



Australian Government

IP Australia

IP Australia's Privacy Policy

PATENTS

TRADE MARKS

DESIGNS

PLANT BREEDER'S RIGHTS

Robust intellectual property rights delivered efficiently

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IP Australia's Privacy Policy

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1. Introduction

IP Australia administers Australia's intellectual property (IP) rights system, specifically patents, trade marks, designs and plant breeder's rights. We are an agency within the [Innovation, Industry, Science and Research](#) (IISR) portfolio.

For more information about IP Australia visit: www.ipaustralia.gov.au

1.1 Who should read this Privacy Policy?

You should read this policy if you are:

- an applicant for an IP right;
- an owner of an IP right;
- an attorney or agent for an applicant or owner;
- an individual whose personal information may be given to or held by IP Australia;
- a contractor, consultant, supplier or vendor of goods or services to IP Australia; or
- a person seeking employment with IP Australia.

Employees of IP Australia should read our staff privacy information.

1.2 The Privacy Act 1988

The *Privacy Act 1988* (the Privacy Act), and in particular the eleven *Information Privacy Principles* (IPPs) in Section 14 of that Act, regulates how federal and ACT public sector agencies and certain private sector organisations can collect, use, disclose and store *personal information*, and how you can access and correct that information.

- 'Personal information' is information in any form about an identifiable, living individual; broadly, it is any information which says something about you.

The Privacy Act applies only to individuals, not to entities such as businesses, corporations or trusts. Detailed information on the IPPs can be found on the [Privacy Commissioner's website](#).

1.3 IP Australia and privacy

This Privacy Policy sets out how IP Australia complies with the Privacy Act.

All of the four IP rights Acts administered by IP Australia (the *Patents Act 1990*, the *Trade Marks Act 1995*, the *Designs Act 2003* and the *Plant Breeder's Rights Act 1994*) require or authorise IP Australia to collect and publish information about IP rights and their applicants and owners. One reason for publication is to enable other people to contact the applicant or owner of the IP right. The monopoly granted to the IP rights owner requires them to be identifiable to others who may wish to identify, challenge or collaborate with them. This publication is permitted under the Privacy Act.

Additionally, a key principle of the patents and designs legislation is the publication of ideas to generate future innovation. For this reason, almost all information in patent and design documents must be made publicly available.

IP Australia understands that anonymity is an important element of privacy. For legal reasons it is not possible to apply for or own IP rights anonymously or under a pseudonym. In some situations, however, such as making an enquiry or giving us feedback, you may have the option of not identifying yourself. If IP Australia does not receive personal information about you the Privacy Act will not apply.

1.4 Information covered under this Privacy Policy

This Privacy Policy covers how IP Australia collects and handles your personal information. Occasionally you or another person might provide IP Australia with *sensitive information* (personal information about you that is of a sensitive nature). This might be personal information about your health or other personal circumstances; your financial affairs (including your credit card details); or other sensitive information. IP Australia's handling of your sensitive information is also covered under this Privacy Policy.

This Privacy Policy does not cover IP Australia's handling of commercially-sensitive information, or in-confidence or other levels of classified information.

2. IP Australia's Personal Information Handling Practices

2.1 Collection of personal information

Personal information about you may be collected by IP Australia from you, from your attorney or agent, or from a third party. We use forms, online portals and other electronic or paper correspondence to collect this information. We also use Australia Post as our agent to collect IP rights information.

IP Australia collects and holds a total of over 50 classes of personal information in connection with our business. These classes are detailed in the [Personal Information Digest](#) that we are required to submit to the Office of the Privacy Commissioner annually. Broadly grouped, our personal information holdings include:

- documents relating to IP rights' applications and registered or granted IP rights;
- distribution and mailing lists;
- databases and systems containing personal information and contact details of customers who provide feedback or request information, contributors to IP consultation and review processes and business and government contacts;
- systems holding financial and other information about tenderers, vendors and customers; and
- lists of attorneys, IP professionals and PBR Qualified Persons.

IP Australia will not ask you for any personal information which we do not need. IPP 1 provides that IP Australia should collect information only for a lawful purpose that is directly related to a function or activity of IP Australia and when the collection is necessary for, or directly related to, that purpose. For example, IP Australia collects personal information from IP rights' applicants, owners and others to enable us to:

- process applications for IP rights;
- maintain our records of granted/registered IP rights;
- process service requests or notices in relation to IP rights;
- contact applicants and owners of IP rights and people who make service requests or file notices with us; and
- perform other functions under the IP rights legislation we administer—including publishing information in the Registers and in the Official Journals.

