

## SUBMISSIONS TO THE PATENTS ACT 1990 Amendment (Patentable Subject Matter)

James & Wells Intellectual Property acts for many companies that file patent applications and commercialise technology within Australia.

In response to the questions listed under point 4 of the IPAustralia July 2013 discussion paper we submit the following.

### 1. **Objects Clause**

We support **Option 2** for the Objects clause as proposed under point 3.1 of the discussion paper as it provides a clearer indication of the purpose and intent of the Patents Act and the patents system with respect to the Australian national interest and balance of the positive and negative effects of patents (such as promoting innovation from the perspective of patent holders as well as patent applicants).

### 2. **Patentability exclusion**

We disagree with the proposed wording for the patentability exclusion proposed by ACIP on the basis that it is unclear what an 'ordinary reasonable and fully informed member of the Australian public' would be.

We recommend providing a list of examples of excluded subject matter to provide greater clarity and provide more useful guidelines to prospective patent applicants (see Section 15(1) of the New Zealand Patents Act 2013).

### 3. **Implementing the Patentability Exclusion**

We agree with amending the Patents Act to explicitly provide the Commissioner of Patents with Powers to seek non-binding advice on ethical matters provided the way in which this would operate in practice is clearly stated in the legislation.



*clever thinking...*

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