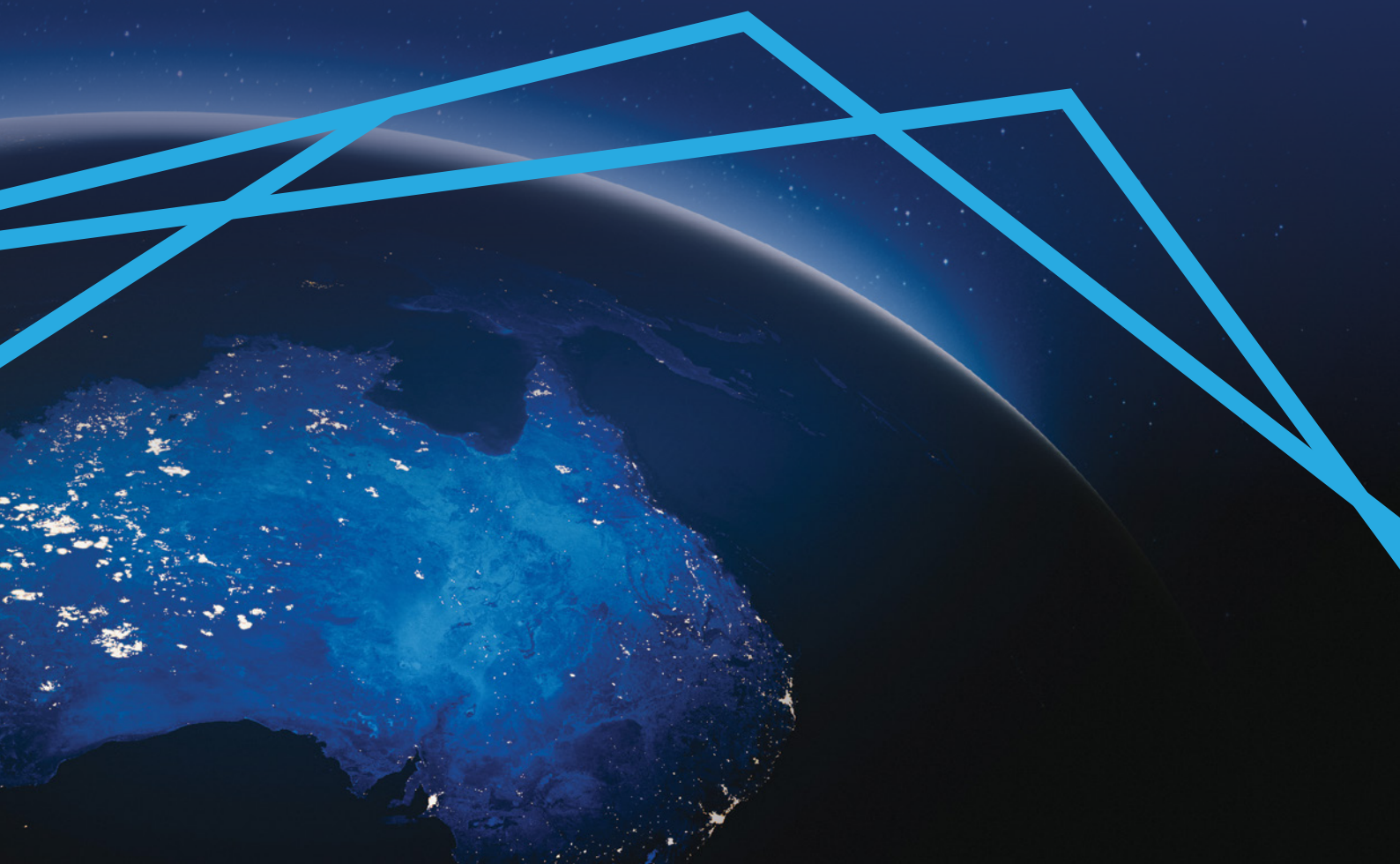




phillips ormonde fitzpatrick  
the IP protection people

# Intellectual Property Protection in Australia



# Benefits of protecting your IP in Australia

Australia has a strong domestic economy that is underpinned by a large and wealthy middle class. This demographic ensures we have a diverse consumer market that is always looking to consume innovative products. Australia is also uniquely positioned in the Asia-Pacific with ties not only to traditional economic powers such as the US and Europe but also to the emerging Asian markets. To help maximise the advantages of our geographic location, successive Australian governments have entered into bilateral free trade agreements with many nations including the US, China, India, Japan and Korea. Australia is also a member of the Regional Comprehensive Economic Partnership Agreement which accounts for 30% of the world's population and 30% of the world's GDP.



## Patent enforceability

Australia has a robust legal system that ensures the enforcement of Intellectual property rights.

## Early adopters of technology

Our tech-hungry culture also takes advantage of innovation. Investors and global tech developers know that Australian consumers are early technology adopters who are open to change.

## Sovereign risk

Our major political parties support the maintenance of a patent system and as such, there is no sovereign risk for rights holders.

