



What is Peer-to-Patent Australia?

Peer-to-Patent Australia is a joint initiative of the Queensland University of Technology (QUT) and IP Australia, designed to improve the patent examination process and the quality of issued patents.

This initiative allows the patent office to harness the expertise of qualified people within the community when assessing patent applications by inviting members of the public to identify and nominate prior art relevant to the assessment of novelty and inventiveness of participating patent applications.

In doing so, it connects with the broader initiative to use Web 2.0 technologies to enhance and invigorate government administration through citizen engagement. Peer-to-Patent Australia is based on the successful Peer-to-Patent projects run out of the New York Law School in the United States.

How does the review process work?

Peer-to-Patent Australia will initially run as a 12-month pilot that will focus on the rapidly advancing technology areas of business methods and computer software. Up to 40 business method, computer software and related patent applications which are open for public inspection will each be posted on the Peer-to-Patent Australia website for a 90-day period. During that time, members of community will be invited to review those patent applications, submit prior art references and comment on the relevance of any prior art that has been put forward.

At the end of the review period, Peer-to-Patent Australia will forward the top 10 prior art submissions for each application, as selected by the community of reviewers, to IP Australia for consideration in the examination process.

The review process in no way abrogates the responsibility of the patent examiner to assess a patent application. Prior art submitted by Peer-to-Patent Australia is solely designed to assist a patent examiner. The patent examiner remains the arbiter of whether a patent is to be granted.

The project uses a consent based model. Patent applicants will be asked to consent to having their applications included in the pilot.

What are the benefits of the project?

If successful, the project will promote the public interest by improving the quality of issued patents. The public only benefits when monopoly rights are granted for inventions that truly represent a novel and inventive advance over the existing state of the art. The benefit to innovators is that improving the quality of issued patents leads to clearer patent landscapes and reduces the uncertainty surrounding freedom to operate.

The benefit to participating applicants is that their applications will undergo a more rigorous examination against the strictures of novelty and inventiveness and are likely to be more robust as a consequence.

The more robust a patent, the more valuable it is and the less likely it is to be challenged, which is a benefit that represents significant cost savings over time to consumers, patent holders and the public at large. More robust patents are less likely to be litigated or disputed in licensing discussions. As a consequence, the marketplace for such inventions will be more efficient, with time and money not being wasted on ill-conceived litigation. In addition, the identification and elimination of weak claims early in the examination process ultimately saves the applicant money by avoiding the expensive process of pursuing or enforcing non-meritorious patent claims.

Where can I find more information?

For more information, you can visit www.peertopatent.org.au, email contact@peertopatent.org.au, or call Ben McEniery on +61 7 3138 2833.



Queensland University of Technology
Brisbane Australia



Australian Government

IP Australia

Project team



Brian Fitzgerald BA (Griff) LLB (Hons) (QUT) BCL (Oxon) LLM (Harv) PhD (Griff) is a Professor of Intellectual Property and Innovation at the Queensland University of Technology (QUT). He is an internationally recognised scholar who holds postgraduate degrees in law from Oxford University and Harvard University and who graduated as University Medallist in Law as an undergraduate at the Queensland University of Technology. Brian is also admitted as a Barrister of the High Court of Australia.

Brian is a Chief Investigator and Program Leader for Law in the ARC Centre of Excellence for Creative Innovation and Project Leader for the Australian Government funded Open Access to Knowledge Law Project (OAK Law). His current projects include work on intellectual property issues across the areas of copyright, digital content and the internet, copyright and the creative industries in China, open content licensing and the creative commons, free and open source software, research use of patents, Gov 2.0 and access to public sector information (PSI), peers and patent examination, science commons and e-research.

Professor Brian Fitzgerald
Project Leader

His recent publications include *Cyberlaw: Cases and Materials on the Internet, Digital Intellectual Property and E Commerce* (2002); *Jurisdiction and the Internet* (2004); *Intellectual Property in Principle* (2004), *Internet and Ecommerce Law* (2007) and *Copyright Law, Digital Content and the Internet in the Asia Pacific* (2008).



Ben McEniery
Project Manager

Ben is an intellectual property and patent law specialist and Lecturer in Law at the Queensland University of Technology. He has been awarded a Bachelor of Laws degree with Honours and Bachelor of Arts degree from the University of Queensland and also holds a Master of Laws degree from the Queensland University of Technology. Currently, he is writing a PhD thesis entitled 'Physical Effect in Patent Law' which addresses the question of whether patent law contains a 'physicality requirement', that is, whether an invention must involve a physical aspect or cause a physical transformation of matter to be patentable subject matter.

