

About Patents



Australian Government

IP Australia



At a glance

- *protects new inventions such as devices, substances, methods, and processes*
- *takes between 6 months (min) and several years to register*
- *standard patent lasts up to 20 years (25 years for pharmaceuticals) provided renewal fees are paid*
- *tip — keep your idea a secret and do your research before you apply.*

What's a patent?

A patent is a registered form of intellectual property (IP) which protects any device, substance, method, or process within Australia. You need to apply for a patent, and have it examined before it can be granted. To have a patent granted your invention must be new, meaning it must be novel and differ in some way from existing technology. It must be inventive, meaning it is different enough to what already exists. It must also be useful, meaning it can be made or used in an industry, and it must also be a suitable subject matter, known as manner of manufacture.

Protection period

The protection period for a standard granted patent lasts up to 20 years (25 for pharmaceuticals) provided you continue to pay your renewal fees. The first renewal is due 4 years after the filing date of a standard patent.

For more information about the protection period and when to renew your IP see our website.

Our [short video](#) explains 'What are patents?'.

Why should I apply for a patent?

The granting of a patent gives you:

- exclusive commercial rights to your invention — a monopoly in the market
- freedom to licence someone else to manufacture your invention on agreed terms, removing the risk that they could steal your idea
- the right to take legal action that stops others from manufacturing, using and/or selling your invention in Australia without your permission.

What can be patented?

A patent can cover how something works and a wide range of inventions which include:

- medical technology
- pharmaceuticals
- biotech
- organic chemistry
- civil engineering
- appliances
- mechanical devices.

What can't be patented?

A patent does not protect:

- human beings or the biological process for their generation
- artistic creations
- mathematical models
- plans, schemes, or other purely mental processes.

An IP story:

Knog and Patents

Knog a Melbourne-based company set up in 2002 by Product engineer Malcolm McKechnie and industrial designer Hugo Davison has built up international success, by manufacturing a range of cycling, action sports, outdoor, digital products and accessories which are now sold in over 50 countries.

Knog knows the value of protecting its intellectual property (IP) in Australia and overseas and seeks to protect the creative effort in its products.

Mr McKechnie says:

Apart from beautiful design, inspiring products and cool marketing, IP immediately follows as our sustainable advantage with remaining a competitive brand.

Our patents protect the innovation and inventiveness that go into our products; our designs protect the unique appearance of our products; and our trade marks help to identify the real products from the 'Knog offs'.

Registered IP protection demonstrates that we are serious about our brand, products, marketing and making a difference. Without IP protection we would not have gained the support and growth we have today. This approach is even more important with our venture into the outdoor space with headlamps and power systems.

To read more IP stories like Knog's visit our [website](#).





Things to consider before you apply for a patent:

Make sure a patent is right for you

A patent legally protects new technology, devices, substances, or processes. You'll need to be sure that your idea is new and inventive prior to applying. If the idea has already been protected by someone else, or if you made it public over 12 months ago, your idea will not be eligible for protection.

What if a patent is not right for me?

If you decide a patent is not the best option for you, you can either:

1. Keep it as a trade secret: Keep your invention secret so others cannot copy it. Trade secrets are not registered with an IP office but are protected with secrecy and confidentiality agreements.
2. Openly use and publish details about your invention: If you share the details of your invention publicly, your competitors will be free to use it for their own benefit, but no-one will be able to get patent protection. No business would hold a commercial monopoly.

Keep your invention a secret

Until you have put in a patent application, or decided on another option for your invention, keep it a secret. This gives you the best chance of securing a patent.

This means:

- make sure anyone involved in developing the invention understands it is confidential, and has signed a non-disclosure agreement
- do not demonstrate, sell, or discuss your invention in public
- do not post your invention on social media, or anywhere on the internet
- when you need to discuss your area of business, talk only about the problem your invention solves, rather than your solution.

What if I've already gone public with my invention?

If you've already gone public with your invention, you will need to apply for a standard patent within 12 months of when you went public with your invention. This allows you to access a grace period where we exclude your disclosure from our examination process.

If you try to file beyond the 12 months, the initial public disclosure can stand in the way of your application.

Make sure your invention doesn't already exist

An invention can only be protected if it's new and inventive. So, you need to make sure your invention doesn't already exist and hasn't already been protected by someone else.

Examples of registered patents



Technology
Google Maps



Device
Cochlear implant



Substance
Polymer (plastic)
bank notes

Consider our free patent case manager service

If you're a small to medium business interested in applying for a patent, and haven't engaged legal assistance, you may be eligible for our free patent case manager service.

The service connects you with one of our patent experts, who'll assist you at every stage of the application and/or examination process.

How does it work?

Our service is designed to help you apply for a patent if you decide not to use legal representation.

Summary:

- we'll connect you with a dedicated patent expert who'll act as your case manager and be your single point of contact
- the case manager can talk to you about your patent application, along with other types of IP protection that you could consider
- you can continue to use your case manager once you've filed your application and even while it's being examined.

