT is a useful way to apply for your patent in a number of different countries at the same time.
Prior art	Matter which is in the public domain and is therefore not patentable.
Priority date	The date established for your invention when you first file a patent application. The priority date is used to determine if your invention is new. If the public knows of your invention before this date, you are not entitled to patent it.
Provisional Application	An interim document filed in patent actions. A provisional application establishes a priority date for disclosure of the details of an invention and allows a period of up to 12 months for development and refinement of the invention. A complete application must then be filed, and forms the basis of the grant of a patent.
Specification	A description of your invention and a claim to the scope of patent protection that you seek. It must describe your invention fully, detail the best way of putting your invention into effect and include at least one claim.
WIPO	The World Intellectual Property Organization in Geneva, Switzerland.

www.ipaustralia.gov.au

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