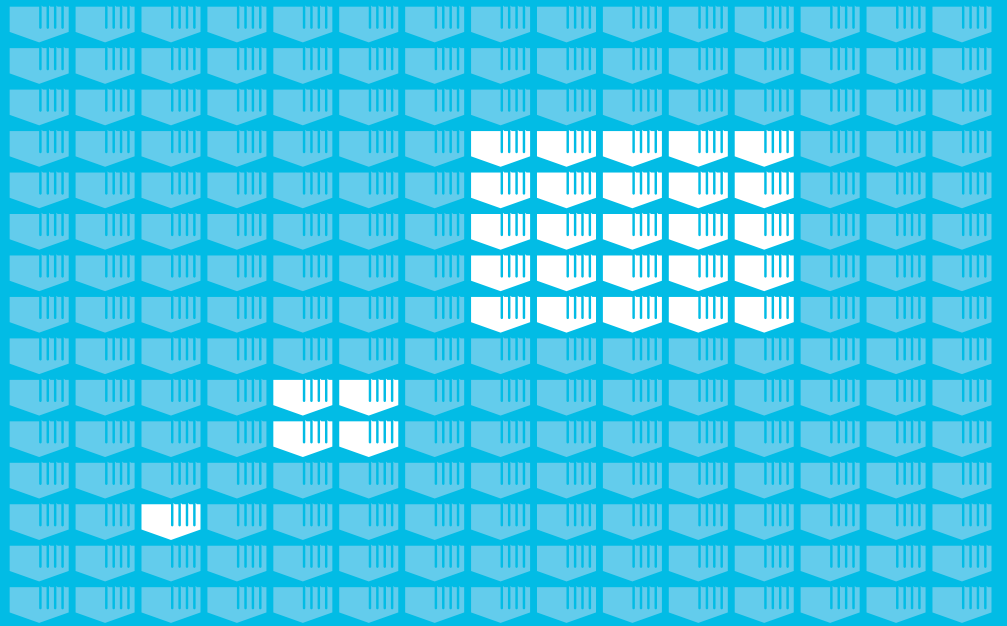




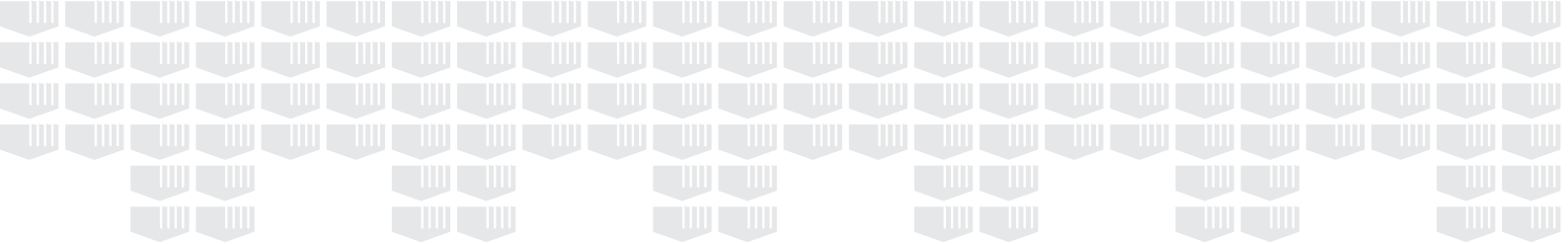
Fisher
Adams
Kelly

PATENT & TRADE MARK ATTORNEYS
innovation.intelligence
AUSTRALIA & NEW ZEALAND

Patents



Ideas become assets



- Patents
- Trade Marks
- Designs
- IP Strategy

The world is getting smaller.
Technology is advancing
at an accelerated rate.

Where will you turn for
commercially astute,
global patent protection?

In today's global economy, borders are blurry, word travels fast and ideas spread quickly. In this emerging commercial landscape, patent protection is more important than ever. One need only look at the ever-increasing number of patents being filed around the world, to recognise the value those at the leading edge of innovation place on IP rights to exploit their invention.

At Fisher Adams Kelly, we have decades of experience protecting and assisting in the commercialisation of our client's innovations, across a broad range of disciplines – from chemical processes to information communication technology and beyond.