Once published, other people may also use the personal information IP Australia has collected to contact applicants or owners about their IP rights.

We are also required under IPP 2 to notify you of the purpose for which the information is collected, if its collection is required or authorised by law and of any person or body to whom we usually disclose the information. IP Australia provides this notification by having Privacy Notices on all our application forms and online portals.

The personal information we collect about you may include your:

- name;
- address (for correspondence and/or address for legal service, and may include your residential address);
- other contact details, such as email address and phone details; and
- signature.

Sometimes you or another person may provide IP Australia with sensitive information about you including:

- your personal circumstances such as your medical history and other sensitive information (e.g. to support your request for an extension of time);
- your qualifications, work experience and referee reports about you (e.g. in support of your application for employment); and
- financial information such as your bank or credit card details (e.g. in connection with your payment for one of our services).

If you or another person provides us with personal information which we determine is not relevant for our purposes, we will not keep it in our records and instead will arrange for its return or secure destruction.

2.2 Collection of personal information – Australia Post

In 2009, we engaged Australia Post to deliver state-based IP Lodgement services for IP Australia through a selected Australia Post retail outlet in the capital city of each state and territory.

Australia Post's commitment to our customers who use the IP Lodgement service is secure receipt and delivery of your IP applications and service requests to IP Australia. Documents lodged using this service are couriered to IP Australia via Australia Post's Secure Overnight Courier Service. You may care to read Australia Post's [Privacy Policy](#).

Under Section 95B of the Privacy Act, Commonwealth agencies are required to take contractual measures to ensure that contracted service providers, (including sub-contractors) do not breach the IPPs. IP Australia requires all contractors and their sub-contractors to comply fully with the IPPs. This agreement between IP Australia and its contractors ensures that personal information in the possession of a contractor receives the same level of privacy protection as it would within IP Australia.

2.3 Access to and correction of personal information

You have a right under IPP 6 of the Privacy Act to access the personal information we hold about you. There are also specific provisions in the IP legislation we administer covering [access](#) to the information we hold including publication and access by third parties.

For trade marks and plant breeder's rights, documents held by IP Australia that are not available under the IP legislation can be requested under the [Freedom of Information Act 1982](#) (the FOI Act). Under the FOI Act, IP Australia must release requested documents (whether or not they contain personal information) unless they fall within one of the exemption categories. Documents held by IP Australia under the patents and designs legislation that are not open to public inspection (OPI) may be exempt under Section 38 of the FOI Act.

You have the right under IPP 7 of the Privacy Act to request corrections to any of your personal information that IP Australia holds if that information is incomplete, irrelevant, incorrect, out-of-date or misleading. IP Australia is required to take all reasonable steps as are allowed under the IP legislation and are reasonable in the circumstances to ensure that our records of personal information are accurate, relevant, up-to-date, complete and not misleading.

See the Appendices to this Privacy Policy for the specific provisions in each of the Acts we administer that allow the access and correction of information held by IP Australia.

2.4 Use and disclosure of personal information

Under the IP legislation we administer, IP Australia uses collected information, including personal information, for the primary purpose for which it was collected, including to:

- process applications for IP rights;
- process requests or notices in relation to IP rights;
- process requests for IP Australia's services, including training;
- respond to correspondence and customer feedback;
- provide secretariat services;
- maintain contact with IP experts, IP offices, Government agencies, research institutions and other key players;
- enable third parties and IP Australia to contact applicants and owners about their IP rights or about their requests or notices filed in relation to IP rights;
- distribute relevant information to IP rights applicants, owners and mailing list subscribers;
- conduct market research and consultative review processes; and
- perform other functions under the IP legislation.

We may also use personal information for reasonably expected secondary purposes directly related to the primary purpose or for other purposes permitted under the Privacy Act, including where the use is required or authorised by law or where the individual concerned has consented to the disclosure.

IP Australia discloses information, including personal information, about IP rights applicants, owners and others as required under the IP legislation we administer. Generally this disclosure occurs via publication in the Official Journals, Registers and databases in Australia and elsewhere, all of which are available on the internet. Disclosure of certain personal information enables other people to contact the applicants and owners to:

- challenge the validity of the IP right they have been granted;
- challenge their eligibility to be granted the IP right; and
- negotiate licensing, collaboration and other business ventures.