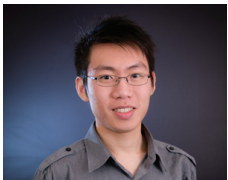
Prior to joining the Faculty, Ben practised as a solicitor at national law firm, Clayton Utz. Ben is admitted as a Legal Practitioner of the Supreme Court of Queensland and the High Court of Australia.



Niall Collins
Director, Legal Affairs

Niall read law (BCL) at University College Dublin and later completed his Master of Laws (LLM) at Cambridge University, where he graduated with First Class Honours and was elected to the position of Leonard Coling Scholar. He is admitted as a Solicitor in both Ireland and in England & Wales.

Prior to joining the Peer-to-Patent Australia team, Niall practised in both the Technology/Intellectual Property and EU & Competition groups at Ireland's leading law firm, Arthur Cox in Dublin. He later joined International law firm, Ashurst LLP in London where he practised as an Associate in the EU & Competition group. He has advised clients in relation to high profile merger control and competition enforcement cases and, more specifically, in relation to the acquisition of passenger rail franchises, the European Commission's Business Insurance Sectoral Inquiry and the recent construction industry cartel in the UK.



Jimmy Ti
Technical Consultant

Jimmy is a recent software engineering graduate from the University of Queensland. He is currently working as a software engineer under the Open Access to Knowledge (OAK) Law project headed by Professor Brian Fitzgerald at the Queensland University of Technology.

Jimmy has been involved with converting the *Model Data Management Toolkit* in *Practical Data Management: A Legal and Policy Guide* published by the Legal Framework for e-Research and OAK Law Project to a dynamic, online wizard-based walkthrough.

Prior to joining the project, Jimmy undertook internships with NICTA and Sun Microsystems Laboratories. He has worked on various projects including a wireless, mobile ad-hoc network and a scalable static-code bug checker.



Mark Webbink
Consultant

Mark H. Webbink is a visiting Professor of Law and Executive Director of the Center for Patent Innovations at New York Law School. Mark received his B.A. Degree from Purdue University in 1972, his Masters in Public Administration from the University of North Carolina – Chapel Hill in 1974, and his J.D., magna cum laude, from North Carolina Central University School of Law in 1994.

His work focuses on harnessing social networks and utilising Web-based technology to improve patent systems globally. He has written and spoken extensively on the subject of the U.S. patent system and the need for reform, including testimony before the U.S. House of Representatives Subcommittee on Courts, the Internet, and Intellectual Property; the Federal Trade Commission and Department of Justice and the National Academy of Sciences. Mark was formerly the Senior Vice President and General Counsel at Red Hat.

Associate team



Professor Anne Fitzgerald
Associate Researcher

Anne is a Barrister and Professor in Law Research in QUT's Law Faculty, where she teaches in the fields of intellectual property and Internet law and works as a principal researcher for on projects for OAK Law and the CRC for Spatial Information (see <http://www.oaklaw.qut.edu.au> and <http://www.aupsi.org.au>). Anne completed a JSD (Doctor of the Science of Law) and LLM at Columbia University (NY) and an LLM (International Business Law) at the University of London.

Anne has taught and published in the areas of intellectual property and electronic commerce law since 1991. Recent publications include: *Intellectual Property* (Nutshell) (2008); *Internet and E-Commerce Law* (2007) and *Intellectual Property in Principle* (2004).



Kylie Pappalardo
Associate Researcher

Kylie holds a Bachelor of Laws degree with First Class Honours and a Bachelor of Creative Industries (Creative Writing) degree from QUT. She is currently undertaking a Masters in Law. Kylie is admitted as a Legal Practitioner of the Supreme Court of Queensland.

Kylie currently works as a Research Assistant on the OAK Law and the CRC for Spatial Information projects. Kylie has taught Creative Industries Legal Issues to journalism students and Theories of Law (jurisprudence) to undergraduate law students at QUT. Kylie has recently been funded, together with Professor Brian Fitzgerald, to establish the Intellectual Property and Technology Law Clinic at QUT, which in conjunction with the Queensland Public Interest Law Clearing House (QPILCH) will provide free IP law advice to Queenslanders in need.