How can the service help me?

Your case manager can:

- explain the patent system, the application process, common terms, timelines, and fees
- provide information on how you can search for inventions using the IP search databases, Google Patents, and social media
- give you general information about what to include in your application
- show you how to submit your application
- explain how to read examination reports
- answer general questions about patent applications while your application is being examined
- talk to you about other types of IP that could be useful, such as trade marks, design rights and plant breeder's rights.

They can't:

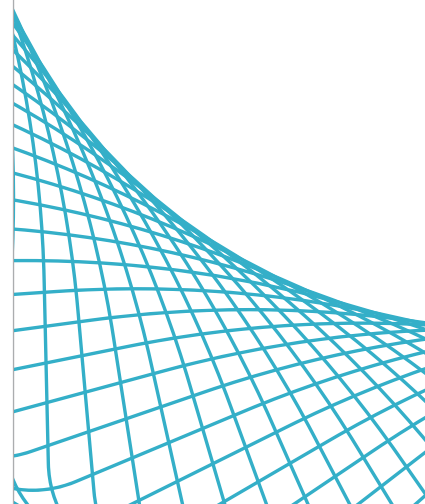
- provide instructions or help you draft your patent specification, or prepare your application
- offer feedback or opinions about your application
- give business, legal, or commercialisation advice
- provide advice on your IP strategy.

How can I request a case manager?

You can request a case manager by calling our customer contact centre on 1300 65 1010 between 9am and 5pm (AEST). If you've already applied for a patent, remember to have your application number handy.



*Need help with your
patent application?
Request a patent
case manager.*



How do I apply for a patent?

You should submit your patent application through our online services portal. Obtaining patent protection can be a complex legal process and you should consider legal advice from a registered patent attorney. Amongst other services, your patent attorney can prepare, file, and prosecute your application.

What's a standard patent application?

A standard patent application needs to be examined to ensure it meets our legal requirements before it can be granted. Once granted a standard patent gives you the right to take legal action against others using your invention in Australia without your permission. Protection lasts up to 20 years (25 for pharmaceuticals) provided renewal fees are paid.

What's a provisional application?

A provisional application is an optional, inexpensive way of signalling that you may file for a standard patent in the future. It doesn't offer any patent protection to your invention. However, it establishes a priority date and indicates to competitors you intend to apply for a patent. In the event you go ahead and apply for a standard patent, you can use the priority date from your provisional application.

What's the IP Australia fee?

From filing to acceptance, a standard patent will cost \$1110* when applying via our online services. Fees are payable at different stages of the complete patent application process and will vary depending on the type of application you are making. Important to note costs vary widely.

Further information on timeframes and fees is available on our [website](#).

Do renewal fees apply?

Yes. From the 4th anniversary of when you file the patent, annual renewal fees will be applicable to maintain your patent. The cost will vary depending on the type of patent and the number of years that have passed since you filed it. Renewal fees commence at \$300*.

International protection

There is no such thing as a world wide patent. You will need to obtain a patent in each country or region where you want protection. You can either:

1. File your application directly through each country or regional IP office, or
2. File a single international patent application through the Patent Cooperation Treaty (PCT) administered by the World Intellectual Property Organization (WIPO). This allows you to file a single international application that has the same effect as filing multiple single applications to each country. Once processed you will need to take your international application and convert it to a national application in each country where you want a patent.

The patent office of each country will then carry out their own examination before your patent is granted.

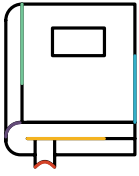
Obtaining patent protection can be a complex legal process and you should consider seeking legal advice from a registered patent attorney. Amongst other services, your patent attorney can prepare, file, and prosecute your application in each of the various countries where you want protection.



To find out more about patents visit our website.



Check your patent is available before you apply. AusPat our patent database for filed and granted patent applications in Australia.



Publishing

We're responsible for the administration of IP legislation in Australia. Our role includes publishing and maintaining the [official journals](#) for IP rights in Australia. Each journal contains details of an IP right application at the different stages of the registration and grant process, including:

- acceptance date
- grant date
- amendments made
- notification of when it's open to public inspection
- lapses.

This can be helpful if you need to provide evidence of the date something was published. It is important to note that we will publish your standard patent application as well as examination reports and correspondence that relate to the processing of your application. We do not publish your provisional patent application.



Professional assistance

If you need some help or advice, [intellectual property \(IP\) professionals](#) can assist you along your IP journey. For instance, a registered patent attorney will have scientific or engineering qualifications as well as legal qualifications in patent law. Your time is important, and an expert's time can be expensive. It is useful to prepare before you meet them ask your IP professional if there is anything that you need to prepare ahead of your meeting.



For further information on Patents head to <https://www.ipaustralia.gov.au/patents>

Contact us: <https://www.ipaustralia.gov.au/about-us/contact-us>

Phone: 1300 651 010
(9am to 5pm, Monday to Friday)

