

START ME UP

Protecting and profiting from your new ideas



INNOVIC
Getting Ideas to Work 

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How to find good ideas and opportunities

Roger La Salle, CEO, Matrix Thinking

When starting an innovative business, you can increase your chances of commercial success with an innovative idea that is likely to be viable. You also need to ensure that the potential customer can recognise and understand the 'value' that you are delivering with your new product or service.

But what do we mean by *innovation*? My definition is simple: innovation is *change that adds value*. There is no point in changing a product or service if it is of no benefit and doesn't add any value to the original concept.

But, what skills do you need, and how do you find a good idea or an opportunity for an innovative new business?

Key skills for innovators

There are some key skills that can really assist innovators to find new opportunities.

Curiosity and observation: ask why things are done in a particular way; how they could be improved; what else could be added to an existing product or service; and what will it look like in the next few years or in 10 years' time?

To innovate an existing product or service you could consider redesign; the use of new materials and technologies; better functionality; adding accessories and/or including new features. You could also explore the possibility of introducing new products and services to your existing market.

As an aid to innovative thinking, I have developed a simple *Matrix Thinking* tool – a simple technique using *seeds* and *catalysts* to help the user to identify new products, services and opportunities.

Making linkages and connections: this enables products and services developed for one environment or purpose to be used in another one. Teflon, for example, was a spin off from the US space program, and today's drones have many different uses including warfare, aerial mapping, agricultural pest control and even pizza delivery.

Do it better than others: Google, PayPal and NOKIA Cell phone were not the first to market with their products, they simply did it better than others in the market place. In fact, introducing a completely new product or service can be inherently risky because it is often necessary to change existing purchasing habits, and to convince consumers of the value of the new product or service.

When looking for opportunities to innovate you can vastly increase your chances of commercial success by exploring things people are currently doing and buying, and simply doing it better. It may be as simple as walking through a hardware store, supermarket or retail outlet, looking at products and services and asking, if I was using or doing this, what one thing would 'I wish for' to make it better. Indeed the 'I wish' thought trigger is a superb way of inspiring innovative thinking.

How to find opportunities

Predictable behaviour: knowing what a person is likely to do in a specific situation can be useful in identifying opportunities to collaborate or to provide additional services. For example, if a person buys a new car a

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predictable behaviour would be that they would go out for a drive within a few days of their new purchase. A way to capitalise on that knowledge might be to collaborate with a country hotel, restaurant, spa or similar to offer a special overnight package or to provide petrol vouchers, maps, etc.

Widespread activity: observe what most people do at particular times of the day, or the way they do things. For example, before 9.00am in most cities, people are typically buying breakfast or coffee. What are the opportunities? Selling breakfast at train stations, bagels to go or coffee on commuter trains?

Find the gaps and solve problems: identify where there are needs for products and services that are not currently being filled. For example, the growth of on-line shopping has led to a demand for drop boxes, courier services, and after-hours collection facilities. If you can identify a widespread problem for consumers, you potentially have a market for a product or service that can solve that problem.

On a larger scale, there are also many global problems that need solutions: from sustainable agriculture, to the challenges of climate change, cyber security and homelessness.

Study trends and their implications: societal, cultural and demographic. As the population demographic changes new opportunities arise to provide services and products. An ageing population leads to increased demand for a range of in-home services not only in health care, financial management, and co-living accommodation but in smart technologies that can monitor, assist and interact with seniors as well as keeping them healthy, and deliver meals and other services.

Conversely seniors can also be an untapped community resource and a reservoir of local knowledge and expertise, e.g. master classes.

Identifying major risks to new products and services

There are essentially only two major types of risk

1. **Technical risks:** will it work; is it feasible; and can it deliver the solution. This is something we can generally measure and determine the degree of risk before launching the product.
2. **Market risks:** does the customer want it and will it sell? This is far more unpredictable than technical risk. Many first movers experience market resistance and struggle to make sales. The big success stories e.g. Google, iPhone, Visa are not the first to market – they capitalised on the work of others and simply did it better.

Mitigating risk: Minimum Viable Product (MVP)

So, how do you manage market risk? The time to market is critical in these days of rapid change, fast prototyping, and the emergence of new, disruptive technologies. Marketers often get it wrong with new products, so the earlier you can achieve market validation the better.

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With any new product it is a good idea to launch with the Minimum Viable Product (MVP). That is a product that meets the initial requirements but may lack all the possible enhancements that usually come with extra development cost and increased time to market. The 'bells and whistles' can come later to keep the market involved. Consider how Apple and Microsoft have a continuous product churn with the new or updated versions always adding enhancements to the previous products.

