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Artificial intelligence and machine learning are reshaping industries, and creating new opportunities for businesses to innovate, differentiate and grow.

As these technologies become increasingly valuable commercial assets, protecting the intellectual property behind them is more important than ever.

This publication combines a two-part article series providing practical guidance on patenting AI and Machine Learning innovations in Australia.

These discussions reflects the current Australian position following *Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* [2025] FCAFC 131 (*Aristocrat '25*), IP Australia's response to stakeholder feedback, and the updated patent examination manual guidance for computer-implemented inventions.

Part 1 | Model to Method

From Model to Method explores the patentability of AI and ML inventions, common pitfalls, and the importance of demonstrating a technical contribution.

Part 2 | Beyond the Model

We look beyond eligibility and consider how AI and ML invention patent claims can be strategically constructed once the technical implementation has been identified.

This includes identifying the centre of technical gravity, supporting multiple claim pathways, and building the evidence needed for robust and commercially meaningful protection.

Together, these articles offer valuable insights for technology companies, researchers, start-ups and innovators seeking to secure meaningful patent protection and maximise the value of their AI-driven innovations.

Spruson & Ferguson works with clients across software, AI, telecommunications, electronics and emerging technologies to develop and implement effective patent strategies and manage global portfolios that align with their commercial objectives – across the Asia-Pacific region.

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Reach out to the authors or via our website contact form to discuss any of your IP needs.

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Supporting innovators across software, artificial intelligence, electronics, telecommunications, semiconductors and digital technologies throughout Asia-Pacific region.

Part 1 | From model to method

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Artificial intelligence (AI) and machine learning (ML) technologies are now embedded across a broad range of commercial and technical sectors, from healthcare, imaging and industrial control to financial services, cybersecurity, logistics and consumer platforms. As these technologies move from proof-of-concept into real-world deployment, they raise distinct patentability issues.

For a broader discussion of IP Australia's updated computer-implemented invention guidance following *Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* [2025] FCAFC 131, see our recent article that summarises the changes, practical implications and provides useful tips for Applicants.

AI patentability in Australia

In Australia, patent eligibility does not turn only on whether an AI or ML system is new, sophisticated or commercially valuable. The claimed invention must also be a "manner of manufacture" under the Patents Act 1990.

Australian law does not use the same "as such" exclusion found in UK and New Zealand-style formulations. However, computer-implemented inventions, software and algorithm-based inventions are not excluded merely because they involve software or conventional computer technology.

The more difficult question is whether the claimed invention, as a matter of substance, is more than an abstract idea, scheme, business method, or presentation of information implemented using ordinary computer tools.

The Full Federal Court's decision in *Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents* [2025] FCAFC 131 (Aristocrat '25) is now an important reference point. The decision confirms that the assessment is one of characterisation. The claim is considered in light of the specification as a whole and the common general knowledge, and the inquiry is directed to substance rather than form[1].

Importantly, the claim should not be stripped back by disregarding known technical features where those features are fundamental to how the claimed combination operates[2].

For AI and ML inventions, this provides a useful but measured framework. The question is not simply whether the model is sophisticated, whether it processes data in a novel way, or whether it represents an "advance in computer technology."

The more practical question is whether the claimed AI or ML implementation is merely an abstract idea manipulated on a computer, or an idea implemented using a computer to produce an artificial state of affairs and a useful result.

Below we outline practical strategies for preparing AI and ML patent applications that are better positioned to meet the Australian patentability threshold.

In Part Two, we look beyond eligibility and consider how AI and ML inventions can be claimed strategically once the technical implementation has been identified. This includes identifying the centre of technical gravity, supporting multiple claim pathways, and building the technical disclosure needed for robust and commercially meaningful protection across multiple jurisdictions.

Where AI and ML inventions are more likely to be patentable

Not all uses of AI or machine learning will give rise to a patentable invention in Australia. These technologies are often commercially powerful, but the patentability inquiry focuses on the substance of the claimed invention as a whole.

In practical terms, AI and ML inventions are more likely to be patentable where the model is integrated into a specific computerised product, device, control process, communications environment or other practical system, and where the patent specification explains how that integration changes system behaviour or produces a practical technical result. The model should not appear as a black box that merely receives data and outputs a prediction, score, classification or recommendation.

For example, a convolutional neural network used in a medical imaging workflow to process imaging data, reduce artefacts, or support reconstruction of a clearer diagnostic image may present a stronger patentability case. The model is not merely generating information for its own sake. It is operating within a technical environment and affecting the quality or operation of a technical system.