IP Australia may also disclose personal information for reasonably expected secondary purposes directly related to the primary purpose or for other purposes permitted under the Privacy Act, including where the disclosure is required or authorised by law or where the individual concerned has consented to the disclosure.

For detailed explanations of IP Australia's collection, storage, use and disclosure of personal information, read our Personal Information Digest which is published on our [website](#).

2.5 Market research

Periodically, IP Australia (or a company under contract to us) uses the personal information we have collected from applicants and owners of IP rights and their agents to conduct market research about our products and services.

We do not disclose personal information, for example mailing lists, to third parties to enable them to market their services and products.

2.6 Accidental or unauthorised disclosure of personal information

IP Australia will take seriously and deal promptly with any accidental or unauthorised disclosure of personal information. Internal auditing of the processes that enable the disclosure of information, coupled with an effective customer feedback system and ISO 9001-certified quality management system, ensures that any accidental disclosure of personal information by IP Australia would be identified quickly and remedied promptly.

External service providers who handle personal information about IP Australia's staff, customers or other individuals are bound contractually to comply with the requirements of the Privacy Act. Any possibility of unauthorised disclosure by staff, contractors or service providers is covered by the following legislative provisions:

- IP Australia's employees are subject to the Australian Public Service (APS) Values and Code of Conduct and if they disclose official information without authority in breach of Regulation 2.1 of the *Public Service Regulations 1999*, they may face disciplinary sanctions including, in the most serious cases, termination of employment;
- current and former employees and service providers are covered by the *Crimes Act 1914* (Sections 70 *Disclosure of information by Commonwealth officers* and 79 *Official secrets*) which provides for criminal penalties for unauthorised disclosure of official information;
- the *Criminal Code Act 1995* (Section 142.2 *Abuse of public office*) provides for similar penalties if former employees dishonestly use official information gained during their employment to benefit themselves or others or to cause harm to another person; and
- the *Designs Act* (Section 109 *Publication of information about designs*) and the *Patents Act* (Section 173 *Prohibition of publication of information about inventions*) provide for penalties if a person publishes information that is prohibited to be published.

2.7 Data quality

With our Quality Management System certified to the ISO 9001 standard, IP Australia is committed to continuously monitoring, maintaining and improving the quality of our products and services. Regular audits and quality inspections ensure the accuracy and integrity of information is checked regularly and any systemic data quality issues are identified and resolved promptly.

2.8 Storage and data security

IP Australia has controls in place to protect the information that it collects from loss; unauthorised access or disclosure; and from any other misuse. Access to information collected from our customers is restricted to authorised persons. Our internal network and databases are protected using firewall, intrusion detection and other technologies. Transactions made using the [Online Services](#) section of IP Australia's website are encrypted. Paper files containing sensitive information are protected in accordance with Australian Government security policy and secured in locked cabinets, Australian Government-approved security containers or Secure Rooms with restricted access. IP Australia's premises are under 24-hour surveillance and access is via security passes only. IP Australia regularly conducts audits and staff training to ensure we adhere to our established protective and computer security practices.

2.9 Records management

Storage of information (and the disposal of information when no longer required) is managed in accordance with Australian Government records management regulations, guidelines and authorities, including the *Archives Act 1983*, Records Authorities and General Disposal Authorities.

2.10 Our website

IP Australia's [website Privacy Statement](#) explains the privacy aspects of clickstream data, cookies, and e-mail.

2.11 Email communication

There are inherent risks associated with the transmission of information over the internet, including via email. You should be aware of this when sending personal information to us via email. If this is of concern to you then you should use other methods of communication with IP Australia, such as post, fax, or phone.

Never email your credit card details to IP Australia.

For more information about transacting electronically with IP Australia, read IP Australia's [Electronic Business Rules](#).

3. Complaints

3.1 How to make a complaint

If you think IP Australia has breached your privacy rights, you may:

- access the [customer feedback](#) form on our website; or
- contact us via any of the contact points listed in section 5 of this Policy.

Mark your feedback "Attention: Privacy Contact Officer" when sending it via any of the above methods.

3.2 IP Australia's complaint-handling commitment

We will send you a considered response to your complaint or suggestion within 20 working days if you provide your contact details. We are committed to quick and fair resolution of customer complaints and will ensure your complaint is taken seriously. You will not be victimised or suffer negative treatment if you make a complaint.