We take a long term view of your patentable assets and with years of hands-on practice, education and research experience in your specific discipline, we can recommend pragmatic strategies and relevant advice, that offers the best protection and most advantageous commercial position possible. Taking you from idea, to patent, to profit, is our business.

Ideas are the fuel of the new world economy

What is a patent?

A patent is the sole, legally enforceable right to sell, make, use, offer to sell or import an innovation. Patents protect the functionality of your innovation, as opposed to say, the appearance of it (for which a registered design may be more suitable). Patents last for up to 20 years from the date the application is filed and are essentially a monopoly you have on commercially exploiting the full value from your intellectual property.

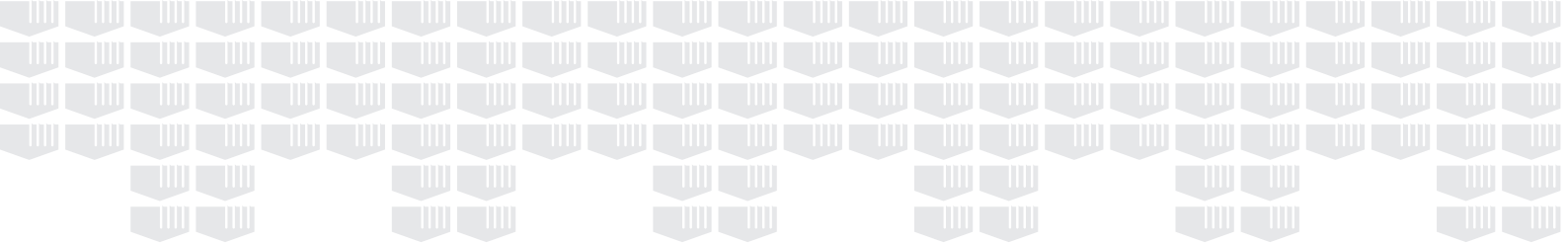
Standard and Innovation patents

In Australia there are two types of patents used to protect innovations – standard and innovation patents. Standard patents offer protection for 20 years and must pass through substantive examination before being granted. Innovation patents have a maximum term of 8 years and reduce the overall cost and complexity of the patenting process as they are granted without substantive examination. Examination is required before they can be enforced.

Details	Standard Patent	Innovation Patent
Patent term	20 years	8 years
Standard processing time	6 months to 7 years, depending on patent	1 month
Requirements	Must be new and have inventive step (non-obvious). More than a slight improvement on previous innovation.	Must be new and have innovative step. Could be slight improvement on previous innovation.
Full protection?	Long term control and protection. Enforceable once granted.	Innovation patents must be examined and certified by the Australian Patent Office to become an enforceable right.
Suited to	Products with a longer development and commercialisation cycle.	Products with a short commercial life. SMEs seeking 'first to market' advantage.

What can I patent?

You can patent 'new', 'inventive' and 'useful' machines, processes, methods of manufacture, composition of matter, or any new or useful improvement of those. This includes any type of technology, such as computers, chemicals and even processes. Ideas, works of art, naturally occurring materials or scientific principles cannot be patented.



- Patents
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Innovation Patents can be finalised within 1-3 months, but the protection is greatly reduced.

How do I obtain an AUS patent?

To apply for a patent, you must be the inventor, the employer of the inventor or the person who has purchased/owns the rights to the innovation. Your attorney will then conduct a search of existing patents and technical literature to determine with as much surety as possible that your innovation is 'new', 'useful' and involves an 'inventive step'. Following that, your attorney drafts and files a provisional patent application with the Patent Office. Within 12 months of that date, a standard patent application must be filed.

A relatively long process ensues, involving examinations, responses to examiner's reports and a host of deadlines which must be adhered to. In the case of Innovation Patents, the process can be finalised within 1-3 months, but the term of protection is greatly reduced.

Keep your cards close to your chest

You cannot be granted a patent if you have demonstrated, sold, discussed or published anything about your invention in public before you file. If the information was disclosed accidentally, you must file within 12 months to maintain your eligibility. Talking about it in confidence with business partners, employees or advisors is permitted.



There is no such
thing as an
'international patent'

What about overseas protection?

Within a year of filing a patent application in Australia, you can apply for patent protection in other countries. This is extremely important to consider if you intend to commercialise your innovation in profitable international markets. While there is no such thing as an 'international patent', there are various ways to receive protection in foreign countries.