By contrast, a model that uses historical purchasing behaviour to predict user preferences and personalise product recommendations in an e-commerce interface may face greater difficulty[3].

While commercially valuable, that type of invention may still be characterised as a business method, marketing scheme, data-analysis exercise or decision-making logic implemented using standard computing tools, unless the claim and specification identify a more specific technical implementation or system-level result.

Although IP Australia's updated patent examination manual guidance following Aristocrat '25 is helpful in moving the analysis away from a rigid "advance in computer technology" requirement, it does not remove the underlying risk for AI implementations that are, in substance, directed to commercial decision-making or information presentation.

The distinction does not lie in whether the invention uses machine learning. The same model architecture may be used in one setting to improve operation of a device, control an industrial process, process sensor signals, or manage a constrained communications environment.

In another setting, it may be used only for customer segmentation or commercial decision-making. The patentability analysis will turn on the implemented context, the interaction between the claimed features, and the result produced by the claimed combination.

Accordingly, the patentability threshold does not hinge on whether the AI model is new or sophisticated in isolation. What matters is whether the invention, when considered as a whole, is properly characterised as a patentable implementation rather than an abstract idea or scheme carried out on ordinary computer infrastructure.



Where AI and ML patent applications go wrong – and how to get it right

Even where an AI or ML invention is technically strong, a poorly prepared patent specification can undermine its prospects in Australia. Many applications encounter objections not because the underlying technology lacks value, but because the specification fails to show how the claimed AI implementation operates within a real system, how the relevant features work together, and what practical result is produced.

The following are common drafting issues and practical ways to avoid them.

1. Overgeneralising the technical problem

A common mistake is to describe the invention as "improving accuracy" or "enhancing performance" or "optimising decisions" without identifying what is being improved, how the improvement occurs, or in what implemented context.

These kinds of statements often read as aspirational rather than grounded in engineering detail.

For example, a claim that a model "improves fraud detection" may be vulnerable if it does not explain the relevant data inputs, processing steps, security protocol, system architecture, or operational response.

By contrast, a patent specification that describes how a recurrent neural network processes time-stamped transaction data to trigger a real-time risk flag within a secure authorisation protocol provides a clearer practical setting for the invention. The aim is not simply to identify a desirable outcome, but to explain how the claimed system operates to produce that outcome.

2. Relying on "buzzwords" instead of substance

Terms such as "deep learning engine," "AI module," or "trained model" and "neural network" may sound technically sophisticated, but without technical context, they add little if the patent specification does not explain their structure function and role in the claimed system.

A generic statement that "a deep learning model classifies sensor data" may be too abstract.

A stronger disclosure may explain that a convolutional neural network having defined processing layers is trained on labelled ECG waveform data to identify arrhythmic events in real time, and that the output is used to initiate automated triage within a clinical monitoring system.

The more the patent specification explains how the AI component is configured and how it interacts with other system components, the easier it is to characterise the invention as a practical application of the technology rather than a generic algorithmic result.

3. Omitting the role of data

For many AI systems, data is not a passive input. The way data is selected, cleaned, labelled, transformed, compressed, synchronised or combined may be central to how the invention works. In weaker patent specifications, these steps are sometimes treated as background detail, even though they may be critical to how the invention works

This might involve improving operation of a device, controlling an industrial process, or delivering a measurable improvement in system performance. The key is to explain how the claimed invention produces that practical outcome, rather than merely replicating human judgment or implementing known rules at scale.

For example, describing a system as “trained on historical customer data” says little about the invention. By contrast, explaining that the system filters outliers from transaction logs, aligns timestamps, and labels entries using a semi-supervised process to identify anomalous patterns may provide a more concrete basis for protection.

Where data preparation or feature generation contributes to the practical operation of the system, those details should be described and, where appropriate, claimed.

4. Mixing technical and non-technical effects

AI and ML inventions often produce both technical and commercial benefits. A common drafting problem is to emphasise only the commercial effect.

For example, a system that identifies high-value customers using ML may be described as “optimising engagement” or “increasing conversions.” Those outcomes may be commercially valuable, but they do not necessarily assist the patentability analysis. The stronger patent story may lie elsewhere, such as reduced memory usage, lower latency, more efficient server-side segmentation, improved data synchronisation, or a particular way of configuring a distributed processing environment.

This does not mean that commercial context is irrelevant. It may explain why the invention matters. But the patent specification should also identify the implemented mechanism and the practical result produced by the claimed combination.

