

**INTELLECTUAL PROPERTY  
LAW SUMMARY**



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## Trade marks

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# 1. COPYRIGHT

- **SMOT** – subject matter other than works
- **CR** – copyright
- **CA** – *Copyright Act 1968 (Cth)*
- **TM** – trade mark
- **Anticipation:** lack of novelty. Where an invention has been anticipated (i.e. in some way foreshadowed or revealed) it will no longer be considered to be novel and hence patentable. In deciding whether there has been an anticipation you follow through the various tests for novelty laid down in the Act.
- **Obviousness:** reference to the inventiveness requirement. Obviousness is the converse of inventiveness. Where person has only done what was obvious, that person has not been inventive, or has not taken an ‘inventive step’ and hence the ‘invention’ will not be patentable. Again when deciding whether there is obviousness present you follow the various tests for inventive step laid down in the Act.
- **Integers:** are features of the invention, eg the fact that a spring is coiled clockwise rather than anticlockwise. Sometimes these integers are considered **essential** for the invention; but if they are of minor importance they will be dubbed **inessential integers**.
- **Workshop variations/adjustments or improvements or just variants:** which normally arise with questions of inventiveness. The words are used to indicate changes to the ‘invention’, which have not involved an inventive step. **Workshop improvements** are said to come about through ordinary methods of trial and error. They are similar to the substitution of a mechanical equivalent that again does not require any inventiveness to carry out (usually discussed when it is novelty which is being discussed and indicates which changes will not be taken into account when it is being decided).
- **Subject matter:** for the grant of a patent. This means that there is no patentable invention on the basis that nothing has been invented.
- **Combination patents:** comprised of integers, some or all of which are known but which in a combination produce a new and better result through the interaction of the integers.

- ***Mere collection of known integers***: if the integers do not interact in this way but simply continue to perform their known functions, usually being denied registration.

## Recent Changes

The *Intellectual Property Laws Amendment Act 2015* (Cth) received Royal Assent on 25 February 2015. The Act amends the *Patents Act 1990*, *Trade Marks Act 1995*, *Designs Act 2003*, and the *Plant Breeder's Rights Act 1994* in order to:

- Implement the Protocol amending the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Protocol), enabling Australian medicine producers to manufacture and export patented pharmaceuticals to countries experiencing health crises, under a compulsory licence from the Federal Court
- Extend the jurisdiction of the former Federal Magistrates Court, the Federal Circuit Court, to include plant breeder's rights matters
- Allow for a single trans-Tasman patent attorney regime and single patent application and examination processes for Australia and New Zealand, as part of the broader Single Economic Market (SEM) agenda
- Make minor administrative changes to the Patents, Trade Marks and Designs Acts to repeal unnecessary document retention provisions that are already adequately governed by the *Archives Act 1983*
- Make minor technical amendments to the *Patents Act* to correct oversights in the drafting of the *Intellectual Property Laws Amendment (Raising the Bar) Act 2012* which was passed by Parliament in March 2012.

Be aware of these changes but know that they do not affect the Intellectual Property Law course.



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