

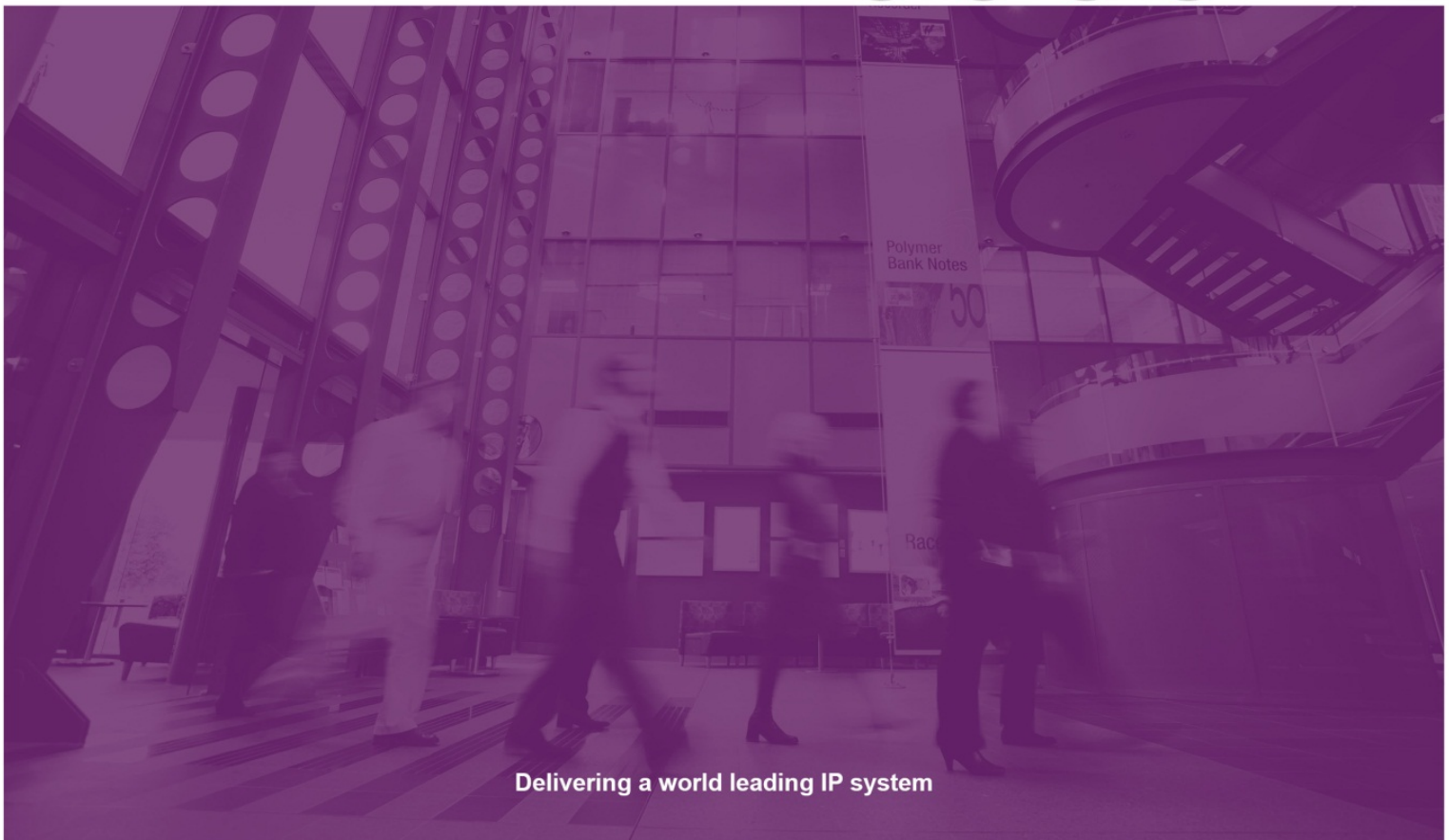


Australian Government
IP Australia

Submission to the Joint Select Committee on Trade and Investment Growth

Inquiry into Australia's Future in Research and Innovation

February 2016



Delivering a world leading IP system

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Introduction

IP Australia is pleased to make this submission to the Joint Select Committee on Trade and Investment Growth's Inquiry into Australia's Future in Research and Innovation. In this submission, references to "IP" and the "IP system" are generally directed at the rights administered by IP Australia (patents, trade marks, designs, and plant breeder's rights), unless otherwise indicated.

As the value of IP in business, trade and investment grows, the importance of a high-performing IP system that is integrated into the global system of IP rights increases. IP rights are increasingly embedded in the products and services that we use daily. World trade in licences and royalties from IP rights has grown and outpaced world gross domestic product growth over the last two decades (OECD 2013). A well-functioning and effective IP system is important to underpin Australia's innovation, trade and investment efforts and the Australian Government's National Innovation and Science Agenda.

IP rights afford businesses a key protection to support innovation, entrepreneurship and the commercial positioning of the business itself. IP Australia's vision is to provide a world leading IP system building prosperity for Australia. We note that the current Productivity Commission inquiry into Australia's IP arrangements is considering whether current arrangements provide an appropriate balance between access to ideas and products, and encouraging innovation, investment and the production of creative works.