An MVP is a useful way to test the market, get some valuable feedback and then innovate to continually upgrade the product with new and better applications and features. This is what innovation is all about, and tech companies and car manufacturers exploit this process to the fullest.

Car makers release a new model, and then add features each year. Of course, these could have been added at the onset, but at the expense of market validation for the new model and the opportunity to innovate to get ongoing market engagement.

Not only do car makers innovate features but, as time progresses, their new models grow in size and cost. Further, as the updated model grows to become prohibitively expensive for new market entrants, they release a smaller new car. They then use the same trick to migrate these people up the value chain with ongoing enhancements and size. So, what is the message? Launch and test the market with the MVP.

Connections and Collaborations

There are very few times when an individual can take an idea from mind to market without assistance, or collaboration. Finding the best parties to assist you on your innovation journey is essential – whether it is in design, engineering, manufacture, business planning, intellectual property protection, investment, or sales and marketing.

Collaboration is vital when it comes to successful innovation outcomes. My recommendation is to go to relevant professionals and experts, such as INNOVIC and Griffith Hack, rather than to try and do it all yourself. In the long term, it will save you money and time.



Matrix Thinking services

Roger La Salle is the developer of Matrix Thinking. He is an internationally renowned keynote speaker, technologist and expert on innovation, opportunity and business development.

Roger is a successful entrepreneur and trains people in innovation, marketing and Opportunity Capture. 'Matrix Thinking'™ is now used in organisations in more than 29 countries.

He is the author of four books, and a director of INNOVIC as well as companies in Australia and overseas.

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Protecting your new ideas: Understanding Intellectual Property (IP)

Jing Fung Tan, Griffith Hack, Patent and Trade Mark Attorneys and Lawyers

Why do you need an IP expert?

While you can file patent, design and trademark applications yourself online at IP Australia, Griffith Hack IP experts can tailor your IP strategy to your commercial activities and prepare robust applications that are more likely to be granted with a commercially appropriate scope of protection which will withstand validity challenges.

How can an Australian patent attorney help you?

Australian patent attorneys, such as those at Griffith Hack, have scientific and legal qualifications. This enables us to work and communicate with you clearly, understand your invention, and provide strategic advice going forward. A Griffith Hack patent or trade mark attorney will:

- help you navigate the legal terrain and provide you with options and strategies on how best to make the patent system work for you;
- assist you with the preparation and filing of your patent, design or trade mark application in Australia, New Zealand or other jurisdictions;
- help you set out your IP in clear words and pictures, whether it be an industrial design, a patentable invention, or a brand name or logo, ready for lodging with the Patent Office; and
- monitor and manage your IP portfolio to allow you to focus on growing your business.

Types of IP

i. Standard Patent

Protection scope: how the invention works including for example, a new method or process, and the product you wish to have protected.

Duration of protection: up to 20 years

- A patent application is filed, setting a priority date (essentially an initial filing date which recognises your patent application being filed). The patent application must go through further steps including examination to reach acceptance. Only when accepted can the application proceed to become a granted patent. Once granted the patent can be asserted against infringing parties.
- Examination is conducted over two main criteria: (a) novelty, and (b) inventive step. The Australian Patent Office will search for 'prior art', i.e. the known products and solutions in the field of your invention. The Patent Office will then make their assessment as to whether your invention is new and provides advantages over what was found in the prior art. You have a period of 12 months to amend the claims of your application and/or argue with the Patent Office's assessment.
- Typically, it takes between 3-5 years from filing for the patent application to be granted. Some accelerated paths are available. Once granted the patent owner has the exclusive right to exploit the patent; this includes make, hire, sell, use, import, licence etc.
- It is very important to file an application and secure a priority date before publicly disclosing your invention to prevent the disclosure of your invention being used against your patent application.

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Jing Fung Tan, Griffith Hack, Patent and Trade Mark Attorneys and Lawyers

ii. Innovation Patent

Protection scope: how the invention works including, for example, a new method or process, and the product you wish to have protected.

