

Improving The State of Innovation as an Industry Within Australia

Addressed to the Australian Government for the
Review of the National Innovation System

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Organisation

On behalf of the Inventors Association of Western Australia (IAWA)

Type of organisation

Not for Profit

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Declaration of Interest

Vice President of the IAWA

Working to create an Innovation Incubator

Employed by Arbortech

I have worked as a Sub-Contractor in the metalwork industry

Inventor with technologies that I am looking to commercialise

Other Contributors

Bob Hadaway - IAWA Member

Mick Roberts - IAWA Member

Kevin Inkster - Arbortech (guest speaker at IAWA meeting)

Brad Denton - Enhance Equity (guest speaker at IAWA meeting)

Ross Woods - Australian Centre for Advanced Studies (Working with the IAWA on the development of an Innovation Incubator)

Tony Peskett - Perth Graphic Centre (IAWA supplier)

Members attending the February IAWA meeting

This submission brings forth a contribution that has been guided by an agreed structure for how innovation in Australia might be viewed from the perspective of many IAWA members.

The opinions expressed by individuals do not necessarily reflect the values and attitudes promoted by the Inventors' Association of Western Australia. The opinions expressed by individuals do not necessarily reflect the values and attitudes of the

author. While all care has been taken, the author acknowledges that the statements of contributors in many cases has been paraphrased from verbal accounts and authors notes have been added.

These are the following subject headings highlighting areas of concern from members and supporters of the Inventors Association of Western Australia:

Invention / Innovation
Education
Protection
Investment
Business Creation and Development
Government Regulation
Innovation Marketing and Uptake

Invention / Innovation

Supporting a culture of innovation.

Innovation can come from anywhere and from anyone. Backyard inventors created the Hills Hoist, the Victa Lawnmower and the Arbortech Wood Carver. The commercial potential of the backyard inventor however has often been overlooked and hence this potential has not been nurtured.

Talking here about the Victa lawnmower, the Hills Hoist and companies like Arbortech who developed the Airboard which is a personal ride on hovercraft used in the opening ceremony of the Sydney 2000 Olympics. Australia has defined itself by it's inventors. Innovation as something valued by Australians, perhaps could be better reported on and acknowledged by government departments supporting innovation.

Many innovation programs are leaned towards supporting those that have already demonstrated a capacity for success. It neglects those who need help to get started or pointed in the right direction. Those who would hand their idea to someone else or leave it in the shed neglected. Consider that the photocopier was an Australian invention given to Xerox.

Remove the fear of failure from schemes set up to support or fund innovation. Build these schemes to be capable of absorbing a number of ventures that do not return capital.

Innovation as a talent gifted naturally to a minority of individuals needs to be valued and nurtured.

The Innovation Incubator project put forward by the IAWA is the beginning of an organisation that will actively assist the inventor in all areas from initial concept through to a business framework. Incorporating the creation of a protected, think-tank style of environment. Funding is required to make this concept a reality.

Education

Education as a part of a larger assistance frame offers great benefit. The ideal course would see a focus on real world outcomes. For example, if one is to teach an inventor how to market an idea then the inventor needs to come away from a course with for example, a completed brochure, a selection of media types to target, a list of advertising contacts and with the funding to employ them.

More research is required into what have been the outcomes of IP specifications. Looking at the successes could reveal insights that could help inventors. These insights could be published into an easy to follow guide.

It is the belief of many inventors that you will find that most protections actually offer very little protection at all and that the majority of IP specifications do not lead to a product. Therefore this research also needs to focus on what can be

done to improve the outcomes for Inventors so that they do not become a failure statistic.

Long term assistance programs are recommended to provide what I would call actionable information. In other words, what is the very next thing I do? Who exactly do I call and what exactly do I say? Mentoring schemes are good for this but an inventor needs to have access to more than one mentor.

Most inventors have a natural talent for the development of their technology but that talent rarely extends into other areas required for the development of a business. Education in many cases does not solve this problem. There needs to be a greater focus on offering hands on assistance in the form of providing teams to work on the development of the business that surrounds inventions.

Backyard inventors, business professionals, engineers, patent attorneys, judges handling disputed Intellectual Property, all can at times find the IP specification system to be a daunting thing to comprehend.

Simplifying the system will make it accessible to more people. The simpler that things can be made the less education will be required.

Please see the personal submission of Cameron Gibbs and the section below titled "Protection" for some ideas on how to simplify the patent specification system.

Protection

The following are some opinions of the patent system that I have had told to me over my time within the Inventors Association of WA. Some of these opinions are repeated often.

