



Australian Government

Department of Education, Employment and Workplace Relations

BSBIPR402A Protect and use new inventions and innovations

Revision Number: 1

BSBIPR402A Protect and use new inventions and innovations

Modification History

Not applicable.

Unit Descriptor

<p>Unit descriptor</p>	<p>This unit describes the performance outcomes, skills and knowledge required to protect and use new inventions and innovations as the exclusive intellectual property of an organisation or individual. It covers identifying the need for protection of new inventions or innovations, working with specialists to file a successful patent application, monitoring and protecting intellectual property rights, and using the patent for business growth.</p> <p>No licensing, legislative, regulatory or certification requirements apply to this unit at the time of endorsement.</p>
-------------------------------	---

Application of the Unit

<p>Application of the unit</p>	<p>This unit applies to individuals who are actively involved in work concerning the development or ownership of inventive and innovative products. They may work as individual inventors or innovators in a range of industries or organisational contexts, as part of a research and development team within an organisation or be commissioning or employing others to develop new inventions or innovations.</p> <p>This unit will give individuals an understanding of patent law and how patents are assigned, to develop an understanding of the actions of patent specialists employed to patent the organisation's new inventions or innovations.</p>
---------------------------------------	--

Licensing/Regulatory Information

Not applicable.

Pre-Requisites

Prerequisite units		

Employability Skills Information

Employability skills	This unit contains employability skills.
-----------------------------	--

Elements and Performance Criteria Pre-Content

Elements describe the essential outcomes of a unit of competency.	Performance criteria describe the performance needed to demonstrate achievement of the element. Where bold italicised text is used, further information is detailed in the required skills and knowledge section and the range statement. Assessment of performance is to be consistent with the evidence guide.
---	--

Elements and Performance Criteria

ELEMENT	PERFORMANCE CRITERIA
<p>1. Identify the need for protection of new inventions and innovations</p>	<p>1.1. Research what constitutes a new <i>invention</i> or <i>innovation</i> in Australia</p> <p>1.2. Identify <i>legislative requirements</i> governing invention and innovation protection</p> <p>1.3. Identify inventions and innovations within own organisation that may require protection and identify the <i>type of patent</i> applicable</p> <p>1.4. Research <i>prior art</i> to determine other inventions or innovations in a specific area of technology</p> <p>1.5. Research <i>patent information</i>, use patent search and patent search tools, and evaluate their <i>usefulness</i> for the organisation</p> <p>1.6. Evaluate <i>commercialisation potential</i> of new inventions or innovations to determine if protection is worth pursuing</p>
<p>2. Identify and initiate the process for protection of inventions and innovations</p>	<p>2.1. Identify <i>sources of information and advice</i> regarding protection and searching of new inventions or innovations</p> <p>2.2. Identify <i>processes</i> required for filing a successful patent application</p> <p>2.3. Identify processes for <i>international invention protection</i></p> <p>2.4. Evaluate the role of intellectual property professionals in the patent application process</p> <p>2.5. Participate in a patent search and patent application and provide relevant information to an intellectual property professional for patent search and patent application, if required</p> <p>2.6. Identify <i>non-registrable</i> forms of a protection strategy and evaluate the benefits of utilising patent alternatives</p>
<p>3. Monitor the market and protect and use new inventions and innovations</p>	<p>3.1. Identify and review organisation policies and procedures to ensure the protection and use of new inventions and innovations</p> <p>3.2. Identify and establish processes to use own and others' patents for business growth</p> <p>3.3. Identify appropriate <i>legal measures</i> to protect an invention or innovation against certified infringements, if required, with assistance from appropriate professionals</p>

ELEMENT	PERFORMANCE CRITERIA
	3.4. Monitor the market for possible patent infringements 3.5. Ensure all employees are aware of the importance to the organisation of the protection of new inventions and innovations and implement training if required 3.6. Identify and review organisation policies and procedures to prevent infringement of others' inventions and innovations

Required Skills and Knowledge

REQUIRED SKILLS AND KNOWLEDGE

This section describes the skills and knowledge required for this unit.

Required skills

- research skills to identify criteria for patent eligibility and to search prior art via patent databases
- analytical skills to identify commercial potential of new inventions or innovations
- literacy skills to interpret and implement IP Australia's patent application standards and procedures
- problem solving skills to act on potential infringement issues

Required knowledge

- what is considered an invention or innovation
- registrable and non-registrable forms of protection
- patent application guidelines
- overview of relevant legislation concerning patents
- sources of information and advice on protection of new inventions or innovations