Duration of protection: up to 8 years

- An innovation patent provides the same exclusive rights and remedies as a standard patent, but it is granted without examination.
- An innovation patent can be granted within a few weeks, but the resulting patent cannot be enforced against an infringer until it has been examined. The examination process for an innovation patent will take about 6 months from receiving the Examiner's assessment in view of the prior art.
- Innovation patents can only have 5 claims and thus typically have a narrower scope of protection than their standard counterpart. However, one advantage of an innovation patent is that it is examined to a lower 'innovative' standard, making them easier to obtain than their standard counterparts.
- The Australian government has begun the process of phasing out the innovation patent with the passing of legislative amendments. The 18-month phase-out began in 2020 and during this period innovation patents may be filed. The last day to file a new innovation patent will be 25 August 2021.

iii. Trade Marks

Protection scope: your brand and brand reputation

Duration of protection: potentially in perpetuity (renewed in 10-year intervals)

- A trade mark identifies your business as the source of the goods (or services) and therefore distinguishes them from the goods (or services) of others. A trade mark is typically a word, phrase, shape or logo, or combination of these. However, a trade mark can also be a colour, a sound and even a smell.
- When selecting a trade mark, care should be taken to avoid common and highly descriptive words, as these will be difficult to protect without having developed significant reputation in the brand.

iv. Registered Designs

Protection scope: the visual appearance of a product.

Duration of protection: up to 10 years.

- An Australian registered design can protect the shape, configuration, pattern and ornamentation of a product. Registered designs range from the shape of glasses and bottles, to dresses and fabrics, jewellery and confectionery.
- The protection afforded by a registered design extends only to the appearance of the product and does not protect the way the product works or how it is used.
- Like the innovation patent there is no requirement to examine a registered design. However, a registered design has to be examined and certified before it can be enforced against an infringer. The examination process can be initiated at any time, once the application has been filed with the Designs Office.

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- Under the current legislative framework, public disclosure of your design will destroy the newness of the design which is a requirement of registration. Accordingly protection should be sought before publication, sale or display. Designs Law in Australia is currently under review and it is likely that amendments to the current legislation will provide for a 12-monthly grace period for filing a design after disclosure.

v. Copyright

Protection scope: Copyright protects the original expression of ideas, which must be expressed in material form. Copyright protects works such as literary, dramatic, musical and artistic works, as well as subject matter other than works including films, sound recordings, broadcasts and published editions.

Duration of protection: variable depending on the medium of the copyright.

- Copyright protection is automatic so there is no need to file or register the authored work. In some countries a registration process is available to help authors protect their copyrighted works.
- It is important to appreciate the limitation of copyright, specifically, that the manner in which the idea is expressed is protected, and not the idea itself.
- The copyright owner has a bundle of exclusive rights that can include the right to reproduce the work in a material form; publish the work; communicate the work to the public; and make an adaptation of the work.
- The use of another's copyright material without the copyright owner's consent will constitute copyright infringement if a 'substantial part' of the work has been used.

a. IP disputes

What can I do if someone 'steals' my idea?

- If you believe or suspect that someone is exploiting your invention or design without your permission, Griffith Hack can conduct an infringement assessment and provide a legal opinion on whether your IP rights are being infringed.
- It is always advisable to consult a patent attorney or IP professional before taking steps to assert your legal rights, as there are penalties for 'unjustified threats' i.e. wrongly accusing a third party of infringement.
- Where a case of infringement is likely, we can guide you through the dispute resolution process, which may involve court proceedings in order to enforce your IP rights against the alleged infringer.

Am I free to exploit my idea?

- A common misconception is that a granted patent gives the owner of the patent the right to exploit their invention without the risk of infringing existing patents. This is incorrect. A patent gives the owner the exclusive right to prevent others from exploiting the patented invention. However, a patent does not protect the patent owner against infringement of existing patent rights when exploiting the invention.

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- In the course of determining your commercial product, it is important to be aware of other patents in the same field, and particularly, whether your product may infringe any of these other patents. Griffith Hack attorneys can help you with this assessment.
- To this end, we can conduct a freedom-to-operate search in your technical field in the intended country/countries of sale to ascertain whether you are free to proceed. This form of assessment can provide valuable market intelligence before committing to expensive tooling and set-up costs.

b. How long does it take?

- The process of registering IP rights can be completed in a few weeks for a trade mark or registered design. The process of lodging a patent application can take a few weeks but may take a few years for a patent to be granted.
- The registration process for most IP rights can be accelerated where circumstances call for action. However, the patent process is more of a marathon than a sprint. Many applicants find the extended patent timeframe useful for further developing commercial embodiments of the invention, and for some, this is an excellent time to raise funding and spark investor interest.
- Although a patent application cannot be enforced until granted, damages for infringement can be calculated retrospectively, back to when the patent document was made publicly available.
- The priority date of your IP right is the recorded inception of your IP, as such once the priority date is locked-in, you are free to start using and developing the invention or the design. The registration/examination process will continue in the background while you get on with the important commercialisation of the IP.