- It is difficult to apply for unless you know what you are doing
- Difficult to achieve optimum coverage of a concept
- No point in applying in Australia if the idea is just going to be stolen and used in other countries
- International patents seen as very important yet very difficult and expensive to get
- Can't know the future of an invention's development yet expected to get everything right up front
- Expensive
- Not enforceable
- A waste of money, time and effort
- Just a money earner for the government
- The idea of protection is a joke or a fraud
- Supports only lawyers not inventors
- Supports only people with the money to pay lawyers to defend a patent
- Only as good as your ability to defend it in a court
- Design registration is often better
- You can patent any idea regardless of merit

- Patents keep getting bought out and used by business to kill off technologies that they don't want to have challenge their products - often cited as an evil of companies committing environmental atrocities

Supporting freedom of expression, contribution, exchange of ideas

It is suggested here by Bob Hadaway that inventors be granted some automatic protections at the moment an idea is documented. This would be similar to automatic protection offered to the written word as a copyright.

The lack of an automatic protection specifically limits an inventor's capacity to speak with manufacturers, people in their related industry, investors and those that might aid in the development of a concept at a very early stage. It also limits an inventor's ability to conduct market research on their concept.

Kevin Inkster of Arbortech states – “Design registration is more user friendly and often supplies better protection.”

He mentioned that the better protection was because the judgement on a design registration equates to a simple process whereby a judge looks at the design that is registered and then looks at the alleged copy and makes a ruling as to whether or not it is a copy. The examination of a patent specification however is often unnecessarily complicated and the judge might not have a background in the desired field.

Patent specifications are often made complicated by their being prepared to cover as wide of a scope as possible.

The challenging of a patent often comes down to a debate about the wording within the patent specification and whether or not the functioning of the invention has been appropriately captured within that language. In this the reality of it's functioning is not in the forefront during a case.

This hinders those that would seek to protect their ideas as their ability to establish their rights is difficult. It also hinders those that are being challenged by a patent holder.

Solution: Restrict patent specification content to specific working only so that a comparison between inventions can be made easily.

Kevin Inkster of Arbortech suggests – “Change registered design protection from 10 years protection back to 20 years.”

The benefit of this would be to allow inventors to make better use of the higher protection level that can often be found in a design registration.

Kevin Inkster of Arbortech suggests - Australian inventors and businesses need assistance with the enforcement of overseas patents. Presently defence is beyond the economic capacity of most businesses. A government department could be set up to monitor overseas infringement and based on a selection criteria assessing the importance of business activities to Australia, this department could assign support resources to patent defence.

Bob Hadaway suggests - Continuation fees are unnecessary and a significant drain on the financial resources of an inventor. He has several patents to his name and some he has had to let lapse due to his financial circumstances at the time they were due.

It is imagined that hundreds of innovation opportunities in Australia would be lost in this way.

The data management protocols of the patent system could be improved. The restricted search protocols can make patent searches labour intensive. Also patent searches reveal related specifications with overlapping scope which can lead to disputes and other problems. Please see the personal submission of Cameron Gibbs for some suggestions on how the data management protocols of the patent system might be improved to resolve the issues of overlapping scope.

Patent searches will often reveal 5 or 6 related concepts with an overlapping scope. In many cases the overlapping concepts are examples of patents filed that were never turned into any useable product yet their presence hinders the protection of new patents. This would be a problem where an inventor goes to great lengths to bring a product to market only to have it be copied after it has been put into the market.

I would recommended that there be some limitations on the recognition of prior art. Just as with business names and Trademarks, if a patent specification has not been in use for a period of time, then it should not restrict others from using it or from even winning rights to it's protection in order to protect their investment in it's development.

From the floor at an IAWA meeting:

“When an inventor has their ideas drawn up by an engineer or draftsman, the copyright on those drawings stays with the draftsman. If a draftsman has been commissioned to do a specific job, the copyright should automatically be given to the person who commissioned the work.”

“Nobody can be an expert on how to construct an ideal patent portfolio. Not even the patent attorneys.”

This is a problem associated with the complexity of the patent specification system.

“There are thousands of examples of established businesses with Intellectual Property portfolios that have proven to be lacking.”

Potentially billions of dollars lost through the inability of the average person to comprehend and manage an Intellectual Property specification.

“All the boards advising government policy are all patent attorneys who advise to serve their own interests. No good ideas (for reforming the innovation system) will ever move forward so long as this is the case.”

I see that consultation with Patent Attorneys is very important but I also see that the role of Patent Attorneys within Australia may need to transform and evolve with the changes that are made for the good of the innovation system as a whole. Care must be taken to ensure that Patent Attorneys as a group are not given a monopolising position of influence. If they have been granted such a position, we must look into why other groups have not stepped forward. Effort must be made to ensure a balance of representation.

Investment

Brad Denton of Enhance Equity suggests - Tax concessions for those investing in Research and Development and in Startup Companies.

Pre-patent capital is difficult to attract and to get adequate protection in countries of importance, patent attorney fees are very high.

