

Foreign Patents

There is no such thing as a "world patent". An application must be lodged in each country where a patent is required.

Patent laws differ from country to country, so that not every invention will be patentable in all countries. For instance, pharmaceutical and food substances are not patentable in Taiwan, Indonesia or India. Some inventions must be claimed in different terms in different countries.

In most industrialised countries it is possible to file an application within one year of filing an application in Australia, and to claim priority from the Australian application. The maximum term of a patent is usually 20 years from the date of filing in that country. Australia is a signatory to the Patent Cooperation Treaty (PCT). This treaty allows a single international application to be filed in English in Australia and permits deferment of the filing of separate foreign applications for a period of 20 or 30 months from the priority date of the Australian application. During the international phase, a search is conducted and a preliminary examination can be requested, which provides an indication of the likely success of subsequent foreign applications. For further details, see our information sheet on "PCT Contracting States".

We usually recommend the PCT route where it is crucial to defer expense, or where applicants wish to keep their options open for longer than the normal 12 month period. The PCT is particularly advantageous if you wish to have patents in more than 4-5 countries.

There is also a European Patent Convention, which allows a single application to be filed in English at the European Patent Office, designating most European countries. This regional application is examined centrally. There is no need to translate the specification or pay any national fees until the application is granted. A European regional application can be designated as part of a PCT application.

A Eurasian Patent Convention, with similar provisions to those of the European Patent Convention, was recently established. The convention covers Russia and many other countries from the former Soviet Union.

If you are considering filing patent applications in other countries, it is important to discuss the options with us during the 12 months after filing the provisional application so that we can assist you in formulating a strategy to suit your needs. You should consider carefully in which countries protection is required, as using the PCT can be expensive.

**For more information please visit our website
www.griffithhack.com.au**