Griffith Hack services

We partner with clients to build, protect and grow their businesses through IP.

And rather than only protecting what you already have, we utilise your IP to create new potential using the lens of IP to give fresh perspectives on your markets, your business, your innovation and your brands.

It is important to protect your IP, but with smarter IP development, performance tracking and management, we can help you make the most of it, too.

Please contact us for a free, no obligation meeting to discuss your IP needs.

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Legal documents you may need and how to use them

Juliet Evans, Griffith Hack, Patent and Trade Mark Attorneys and Lawyers

There are a number of legal documents that may assist, or indeed be necessary, when starting an innovative business. These include the following agreements:

Non-Disclosure Agreements (NDA)

A *Non-Disclosure Agreement* (NDA), also known as a *confidentiality agreement*, is a legally binding agreement where a party is prohibited from disclosing information that is classified as confidential by the other party. NDAs should be used when sensitive information including know-how, IP, financial information and customer and/or supplier lists is being shared. NDAs should be implemented before discussing your business venture with a potential manufacturer, distributor or other business you may partner with. The NDA should set out what the confidential information is and clearly specify why the confidential information is being shared.

Memorandum of Understanding (MOU)

A *Memorandum of Understanding* (MOU), also known as a *heads of agreement* or *letter of intent*, is a preliminary document outlining the key terms the parties agree to, prior to entering into a binding and detailed agreement. MOUs are not necessarily legally binding. The purpose of MOUs is to advance and set out a negotiating relationship between the parties.

IP Assignment Agreements

An *IP Assignment Agreement* is a legally binding agreement which allows a party (the assignor) to transfer ownership of its IP rights to the other party (the assignee). IP assignment agreements are often used when engaging a contractor in order to acquire the IP rights in works that the contractor creates under contract. Once an assignment agreement is signed, the assignor has no rights to the IP.

IP Licence Agreements

An *IP Licence Agreement* is a legally binding agreement which allows a party (the licensee) to use, but not own, the IP rights of the other party (the licensor) under certain agreed-upon conditions. The IP licence can be exclusive, sole or non-exclusive. An exclusive licence allows the licensee to use the IP to the exclusion of all others, including the licensor. A sole licence allows both the licensee and the licensor to use the IP to the exclusion of others. A non-exclusive licence allows the licensee, along with other licensees, to use the IP. An IP licence may restrict the licensee's right to use the IP by specifying the applicable territories and limiting the operation of the licence to a specific term.

Other important legal documents include terms and conditions of sale/service, website terms of use, privacy policy, employment/contractor agreements.



Griffith Hack IP services

In addition to helping you to prosecute and enforce your IP, Griffith Hack is well placed to assist you with the commercialisation of your IP and can draft and negotiate the agreements required to help you bring your ideas to the market.

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Profiting from your new ideas

Joss Evans, CEO, INNOVIC

Are you a start-up or simply starting a small business?

All businesses start somewhere, but the term 'start-up' is typically applied to enterprises that are creating new products and services that don't currently exist, or modifying existing ones. Many start-ups are technology-driven, and they are often seen as 'disruptors': changing the way things have been done, using innovative business methods and models with a rapid growth trajectory and the ability to quickly scale up to reach global markets.

While more traditional small business owners can certainly be innovative – a retailer, accountant or hairdresser is likely to be competing in a local market selling existing products or services – typically they will not be focusing on rapid growth and international expansion and will generally be looking to grow their business steadily over the longer term.

Understanding the commercialisation process

The commercialisation process is how you get a new product or service to market. Depending on your product or service it can include market research, R&D, design, prototyping, testing, intellectual property protection, branding, manufacture, financials, sales and marketing, distribution and roll out.

The details of how you propose to get your idea to market is usually mapped out in your business plan. If you don't have a business plan you should consider writing one.

Business plan templates: [canvanizer](#) [Victorian government](#) [Hubspot](#)

What is a pitch deck?

The information in your business plan can also form the basis of any pitch deck that you may need to attract investors. A pitch deck is a brief presentation on your business. It is typically used to interest potential investors, but it can also be used to get partners or others on board. Most pitch decks are short and succinct, usually between 10-20 slides on power point, keynote, google slides or similar. Graphics are usually used to illustrate key points and data and make it stand out.

The pitch deck gives a brief overview of the key elements of your business and outlines your vision, background, value proposition, the problem, how you propose to solve it, the opportunity, the market, the team, the financials and why the investor should be involved with your business.