## A free society with good governance

Australia is founded on strong institutions. Our regulatory environment, rule of law and lack of corruption are all highly rated in World Bank rankings. In Australia, fair and effective governance is seen as the foundation for economic growth and a free society. Good governance generates confidence among major investors. It also makes Australia a secure base for multinationals that want to expand or set up new operations in the Asia-Pacific region.

## Relative cost of obtaining patent protection

In comparison to many other jurisdictions, the cost of obtaining patent protection is quite reasonable. In addition, Australia is a member of the GPPH and as such, allowance in Australia can facilitate prosecution in a number of other jurisdictions.

## The Pharmaceutical Benefits Scheme

The Pharmaceutical Benefits Scheme is an Australian government initiative that subsidises medicines in Australia to make them available to the entire population. This increases the possibility of the IP rights holder obtaining reimbursement in Australia.

## Pharmaceutical patent term extension

The Australian patent system provides for patent term extension of up to 5 years in circumstances where there is regulatory delay in achieving marketing approval. This increases the prospects of the patentee receiving reimbursement.

## Data exclusivity and clinical trials

Our TGA provides for a 5 year data exclusivity period for data submitted in order to obtain regulatory approval; meaning that there is little downside to the patentee in seeking regulatory approval in Australia.

## Trade mark

Trade mark registrations in Australia can claim a relatively broad range of goods and services, and applications can be based on a genuine intention to use the mark in relation to those goods/services, (e.g. “clothing”). In other jurisdictions, the goods/services must be restricted to specific goods/services (e.g. “pants and jackets”) and sometimes actual use on each item must be shown prior to registration.

## Comparable GDP

The comparable GDP per capita shows that Australia is relatively on par with the US economically.

- GDP per capita US - \$59,939
- GDP per capita AU - \$53,831

# Australia as a test market

## Australia is a good test market

- Australia is a low cost market to test strategies and negotiate deals before engaging in worldwide litigation.
- Australia is ranked in the top 15 countries by GDP.
- Australia has an educated, affluent population of 23.9 million, hungry for new experiences and products. With a predominantly Western culture, it's a large enough test bed and small enough market.
- Australia also offers a ready and relatively contained infrastructure—media, distribution channels, talent—and some privacy. Testing products in Australia has been referred to as “Undercover Down Under” – there is a sentiment that if a product flops in the ‘outback’ and no one hears about it, did it really happen?
- Examples of companies that have tested products / services in Australia:
  - Tesla Powerwall
  - McCafe opened in Australia before anywhere else in the world
  - Facebook uses Australia to test new technologies prior to a wider population e.g., videos without sound, ‘rooms’ in messenger
  - Spotify frequently tests new features in Australia.



# Industries in Australia

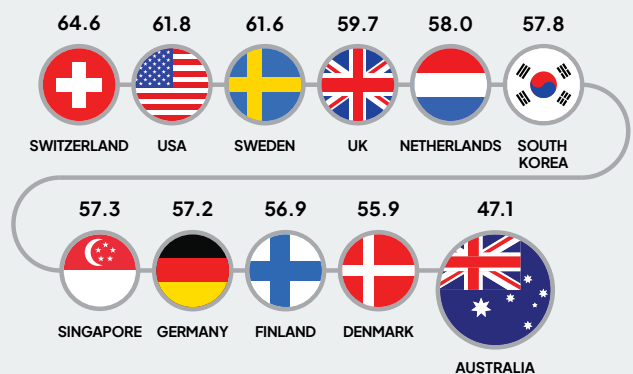
- Mining
- Manufacturing
- Agriculture
- Food
- Healthcare (Pharmaceuticals/ Medtech)
- Telecommunications

# Innovation in Australia

## Australia is positioned among the top most innovative economies in the world

- In the two-year period ended 30 June 2021, over half of all businesses (52%) reported being innovation-active.
- Of the innovation-active businesses, 36% collaborated and/or had a fee-for-service arrangement for innovation.

## Global Innovation Index (2022)



The above diagram shows the most innovative economies in the world, based on analysis from the WIPO Global Innovation Index.

# Protecting your commercial edge

## About us

Phillips Ormonde Fitzpatrick are the IP protection people who are great to work with. We transform creativity and innovation into commercial edge.

As a specialist intellectual property (IP) firm, we provide you with tailored end-to-end IP services that protect your most valuable business assets.

We are a privately owned top tier IP firm with over 130 years of success. We work for small and large local clients who file worldwide as well as helping foreign clients secure IP in Australia. With around 45 attorneys, we have technical expertise across almost all fields of technology.

## Contact us

For more information contact:

### Melbourne

Level 16, 333 Collins Street  
Melbourne, VIC 3000 Australia

Phone: +61 3 9614 1944

### Sydney

Suite 15.02, Level 15, 4-6 Bligh Street  
Sydney, NSW 2000 Australia

### Adelaide

Level 3, 74 Pirie Street,  
Adelaide, SA 5000 Australia

Phone: +61 8 8232 5199

Fax: +61 3 9614 1867



phillips ormonde fitzpatrick  
the IP protection people

[www.pof.com.au](http://www.pof.com.au)