



Want to know how to protect your unique ideas, style and start-up ventures?

Intellectual property & patents 101

As innovative students, it is essential to be informed and understand what Intellectual Property (IP) is during your studies and as you embark on your journey. Protecting your creation, innovations and ideas is essential, but it is of vital importance that you don't infringe upon someone else's as well. Strengthening your understanding on what IP is and the requirements of applying for a Patent will allow you to construct, innovate and explore your minds creation whilst ensuring your creation belongs to you. Remember, IP is an asset, it has value (UOW IP, 2020).

Here are some key points to keep in mind:

WHAT IS INTELLECTUAL PROPERTY?

According to the Australian Government, Intellectual Property (IP) is the property of your mind. Here at UOW we identify IP as the creation of the mind (or several collaborating minds) that is novel (new), useful and protectable. IP is an asset - it has value, belongs to an owner and can be used or traded. In Australia, we have Australian IP law which encourages innovations whilst protecting the individuals and businesses who have developed the original patent.

WHAT IS A PATENT?

Patent is a way to protect the way things work. It is a legal right granted to a new creation that is useful. According to the Australian Trade and Investment Commission, a patent provides a legal right to prohibit third parties from manufacturing, using and/or selling an invention in Australia. Additionally, it can always be utilised to licence to someone who will manufacture the invention on agreed terms and conditions. Thus, the owner of the patent has the right to make, use or sell the invention or product made using the invention. There are two types of patent: an 'innovation patent' which protects an advance or improvement on existing technology AND a 'standard patent' which gives long-term protection and control over an invention.

WHAT CAN BE PATENTED?

In Australia, patents can be applied to a range of inventions which can include:

- Appliances
- Mechanical devices
- Computer-related inventions
- Business methods
- Biological inventions
- Micro-organisms and other biological materials

Below are some things that a patent cannot be applied to:

- Human beings & laws of nature
- Abstract ideas
- Artistic creation
- Mathematical models
- Plans, schemes or other purely mental processes.
- Foods or medicines that are a mixture of individual ingredients (i.e. a new cookie recipe)

SOME USEFUL WEBSITES FOR FURTHER INFORMATION:

- **IP Australia: A Guide to Applying for your Patent:** ipaustalia.gov.au/sites/default/files/patent_application_guide.pdf?acsf_files_redirect
- **Australian Government: IP Australia:** ipaustalia.gov.au/patents/understanding-patents/types-patents
- **Australian Government: Australian Trade and Investment Commission:** austrade.gov.au/International/Invest/Guide-to-investing/Running-a-business/Understanding-Australian-business-regulation/Australian-Intellectual-Property-laws
- **UOW Intellectual Property:** uow.edu.au/industry/intellectual-property
- **Australian Patent Database:** pericles.ipaustralia.gov.au/ols/auspat/quickSearch.do
- **Intellectual Property Professional:** ipaustalia.gov.au/patents/engaging-an-attorney-toolkit
Arts Law Centre of Australia (02) 9356 2566

For more information visit uow.info/legal-clinic



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Applying for a patent

APPLICATIONS FOR A PATENT

There are three types of applications in Australia:

- **Provisional application** - this is the first step to getting a 'priority date' for your invention (if you're in a competitive environment and time is critical, this date matters). This application alone does not give you patent protections however.
- **Complete application** - necessary to have a legitimate patent granted. Must be completed within 12 months of your provisional application to confirm your priority date.
- **International application** - allows you to apply for patents in a number of countries simultaneously to protect you against any patent issues in export markets.

HOW TO APPLY FOR A PATENT

- Use the services of a patent attorney
- [Apply online using eServices \(IP Australia\)](#)
- [Download and complete a form](#)

KEY TIPS IF YOU DO HAVE SOMETHING YOU WISH TO PROTECT

Keep your creation on the down-low...don't go public too soon!

- You may be excited to share your creation with a friend or a business partner but remember you may not get a patent. So, should you wish to discuss it with your employees or potential business partner, ensure that a confidentiality agreement has been drafted and signed.

Decide if a patent is right for you (consider if...)

- Potential for commercial returns vs. time, effort and cost required to maintain a patent.
- Do you have the resources to manage your IP and patent?
- Have you researched to ensure there is no similar creation?
- Is it your own creation and have you kept it private?

Do your research and do it well!

- Before applying, conduct a thorough search for patent information i.e. purely researching whether your creation already exists. Ensuring comprehensive research has been conducted, saves you time, money and heart ache.
- Utilising the Australia Patent Database is a good place to start your search. This can be a tricky process (and important) so contacting an Intellectual Property (IP) professional may be a good idea.
- IP Australia recommend to consider the following questions:
 - *Can I protect my invention with a Patent?*
 - *Does my invention infringe someone else's patent?*

Be prepared for the cost!

- Remember a patent can be expensive.
- There will be fees associated throughout the patent process from application, renewal, examination and acceptance fees.
- You must ensure you have conducted thorough research and weighed up the pros and cons prior to submitting your application.



The UOW Legal Clinic
you would like to talk your
confidential advice so if an
appointment.

It is always
a good idea to educate and
inform yourself on the
process first though by
referring to reliable sources
like IP Australia. Click here
to visit their website.



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