

# Getting an innovation patent in Australia.

The Innovation Patent provides a method of protecting new developments where the invention may be for relatively minor improvements or variations on what has previously been known or where the product concerned may have a relatively short life cycle.

An innovation patent provides its owner with a potential 8 year monopoly compared with a potential 20 years for a standard patent.

The usual first step towards achieving patent protection via this route is to file an Innovation patent application including a specification describing the invention. The specification will include patent claims (maximum of five) defining in words the monopoly being sought. If the first application lodged is the innovation patent application, the date of filing will establish the priority date for your invention. This date is vital because the validity of any patent application depends on being the first to seek patent protection for the monopoly being sought.

As a possible alternative, a provisional patent application may be prepared and filed, the filing date of which will establish a priority date for a subsequently filed innovation patent application provided the innovation patent application is filed no more than twelve months after the provisional patent application filing date.

Once an innovation patent application has been filed, the Patent Office undertakes a formalities check of the application and then grants a patent. This process takes only a matter of several weeks, and once granted, the application and the filed specification are published, and become accessible by others.

It should be understood that grant of an innovation patent does not provide to the owner any rights to instigate patent infringement proceedings against another person or company. To be able to instigate patent infringement proceedings, the granted innovation patent must undergo a certification process by being examined for an "innovative step" relative to a defined prior art base.

A significant advantage of the innovation patent

is that actionable protection may be achievable within a relatively short time frame, ranging in between 6 months and 12 months from requesting certification.

Another advantage of the innovation patent is that it may be easier to defend than standard patents, especially where the potential innovation represents a clear improvement over existing technologies.

To be regarded as having an innovative step, the differences between the invention and the prior art base must make a substantial contribution to the working of the invention. Certification of an innovation patent can be requested at any time during the life of the patent by the patentee or by any other party.

Refer to our separate leaflet Getting a Standard Patent in Australia (available at [www.watermark.com.au](http://www.watermark.com.au)).

## Melbourne

T +613 9819 1664  
F +613 9819 6010

## Sydney

T +612 9888 6600  
F +612 9888 7600

## Perth

T +618 9325 1900  
F +618 9325 4463

E [mail@watermark.com.au](mailto:mail@watermark.com.au)  
[www.watermark.com.au](http://www.watermark.com.au)

Innovation  
Patents

For more information on Watermark's comprehensive range of intellectual property services contact [mail@watermark.com.au](mailto:mail@watermark.com.au)