The *Australian Intellectual Property Report 2015* provides the latest IP statistics and further information (IP Australia 2015). For countries that are net importers of IP, such as Australia (Department of Industry 2013: p. 46; 2015: p. 112), it is especially important that the IP system encourages the flow of innovation, technology and knowledge into the country, giving Australians access to new technology and helping Australian businesses which rely on foreign technology to remain competitive.¹

On innovation, the 2015 Global Innovation Index ranked Australia 17th globally (Cornell et al 2015). IP Australia is committed to delivering ongoing improvements in our effectiveness, efficiency and customer service to contribute to increasing the performance of Australia's IP system and national competitiveness. These opportunities for improvement include ensuring IP right holders, particularly small businesses, are able to effectively make use of IP enforcement mechanisms. The latest evidence from Harvard Business School illustrates how "patent approvals help startups create jobs, grow their sales, innovate, and reward their investors" (Farre-Mensa et al 2015), and a larger literature exists on the relationship between IP rights and economic growth.

In this submission we wish to focus on the efforts we are making to assist Australian researchers and innovators to commercialise their IP and realise the full value of innovation, both domestically and internationally. IP Australia is happy to provide additional information, including on the relationship between IP, trade and growth.

IP Australia initiatives

IP Australia is the Australian Government agency responsible for administering Australia's patents, trade marks, designs and plant breeder's rights systems. IP Australia operates as a listed entity

¹ See the discussion in WIPO (2009, ch. 2).

within the Industry, Innovation and Science portfolio and is primarily funded by the fees it charges for administering registered rights.

The IP rights administered by IP Australia support innovation by:

- providing an effective legal framework for protection of innovative products and brands to create a secure environment for investment;
- providing incentives for undertaking research and development;
- promoting the disclosure of innovations and the follow-on generation of ideas; and
- enabling firms to build brand value and business reputation, which in turn contributes to improved consumer confidence.

As well as granting exclusive rights under the statutes it administers, IP Australia works closely with the Department of Industry, Innovation and Science to advise the Australian Government on IP policy; provides IP information and education services to business and the broader community to increase understanding of the important role IP plays in innovation; regulates the IP attorney profession; and contributes to bilateral and multilateral negotiations and development cooperation programs to promote a more harmonised global IP system.

When the Australian Public Service Commission (APSC) undertook its Capability Review of IP Australia it highlighted the potential for the agency to play a broader role in supporting innovation (APSC 2014). In support of the Government's National Innovation and Science Agenda, IP Australia is working on a series of initiatives aimed at exactly this. These programs are in their early phases, but with successful pilot projects in 2015 we believe these programs can play an important role in commercialisation and facilitating the trade in innovative products and services.

Patent Analytics

IP Australia's Patent Analytics Hub translates the world's patent literature into useable information to assist government agencies, universities and medical research institutes with research, development, collaboration and commercialisation.

The world's patent literature is a valuable resource of information. It contains over 80 million patent records, which provide bibliographic information, as well as technical information about the invention. The Patent Analytics Hub takes this disparate information from multiple sources, extracts it, and provides it in a form that allows for an understanding of relationships and trends to inform business strategy. This may include patenting activity in specific technology areas, identifying target markets or networks between organisations.

Source IP

On November 23, IP Australia launched Source IP, a web platform which serves as a single portal for information sharing, licensing preferences and facilitating contact in relation to IP rights generated by Australia's public research sector. Source IP seeks to:

- facilitate innovation and commercialisation by providing a means for public sector IP rights holders to signal their patent holdings and licensing intent;
- increase understanding of potential collaboration opportunities by providing universities and research companies with a platform to promote their research expertise and technology specialisations;
- provide a single source of key information and contacts to businesses seeking to work with a public sector research partner.

Companies, especially small businesses, report difficulties in accessing information about available public sector IP and in making appropriate contacts with research agencies. The impetus for Source IP is to remove these barriers and unlock the commercial potential of public patent holdings.

IP Toolkit for Collaboration

The IP Toolkit for Collaboration was jointly developed with the Department of Industry, Innovation and Science and was publicly released on www.business.gov.au on 10 September 2015. The IP Toolkit for Collaboration is an online resource intended to improve collaboration between researchers and the business community. It provides tools and guidance to simplify discussions relating to the use and management of IP in collaborative ventures.

A World leading IP system

IP Australia's corporate vision is for *a world leading IP system building prosperity for Australia*. The series of initiatives underway by IP Australia adds to the ability of Australian inventors and entrepreneurs to both access foreign markets and protect their ideas. A world leading IP system means that Australian entrepreneurs are able to access high quality examination in Australia, and through our agreements with other countries, can receive equivalent rights abroad.

IP rights are only enforceable within the jurisdiction in which they were granted. Consequently, if an inventor wants to protect their IP in different markets then they must submit applications for multiple jurisdictions. This results in a system in which applications are submitted across multiple countries for a single invention.

To reduce costs for Australian entrepreneurs and simplify the access to foreign markets, IP Australia has been at the forefront of the global patent prosecution highway initiative. This initiative provides fast-track patent examination in 20 countries, on the basis of a decision taken in any of those countries, allowing Australian inventors the option to quickly acquire rights across the major global markets such as Japan, Germany, the UK and the USA.

IP Australia is a member of the Patent Cooperation Treaty, providing access for Australian inventors to patent protection in 148 jurisdictions, and Australia is one of only 19 international search authorities indicating the high quality of our examination. Australia is similarly party to the Madrid agreement on trade marks which provides a system for filing trade marks directly in 97 jurisdictions.

It is important for Australia to manage both its own IP system and contribute to the international IP system. Australian residents file more patents overseas than they do domestically, reflecting the jurisdictional nature of the IP rights system and the size of the Australian market (IP Australia 2015). Having consistently been ranked in the top tier of global IP indices (e.g. Taylor Wessing 2013, Property Right Alliance 2015, US Chamber of Commerce 2016), and had our core examination work endorsed by the APSC (2014), we believe that the above initiatives can contribute to maximise the value of Australian innovation both domestically and internationally.

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