You can either apply with each country directly, or take advantage of certain international agreements, such as the European Patent Convention and Patent Cooperation Treaty. The latter of which gives you the option of protection in up to 146 countries simultaneously, simply by lodging one application, in one language, at the one office.

Case study: Innovation in practice



- Making a splash on the global stage

- Patents
- Trade Marks
- Designs
- IP Strategy

SSR™ - Slope Stability Radar



GroundProbe, pioneer of the Slope Stability Radar (SSR™) and Work Area Monitor, provides highly valuable information to assist mining and infrastructure clients mitigate risk, improve safety and increase profitability. GroundProbe's brilliant innovations have enabled mine sites worldwide to operate steeper and deeper pits with increased mine life, reduced engineering uncertainties within infrastructure projects and improved cost efficiencies for clients across the board.

GroundProbe became a client of Fisher Adams Kelly in 2000 when Mark Horsburgh helped them to lodge their first patent application. Since then, the relationship has been fostered on synergistic skill sets and compatible knowledge, a key component of success in any advisory relationship relating to intellectual property. David says "Mark Horsburgh has 'been a key part of the value' GroundProbe has derived from working with Fisher Adams Kelly."

It is this expertise that distinguishes Fisher Adams Kelly from other IP firms, with a breadth and depth of knowledge among its attorneys that is demonstrated in its close working relationship with clients. "Mark is a physicist, so he understands the technology and asks the right questions. Mark helps us identify the inventive step and knows how to draft a patent

specification very well, so we've had to do very little editing or modifications," David explains.

David's confidence in Mark Horsburgh's ability to provide decisive strategic advice has been integral over the years. "Mark offers an excellent commercial balance between what can be achieved with intellectual property and what makes sense commercially. He's also very technically capable in extracting the novelty and inventive step and putting that through the patent process", David says.

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David Noon

CCO – Chief Commercial Officer

Groundprobe



We're completely committed to enforcing what's rightfully yours.

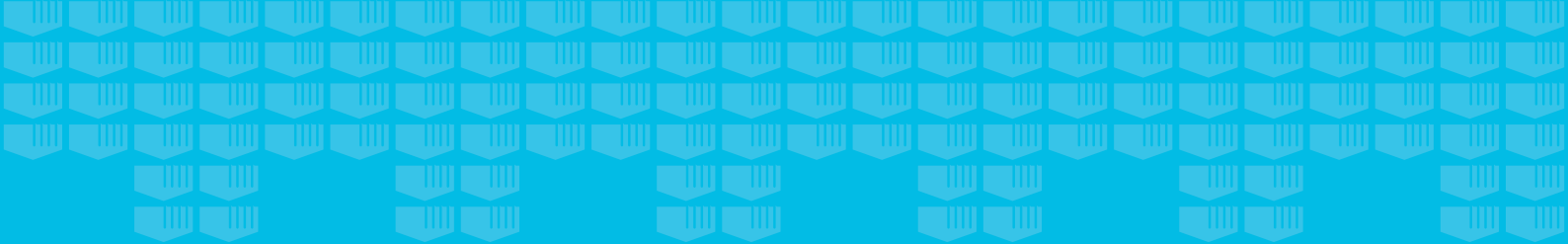
Enforcing your rights

Once your patent has been granted, you must ensure your rights are enforced by creating a commercialisation and protection strategy to deal with infringement. You (or legal representatives acting on your behalf) are responsible for enforcing your patent rights, so you must take immediate action if you discover someone is using, or has copied your patent. Action may include a letter from your attorney, negotiations and a settlement out of court, or failing that, legal proceedings.

When it comes to your IP rights, we have experience defending applications against oppositions, filing oppositions to other patents, enforcing your patent rights against infringers, defending against allegations of infringement and conducting 'watching' services to monitor competitor activity and maintain surveillance of the patent landscape. We're completely committed to enforcing what's rightfully yours.

Decisive protection for the future

In addition to patent prosecution and oppositions to enforce your rights, we also offer patent auditing and IP strategy services to assist you in developing those important domestic or global commercialisation and protection strategies. Ask us for more information, or request a copy of our IP Strategy brochure.



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