



DEPUTY VICE-CHANCELLOR
Professor Bill Lovegrove
Telephone (07) 3875 5122 Fax (07) 3875 7507
Email B.Lovegrove@mailbox.gu.edu.au

12 September 2002

Mr Jeff Roberts
Secretary
Advisory Council on Intellectual Property
PO Box 200
WODEN ACT 2606

Dear Mr Roberts

Innovation Patent – exclusion of plant and animal subject matter

I provide for the deliberations of the Council a Griffith University view on the question of the exclusion of plant and animal subject matter from the Innovation Patent.

As the main basis for any patent application is the degree of commercial protection it will afford, we would be reluctant to substitute an Innovation Patent for a Standard Patent as the cost for a well drafted application is likely to be almost identical for either.

The use of the Innovation Patent is, from our view, of most use as a tactical means by which the owner of a patentable invention may seek to extend the boundary of protection for an invention by lodging Innovation Patent applications for new aspects of an invention covered by a Standard Patent application. In addition the Innovation Patent is only useful in the Australian jurisdiction.

It is not evident to us that there is any national benefit to be obtained by maintaining the current exclusion as foreign entities operating in the Australian market can avail themselves of the use of the Standard Patent and or Innovation Patent should they see it to their advantage to do so.

In relation to Intellectual Property rights that are considered to have sufficient value for an owner to seek protection through the registration system, then the most prudent strategy would entail a combination of the Plant Breeders Rights, where applicable, and the Standard Patent system as this affords the most complete coverage. An Innovation Patent with coverage identical to that of the Standard Patent would merely place Non IP right holders in the same position they are in when a Standard Patent covers the IP.

Therefore we do not believe that there is any benefit to be gained by maintaining the exclusion of plant and animal subject matter from coverage by the Innovation Patent.

Yours sincerely

A handwritten signature in cursive script, appearing to read "W. J. Lovegrove".

W J Lovegrove
Deputy Vice-Chancellor