5. Describing the result but not the mechanism to achieve it

It is not enough to describe what the system achieves. The patent specification should explain how it achieves it.

This is particularly important where the claims refer to outcomes such as classification, scoring, detection, prediction or recommendation. A claim that “the model outputs a fraud score” may be vulnerable if the underlying model, input features, training process, deployment architecture or system response is not explained.

By contrast, a patent specification that describes a fraud score generated using a gradient boosting algorithm trained on multi-channel metadata, and then used to initiate a secondary authentication loop within a secure gateway, provides a stronger basis for characterising the invention as an implemented security process, rather than a disembodied scoring exercise.

6. Ignoring the computing context and technical integration

For AI and ML inventions, patentability may depend not only on what the model does, but on how and where it is implemented. The computing environment may be central to the invention.

It can be important to describe whether the model runs on embedded hardware, mobile devices, edge networks, cloud infrastructure, distributed systems, sensors, control systems or communications layers. It may also be important to explain the constraints under which the model operates, including limited processing power, memory, bandwidth, latency, energy, privacy or security requirements.

These are not always mere deployment details. In many cases, they explain why the implementation is practically significant. If those implementation constraints are not described, the model may appear to be a generic software tool, even where the actual deployment required real technical insight.

For example, a model that predicts equipment faults may be unconvincing if it is described only in functional terms. The same model may present a stronger case if it is deployed on solar-powered field sensors, processes real-time soil and pressure data, and triggers automated irrigation adjustments over a low-bandwidth network. That context helps show that the invention is not simply an abstract prediction, but a practical system operating under real technical constraints.

7. Collapsing training and deployment into a single step

AI systems often involve distinct phases: training, where the model learns from historical data, and inference, where the trained model is deployed operationally.

Where a patent specification blurs these phases, it becomes harder to identify the inventive contribution and support patentability.

Is the contribution in the training pipeline? The data preparation process? The model architecture? The inference process? The deployment environment? The interaction between the model and another technical system?

For example, a claim to "a machine learning system for detecting fraudulent transactions" may be too general if it does not distinguish between training and operational use. A more effective disclosure may describe:

1. training a federated learning model across encrypted transaction logs maintained by multiple institutions, and

2. deploying the trained model within each institution's monitoring system so that locally held transaction data contributes to peer-informed anomaly detection while remaining within each institution's secure environment.

That type of disclosure identifies both the training context and the deployment context, and may better support claims directed to different aspects of the invention.

What has changed after Aristocrat '25?

The *Aristocrat '25* decision, together with IP Australia's stakeholder feedback response and updated Manual guidance, is helpful for applicants because it moves the analysis away from an overly rigid requirement that a computer-implemented invention must involve an advance in computer technology before it can be patentable[4].

The decision confirms that conventional computer implementation is not automatically fatal[5]. It is too narrow to say that implementing an idea using conventional computer technology can never be a manner of manufacture. Known technical features may still matter if they are part of the combination that gives the invention its practical effect[6].

That is particularly relevant for AI and ML inventions. Many valuable AI implementations use known model types, known hardware, known cloud services, known sensors, known processors or known communications networks.

The fact that individual components are known should not end the inquiry. The question is how the claimed features work together, and whether the claimed implementation produces the required practical result.

However, the Aristocrat ’25 decision and the updated patent examination manual guidance should not be overstated. They do not make business analytics, recommendation engines, risk scoring, financial modelling or information presentation patentable merely because they use AI.

The Full Federal Court reaffirmed that earlier cases rejecting business, marketing, logistics, risk-management and information-processing schemes were correctly decided where the computer was merely used to manipulate an abstract idea.

For AI and ML applicants, the practical message is therefore balanced: do not rely on the sophistication of the model alone, but do not assume that conventional computer components are irrelevant. The patent specification should explain the implemented system as a whole, including the interaction between the model, data, computing environment and resulting practical operation.

How can we help

If your organisation is developing AI or ML systems, early engagement with a patent attorney can help identify the protectable aspects of the AI implementation before the application is framed too narrowly around a model output or commercial objective.