Pitch deck templates: [Slidebean](#) [bplans](#) [Envato](#)

Business plan and pitch deck basics

While your business plan is more comprehensive than your pitch deck, they generally contain some of the same basic information. The following are some of the key elements to include. You can find most of this information through research and by contacting people and organisations in the relevant industry sector.

The product or service – what is it?

Clearly describe your new product or service and how it solves a problem, addresses a specific need, or fills a market gap. You will need to back up your claims with any market research you have undertaken.

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The value proposition – why will they buy?

Why will customers buy your new product or service? What is its major selling point? Is it cheaper, better, more convenient, or does it offer other benefits or features? Is it protectable?

What about legal compliance?

Are there any mandatory and safety standards or other obstacles to overcome to launch your product or service? For example, electric goods and baby products need to comply with specific safety requirements and standards. Financial service advisors are also subject to regulatory frameworks.

Useful resources: [ACCC - Product Safety Australia](#)

The market – does anyone want it?

Who is the customer? Do you know their demographics? The size of the market? Is the market contracting or expanding? What will your customers pay, how and where will they buy? How often? How will you reach them?

Useful resources: [INNOVIC market research](#) [Australian Bureau of Statistics](#)
[Councils/local demographics](#) [Mail Chimp online surveys](#)

What about the competitors?

What about your competitors, both direct and indirect? How will you compete? What if they start offering the same product or service? How will you manage any potential risks?

How will you develop it?

Will you need a designer, a prototype, beta version, testing or trials? Can you demonstrate that your product will work, or that your service does what you claim it will do? Have you got a trustworthy supplier or manufacturer?

What about distribution?

Do you have a distribution plan? Are you selling online, via retailers, partners, associates or via another method? Do you need warehousing, drop shipping, freight forwarders? Are you licensing to a third party?

Have you thought about your brand?

If you are selling products you may need to think about packaging, presentation and branding. Is your packaging recyclable or environmentally friendly? Could it be hazardous? Have you got a brand profile? Is your 'brand' protected by a trade mark?

The revenue model – how will you make \$\$\$?

How will you make money (monetise) from your new product or service? Is it via sales revenue, subscription, commission, affiliates, advertising, fee for service, donation, selling data, pay per click or some other revenue form?

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Financials – are they realistic?

Have you done a projected sales forecast, profit and loss and 3 year financials? Do you know your break-even point; how much money you will need; how it will be used and when you will need it?

It can take a few years for a start-up to generate revenue. Do you have the funds to see you through the development period and take you to the stage where you can attract other funding? Where will you get other funding? Bank overdraft, grants, investors, other sources?

Key government grants & programs: [Entrepreneurs' Program](#) [R&D Tax Incentive](#)

[Export Market Development Grant](#) [Federal government grants](#) [Victorian government grants](#)

Other funding options

Other options to consider include crowd funding, equity crowd funding, bank loans, peer to peer lending, angel investors and venture capitalists for later stage projects.

The team – you and who else?

Typically you will need other people and/or a team with appropriate skills to help you grow your business. Do you have staff, advisors or a board of directors with the right mix of skills? Are you confident that you have the time, energy, skills and resources to commit to your business?

Commercialisation frameworks

There are a number of different ways to get a new product or service to market and different frameworks for doing it. These include:

Running your own business

You can establish your own business and/or hire employees, subcontractors, or others to supply or manufacture your products, or help to deliver your services. You will need to establish distribution networks to get your products or services to customers.

Joint venture

A joint venture can take various forms, but it is usually an agreement whereby two or more individuals or companies agree to work together towards a specific goal or objective. The parties maintain separate businesses but may agree to share specific activities and costs, such as R&D, product development, etc.

Partnership

A partnership is an ongoing relationship between parties. The partners are all jointly responsible for the activities of the partnership. They may also be liable for the partnership's debts.

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Assignment or licensing your IP to a third party

An assignment is when you sell your IP outright, either for a lump sum, or under another financial arrangement. Licensing is where you grant a third party temporary rights to use your IP for a specific period of time and on specific terms and conditions.



INNOVIC services

INNOVIC (the Victorian Innovation Centre) is a not for profit organisation established in 1986 to help get viable new ideas to market. We provide a range of practical services and resources to assist innovators, start ups and small businesses.

INNOVIC services include idea evaluations, commercialisation consultations, market research, IP help, information on grants and funding, prototyping, branding, manufacture, licensing, negotiations and more. Our Managed Commercialisation Program can help you right through the process.

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