Evidence Guide

EVIDENCE GUIDE	
<p>The Evidence Guide provides advice on assessment and must be read in conjunction with the performance criteria, required skills and knowledge, range statement and the Assessment Guidelines for the Training Package.</p>	
Overview of assessment	
Critical aspects for assessment and evidence required to demonstrate competency in this unit	<p>Evidence of the following is essential:</p> <ul style="list-style-type: none"> • identification of issues for the use, management and protection of new inventions or innovations • implementation of policies and procedures for the use, management and protection of new inventions or innovations and legitimate use of others' inventions or innovations
Context of and specific resources for assessment	<p>Assessment must ensure:</p> <ul style="list-style-type: none"> • access to appropriate documentation (application forms, etc.) and resources normally available to a patent applicant • access to reliable and appropriate explanatory material and guidelines • access to appropriate computer resources for establishment and maintenance of policies and procedures
Method of assessment	<p>A range of assessment methods should be used to assess practical skills and knowledge. The following examples are appropriate for this unit:</p> <ul style="list-style-type: none"> • direct questioning combined with review of portfolio of evidence • oral or written questioning to assess knowledge of protection of new inventions or innovations and its implications for the organisation • development of action plans for implementation of policies and procedures for the protection of new inventions or innovations, and commercialisation of new inventions or innovations • analysis of case studies around patents, with recommendations for action
Guidance information for assessment	<p>Holistic assessment with other units relevant to the industry sector, workplace and job role is recommended, for example:</p> <ul style="list-style-type: none"> • other units from BSB07 including other units relating

EVIDENCE GUIDE

- to intellectual property
- design units

Range Statement

RANGE STATEMENT	
<p>The range statement relates to the unit of competency as a whole. It allows for different work environments and situations that may affect performance. Bold italicised wording, if used in the performance criteria, is detailed below. Essential operating conditions that may be present with training and assessment (depending on the work situation, needs of the candidate, accessibility of the item, and local industry and regional contexts) may also be included.</p>	
<i>Inventions</i> may include:	<ul style="list-style-type: none"> • any device, substance, method or process that is: <ul style="list-style-type: none"> • inventive (i.e. not obvious to someone with knowledge in the field of the invention) • novel (i.e. new) • useful
<i>Innovations</i> may include:	<ul style="list-style-type: none"> • any device, substance, method or process that involves an 'innovative step', i.e. a change that distinguishes the invention from what is currently known about the technology
<i>Legislative requirements</i> may include:	<ul style="list-style-type: none"> • the Patents Act 1990; in particular section 18 which stipulates the inventive threshold
<i>Types of patent</i> may include:	<ul style="list-style-type: none"> • standard patents, which last for twenty years from when the application is filed and cover as many claims as is deemed necessary to protect the invention • innovation patents, which last for eight years from the date of filing and protect up to five claims
<i>Prior art</i> is defined as:	<ul style="list-style-type: none"> • all information in the public domain relating to previous patents, inventions or innovations that may impact on an invention's or innovation's originality
<i>Patent information</i> refers to:	<ul style="list-style-type: none"> • the technical and legal information contained in a patent document
<i>Usefulness</i> includes:	<ul style="list-style-type: none"> • source of technical information • learning about current research and innovations • locating business partners or suppliers • avoiding possible infringement problems • assessing patentability of own invention or innovation

RANGE STATEMENT	
	<ul style="list-style-type: none"> • exploitation of out of date patents
<i>Commercialisation potential</i> may include:	<ul style="list-style-type: none"> • the potential profitability of an innovation which takes into account market size, competitors and investment required to get the invention or innovation to market • alternative income stream, such as: <ul style="list-style-type: none"> • licensing the patent to another party, allowing them to exploit it for a set price or royalties for a set time • profiting from the manufacture and sale of a product • selling or assigning all or part of the rights to the patent • use of other's inventions or innovations within legal frameworks
<i>Sources of information or advice</i> may include:	<ul style="list-style-type: none"> • IP Australia • Attorney-General's Department • Australian Copyright Council • State and Commonwealth government agencies • lawyers specialising in intellectual property • trade mark attorneys and patent attorneys • accountants • business advisors • marketing consultants • branding consultants • copyright collecting societies, e.g. CAL, PPCA, MIPI, APRA, AMCOS • publications • websites, Internet • databases
<i>Processes</i> may include:	<ul style="list-style-type: none"> • carrying out searches to ascertain originality of the invention or innovation • reviewing and proliferating confidentiality agreements within organisation or among people who may need to know about the invention/innovation before a patent application is filed so as to keep the invention or innovation secret • establishing a priority date by filing a provisional or complete application before releasing information into the public domain

RANGE STATEMENT	
	<ul style="list-style-type: none"> providing a specification defining the invention or innovation should this precede the previous step including a Notice of Entitlement form
<i>International invention protection</i> may include:	<ul style="list-style-type: none"> filing for protection with the patent offices of overseas countries or regional patent authorities filing an international application under the Patent Cooperation Treaty (PCT) through IP Australia
<i>Non-registrable</i> may include:	<ul style="list-style-type: none"> trade secrets confidentiality agreements and non-disclosure agreements
<i>Legal measures</i> may include:	<ul style="list-style-type: none"> consulting with a patent attorney to explore possible courses of action pursuing infringements through a civil lawsuit to prohibit future infringements and/or seek monetary compensation for past and/or projected losses pursuing criminal penalties if warranted by the nature of the infringements
<i>Monitor</i> may include:	<ul style="list-style-type: none"> observing the activities of competitors regularly reviewing patent databases watching the market for potential patent infringements

Unit Sector(s)

Unit sector	
--------------------	--

Competency field

Competency field	Regulation, Licensing and Risk - Intellectual Property
-------------------------	--

Co-requisite units

Co-requisite units		