



Australian Government



Australian
**Small Business and
Family Enterprise**
Ombudsman

28 October 2020

Professor Raoul Mortley AO
Department of Industry, Science, Energy and Resources
51 Allara Street
Canberra ACT 2601

via email: PAR@industry.gov.au

Dear Professor Mortley AO

Patent accessibility review

We support the effort to ensure the patent system is more accessible to small business. Without the innovation patent system small businesses will need as much support as possible to navigate the challenging patent system. This complicated system forces the use of Patent Attorney's as first resort, resulting in costly legal advice.

The current IP Australia Small Business Portal is a useful resource to promote understanding and awareness of the system. The portal could be improved to be more small business friendly and provide greater support, by:

1. Adding a Frequently Asked Questions (FAQ) page. The FAQ should address common issues such as the difference between a trademark and a patent, the legal weight of a business name and how to protect a patent.
2. Adding an IP Checklist page. The IP Checklist should guide small business through the application process, highlighting key steps in the process.
3. Moving the 'Patent Case Manager' link to the top of the page, next to 'SME Fast Track'. The current design promotes legal advice as the first option, incurring costly fees. A case manager should be the starting point, before using a Patent Attorney.

Furthermore, the Research and Development Tax Incentive should be better incorporated with the current patent system by allowing legal expenses to be claimed for a patent search before a company undertakes a research project. This would assist companies to demonstrate that their R&D project will generate new knowledge not available anywhere in the world. It would also help ease some of the financial burden of the patent system, encouraging companies to continue to research and develop new and innovative products.

Thank you for the opportunity to comment. If you would like to discuss this matter further, please contact Mr Luke Collins on 02 6231 7540 or at luke.collins@asbfeo.gov.au.

Yours sincerely

Kate Carnell AO
Australian Small Business and Family Enterprise Ombudsman

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