

# Patent Law Provisions and Practices That Contributed to Effective Transfer of Technology, Including Sufficiency of Disclosure

## Australia

### Australian Patent Law provisions on Technology Transfer

Subsection 40(2)(a) of the Australian *Patents Act 1990* requires that applicants must disclose their invention in a manner which is clear enough and complete enough for the invention to be performed by a person skilled in the relevant art.

Patent licences contribute to effective technology transfer and are often involved when establishing a joint venture or a collaborative partnership. Patent licences are also typical in consortium arrangements and sponsored research agreements.

The *Patents Act 1990* does not specify any formalities that must be satisfied for a patent licence to be valid and enforceable. However, as a matter of commercial practice, the terms of a patent licence are typically set out in a written document executed by the parties to the agreement.

### Australian Patent Office (IP Australia) initiatives that facilitate Technology Transfer

If innovation is to be fully effective, it is crucial to ensure that new technology is incentivised and reaches the market. This can be difficult to achieve, and hence it is important to ensure patent protection is in place and to have initiatives to facilitate commercialisation.

Effective technology transfer can be facilitated through collaboration and establishing strong links between researchers and industry. Benefits of collaboration can include sharing of knowledge, research insights, improvement in methodologies, identifying opportunities for future research and improved market growth, all of which lead to better results in technology transfer and support cooperative or competitive downstream innovation.

The Australian Patent Office, IP Australia, has developed several initiatives to support technology transfer.

#### IP Toolkit

With the assistance of the Department of Industry, Innovation and Science, the “IP Toolkit” was developed to simplify the management of IP in collaborations between researchers and business.

Collaborations can involve complexity in managing the interrelationships between confidentiality, use of existing IP, publication of information, commercialisation and decision making around IP rights. The toolkit gives users the information and tools to identify issues early on and build effective partnerships.

The toolkit includes:

- a collaboration checklist covering the key issues that need to be considered;
- contract, confidentiality agreement and term sheet templates; and
- guidance and information to help collaborating parties manage their IP.

### Source IP

Source IP is another initiative developed by IP Australia that connects businesses with Australian public-sector research organisations who have patented technology available to license. Source IP was launched in November 2015, and is particularly focused on making it easier for businesses, including micro, small and medium businesses, to access innovation and technology generated by the publicly funded research sector in Australia. This platform was created to facilitate potential collaboration opportunities between businesses and public-sector research bodies.

The platform allows Australian patent holders to include additional information about their patent, such as potential uses and advantages, to promote the technology and initiate a partnership.

### IP NOVA

IP NOVA is a visual search engine that helps users discover registered patents, trade marks and plant breeder's rights from IP Australia's database. It is a free, open web app that can be used to search IP data by industry, technology and location. IP NOVA can be used to easily find out which companies are actively protecting IP in specific fields, industries and locations, and help users identify potential collaboration partners.