At Spruson & Ferguson, our attorneys work with clients across sectors where AI is driving innovation, including healthcare, diagnostics, life sciences, industrial systems, communications, fintech, cybersecurity and autonomous technologies.

https://www.spruson.com/patenting-ai-and-machine-learning-australia-part-1/

1. Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents [2025] FCAFC 131 at [2025] FCAFC 131 at [126]
2. See by analogy Aristocrat [2025] FCAFC 131 at [127]
3. See Aristocrat [2025] FCAFC 131 at [132], discussing Grant v Commissioner of Patents [2006] FCAFC 120; Research Affiliates LLC v Commissioner of Patents [2014] FCAFC 150; Commissioner of Patents v RPL Central Pty Ltd [2015] FCAFC 177; Encompass Corporation Pty Ltd v Infotrack Pty Ltd [2019] FCAFC 161; Commissioner of Patents v Rokt Pte Ltd [2020] FCAFC 86; Repipe Pty Ltd v Commissioner of Patents [2021] FCAFC 223; and Dei Gratia Pty Ltd v Commissioner of Patents [2024] FCA 1145.
4. See Aristocrat [2025] FCAFC 131 at [136]
5. See Aristocrat [2025] FCAFC 131 at [132]
6. See Aristocrat [2025] FCAFC 131 at [127]



Part 2 | Beyond the model

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Part Two of our feature considers how to claim AI and ML inventions strategically once the technical implementation has been identified.

Once the technical implementation has been identified, the next challenge is ensuring that the patent application supports claims that are enforceable, adaptable and commercially meaningful.

1. Identify the centre of technical gravity

The first drafting question is where the real value of the invention lies. Is the contribution in how the model is trained? In how data is selected, labelled or transformed? In how inference is performed under real-time or resource-constrained conditions? In how the model is embedded in a device, sensor network, communications system, clinical workflow or industrial control process? Or in how the model output causes a downstream technical action?

Identifying the centre of gravity helps avoid overclaiming the invention as a generic AI result. It also helps ensure that the application supports the characterisation of the invention as a practical implementation, not merely a model output, prediction or business objective.

For AI and ML inventions, the most persuasive patent story is often not "we used AI to make a better decision." It is "we implemented this AI system in this environment, using these data and processing steps, to produce this practical result."

2. Support multiple claiming pathways

AI and ML inventions often provide value at more than one point in the system. A strong patent specification should preserve options by supporting different claim pathways where appropriate.

In practice, this means thinking beyond a single claim to "the model" and considering where protection may be needed across the full AI lifecycle, from training and data preparation through to deployment, inference, system integration and downstream action[1].

› Training methods

If the invention lies in preparing, selecting, labelling or transforming training data, or in training under particular constraints such as distributed data, sparse data, privacy restrictions or low-quality inputs, those aspects should be disclosed in detail.

Training claims may be valuable where the inventive contribution lies before deployment, particularly in regulated fields or environments where data access is fragmented or sensitive.

› Inference methods

If the invention lies in how a trained model is used operationally, inference claims may be important. This may include real-time decision-making, edge deployment, streaming inputs, adaptive thresholds, confidence-based processing, or triggering downstream technical actions.

System architecture

AI models rarely operate in isolation. If the invention involves integration with hardware, sensors, communications modules, medical devices, control systems, cloud platforms, mobile devices or feedback loops, those features should be described as part of the practical system. This can be particularly important in Australia, where the characterisation of the claim as a whole may depend on how the claimed features interoperate[2].

Data flow and processing pipelines

In many AI systems, the value lies in how raw data is transformed before it reaches the model, or how model outputs are processed after inference. Compression, feature extraction, anonymisation, encoding, synchronisation, confidence filtering and feedback-based retraining may each provide important claim pathways.

Apparatus and system claims

Where the AI model is embedded in a configured product or technical environment, apparatus and system claims may help tie the invention to a practical implementation. Examples include diagnostic imaging devices, drones with onboard ML control, autonomous vehicles, agricultural sensor arrays, clinical monitoring platforms, cybersecurity gateways and industrial controllers.

Downstream action or real-world effect

In some inventions, the model output matters because it changes the operation of another system. The output may control a device, adjust a process parameter, allocate network resources, trigger authentication, change image acquisition, configure a communication channel, or initiate a safety response.

Where that downstream action is central to the invention, it should be disclosed and claimed where possible. This approach preserves flexibility across jurisdictions and can improve enforceability by tying the claims to the features that drive the practical result.

3. Build in support for practical result

For AI and ML inventions, it is valuable to explain not only the model architecture or algorithm, but the practical result produced by the configured system.

The focus should be on practical outcomes, not abstract aspirations.

This does not always require production-scale experimental results. However, where the invention improves speed, efficiency, reliability, accuracy, latency, power consumption, bandwidth use, image quality, control stability, privacy preservation or security, the patent specification should explain why those benefits arise from the claimed implementation.

The key is to connect the result to the mechanism[3]. Unsupported statements that a model is “more accurate” or “more efficient” are less useful than a description of the particular features that produce that improvement.