Grants of around \$5000 are available but this would only cover the costs of filing a patent in Australia. To do any patent properly in this international community, assistance must be given with the filing of international patents. Many inventors won't bother even applying for this grant instead choosing to do nothing with their IP.

I have been told of laws that prevent any commercial dealings pre-patent. This perhaps could be looked at.

A common complaint is that government grants are virtually impossible to get.

More, accessible grant money needs to be made available.

The grant application process is often outside of the talent range of the average inventor. Grant schemes need to get away from an inventor having to deal with the written word. Instead offer an inventor an opportunity to talk about their idea and show examples, prototypes, tells stories etc.

Many grants are only offered to inventors with a registered company. Many complain that they would have trouble with the registering of a company.

Business Creation and Development

Business creation and the skills required to run a business are often outside of the talent range of an inventor. Extra assistance is required to actively help an inventor to set up and maintain a business structure around their concept.

An extract from an article on the IAWA website:

"The Innovation Incubator Project

Creating an Organisation to Grow Inventions from Concept Through to Market Distribution

Growing Innovation in Australia by Helping the Non-Business Inventor

After a general meeting of Inventors Associations from around Australia where office bearers from associations in different states met, a common need within the inventing community has been identified. For various reasons it is true that many of the inventors coming through these associations are lacking either the desire to go into business or they are lacking a business aptitude and hence many great ideas are being overlooked and lost. And projects potentially worth billions to Australia are not being developed.

We wish to create a new organisation but rather than creating another information organisation or another organisation that will work to empower inventors to develop their products for themselves (which for many inventors does not work) the organisation we are looking to create would work to offer

active development assistance in whatever form might be required and practical. And we could do this by making use of many existing resources. The details of this are to be discussed. We see it starting in WA but aim to have it be a national program."

What is being asked for here, is provision for the funding that would be required to employ people to create this organisation.

Ross Woods suggests:

- I have wondered about the registration of a new category of company that is exclusively aimed at the development of patentable IP. It would have its own kind of tax breaks, etc. so it could attract investors and existing players into the innovation industry.
- It would need to be insulated against unfair usage, e.g. (a) it would be a condition of company registration and the granting of patents that IP be owned in Australia, or if wound up, transferred to another company of the same kind. But it could license its IP to anyone, anywhere. (b) the assets of the company must be used to further the objects of the company. (I.e. can't be pillaged by companies without the tax leveraging), etc. Some aspects of the Associations Incorporation Act (WA) and the Income Tax Exempt Charity would be relevant. (c.) some kind of rules on how profits are distributed.

Government Regulation

Mick Roberts suggests - That there are companies that have established monopolising positions within industries such as the mining industry whose practices could be said to be lacking an environmental conscience. He for example has been working to get mining companies to accept an electric monorail mining system with demonstratable environmental, social (health and safety of miners) and technological benefits over the use of diesel trucks but their established practice has them resist such a change. Government regulation could be drafted to force such companies to adopt these new technologies.

I would suggest that a blanket legislation could be drafted here. Like a general rule which states that a technology offering environmental, social or other benefits (as defined to be of benefit perhaps by an advisory committee) must be adopted within any industry where improvement is demonstrated. There obviously would be conditions for this and one might be that there would be provision for the phasing in of the new technology so that the change does not significantly cripple that industry and the technology must provide a particular, significant measure of benefit. A government body might even be set up to monitor this and to enforce the legislation as necessary.

Tony Peskett from Perth Graphic Centre tells of how his industry makes use of inks, chemicals, special plastic-treated papers etc. that are all very damaging to the environment. The inks for example are toxic and require specialised disposal procedures. He tells of how all of these products have alternatives that are environmentally friendly but he is stuck and unable to make use of them because his customers will not pay the extra cost for the beneficial products. He suggested that if there was government regulation put in place to mandate the use of these new

products with a plan for phasing out the old and bringing in the new, then the industry as a whole would have to shift and he would no longer be disadvantaged for doing the right thing.

There are many examples of this in many industries where government legislation must take the lead on change. A dedicated government department looking at technology transfers could help in many areas.

Please see Tony Peskett's attached submission discussing the environmental and financial issues within his industry.

Innovation Marketing and Uptake

Inventors often struggle to conduct accurate market research without having the protection of a patent but the problem is that the market research will indicate whether or not it would be worth investing in the Intellectual Property protection.

Automatic protections would help.

Inventors often struggle to find a platform for the showcasing of their products. Some thought and some investment in providing like a shop front for inventors would be necessary.

As a part of the Innovation Incubator Project it is seen as necessary that a unified marketing and distribution platform be established.

One distribution outlet that might be offered by government is the display and sale of Australian innovations through organisations like the Australia Post shops.