Examples may include:

- reduced latency where the specification describes a local inference process on an edge device using compressed features
- improved privacy where the specification describes a federated training process that maintains sensitive datasets within separate secure environments
- improved imaging quality where the specification describes the image-acquisition or reconstruction pipeline in which model-based noise reduction is applied

- improved equipment control where the specification describes how real-time sensor streams are processed to adjust operating parameters
- improved cybersecurity response where the specification describes how a model output is used within a network gateway to initiate secondary authentication.

These details assist not only with patentability, but also with support, clarity, sufficiency and enforcement.

4. Draft for characterisation

In view of *Aristocrat '25*, IP Australia's stakeholder feedback response, and the updated Manual guidance, claim characterisation is likely to remain an important battleground in examination.

That makes it important to identify, early, how the invention is likely to be characterised by the Patent Office. If the application presents the AI system only as a business idea, mathematical model or information-processing result, it may be difficult to defend later by pointing to generic computer implementation[4].

For that reason, when preparing AI and ML patent applications, focus is to be placed on capturing the features that give the invention its practical character so it is not easily reduced to a business idea, mathematical model or information-processing result by an Examiner. That also does not mean adding routine computer steps for their own sake. Those features assist only where they form part of the practical operation of the claimed combination[5].

For example, rather than claiming only that an AI model generates a risk score, a stronger claim may define the relevant data source, preprocessing steps, model operation, deployment environment and system response triggered by the score.

However, those features should not be treated as a checklist. If they are merely routine or generic, they may not materially improve the patentability position. They are most useful where they explain how the claimed invention operates in a particular practical context.

Similarly, rather than claiming only that a model recommends an action, a stronger claim may define how the recommendation changes operation of a device, network, imaging system, monitoring platform or control process.

The goal is to make the interoperation of the claim features part of the invention's substance, rather than relying on generic computer implementation to carry an otherwise abstract idea.

5. Thinking globally

AI and machine learning inventions often have international relevance, but the patentability standards are not harmonised.

For example, the European practice places strong emphasis on technical character and technical effect. In many cases, applications drafted with European-style technical detail will provide a strong foundation for Australian prosecution.

United States practice can permit broader functional claiming in some circumstances, but subject matter eligibility and written description issues can still arise, particularly where claims are framed at a high level of abstraction.

Therefore, for international filings, the safest approach is to describe the invention in a way that supports multiple jurisdictional arguments: what the model does, how it is trained, how it is deployed, how the data flows, how the system components interoperate, and what practical result is achieved.

Pulling it together to secure meaningful protection for AI innovation

For businesses and research teams developing AI and ML technologies, patents are not just legal instruments. They are tools for protecting commercial advantage, investment and technical differentiation.

However, AI inventions often raise difficult questions because the value may sit between a model, a dataset, a software workflow and a real-world system. If the application describes only the model output or commercial objective, the invention may be vulnerable. If it explains how the model is implemented, how the system components interact, and what practical result is produced, the prospects are stronger.

Following Aristocrat '25, IP Australia's stakeholder feedback response and the updated patent examination manual guidance,

the position in Australia is helpful, but not a free pass. Conventional computer implementation is not automatically fatal, and known technical features should not be ignored when they are part of the claimed combination. At the same time, an abstract idea, business method, prediction or information scheme does not become patentable merely because AI is used.

The drafting task is therefore to move from model to method: from an AI concept to a claimed invention that can be characterised, as a whole, as producing an artificial state of affairs and a useful result.

How can we help

At Spruson & Ferguson, our patent attorneys work with clients across sectors where AI and machine learning are driving innovation, including medical devices, diagnostics, therapeutics, pharmaceuticals, the broader life sciences sector, industrial automation, communications, cyber security and autonomous systems.

If your organisation is developing AI or ML technologies, early advice can help identify the protectable implementation, strengthen the specification, and improve prospects across Australia and key international jurisdictions.

Please contact the authors or your usual Spruson & Ferguson advisor to discuss protection strategies for AI innovation.



https://www.spruson.com/australia-ai-machine-learning-inventions-part-2/

1. Aristocrat Technologies Australia Pty Ltd v Commissioner of Patents [2025] FCAFC 131 at [127], [136].
2. See Aristocrat [2025] FCAFC 131 at [127], [131], [136].
3. See Aristocrat [2025] FCAFC 131 at [132].
4. See Aristocrat [2025] FCAFC 131 at [126],[131].
5. See Aristocrat [2025] FCAFC 131 at [136].

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