3.3 How to make a complaint to the Federal Privacy Commissioner

If you are dissatisfied with the way IP Australia handles your privacy-related complaint, you may contact the Federal Privacy Commissioner by:

Telephone 1300 363 992
Email privacy@privacy.gov.au
Post The Privacy Commissioner
 Office of the Australian Information Commissioner
 GPO Box 5218
 Sydney NSW 2001

You may make a complaint directly to the Privacy Commissioner rather than to IP Australia however it is likely that the Privacy Commissioner would recommend you try to resolve the complaint directly with IP Australia in the first instance.

4. Privacy Policy Updates

In line with IP Australia's certification under International Quality Standard ISO 9001:2008, this Privacy Policy will be reviewed and updated every three years or more frequently as required.

5. How to Contact Us

Contact IP Australia's Customer Service Centre if you want to:

- obtain access to your personal information;
- make a complaint about a breach of your privacy;
- query how your personal information is collected, used or disclosed; or
- ask questions about our Privacy Policy.

| | |
|-----------------------|--|
| Telephone | 1300 65 10 10 (callers within Australia) |
| International callers | +61 2 6283 2999 |
| TTY | +61 2 6283 2363 (for hearing impaired callers) |
| Fax | +61 2 6283 7999 |
| Email | assist@ipaaustralia.gov.au |

You can contact IP Australia's Privacy Contact Officer by any of the contact points above, or send a letter to:

The Privacy Contact Officer
IP Australia
PO Box 200
Woden ACT 2606
Australia

Appendix – IP Right-Specific Information

6. Patents and Personal Information

6.1 *Patents and privacy*

IP Australia is required under the *Patents Act 1990* (the Patents Act) to make almost all documents relating to a patent application publicly available once the application becomes Open for Public Inspection (OPI). Patent information that is OPI is available over the internet or paper copies can be purchased from IP Australia. Information about patent applications and granted patents is also published in the Australian Official Journal of Patents and Supplementary Official Journal of Patents, in the Register of Patents and in databases in Australia and elsewhere.

6.2 *Collection and holding of personal information*

6.2.1 Authority to collect personal information

IP Australia is authorised or required to collect information about patents under numerous sections of the Patents Act (including Section 29 *Application for a Patent*) and Patents Regulations (Regulations 1.8 *Completion of Applications*, 3.1 *Prescribed documents: patent applications* and 8.6 *Particulars required for Convention application – general*).

IP Australia is also authorised or required to collect information about international applications made under the Patent Cooperation Treaty (PCT) (Section 88 *PCT applications*) or the Paris Convention (Section 95 *Manner of making Convention application*).

6.2.2 About the personal information we collect

The personal information collected in connection with a patent may be about:

- the inventor or applicant for a patent;
- the owner or assignee of a patent or patent application;
- a licensee or other person entitled to an interest in a patent;
- a person opposing grant of the patent or an extension of time for the completion of an act under the Patents Act;
- a person who contests the validity of the patent, or the eligibility of the applicant to be granted the patent; or
- an agent acting on behalf of any of these persons.

Personal information is collected at key points in the lifecycle of a patent, such as when you are making an application; requesting examination; requesting amendments or extensions of time; making payments; filing notices of opposition; and at various other points in the application process.

6.2.3 How IP Australia holds personal information

IP Australia's main holdings of personal information about patents customers are in:

- databases, microfiche, books, journals, registers and files related to patent applications and granted patents;
- databases of subscribers to our patents publications and bulk data products; and
- mailing lists for notifications about system upgrades and other news.

Patent records are held in a number of electronic systems including IP Australia's Patents Administration Management System (PAMS) which is a secure electronic document management system.

Certain records, including personal information relating to patents and patent applications, are kept permanently. Documents, other than published patent specifications or those applications of historical or legal significance, are held for varying periods between five years and 35 years before being destroyed.

6.3 Access to and correction of personal information

You are entitled to access personal information we hold about you even where it is held in relation to an application that is not Open to Public Inspection (OPI). Access to other information about applications and inventions is governed by the OPI provisions of the Patents Act.

The Patents Act (Section 104 *Amendments by applicants and patentee*) and Regulations (Regulation 10.7 *Correction of Register or patent*) provide for patent applicants or owners of patents to request that errors or mistakes in patent documents held by IP Australia be amended. These requests are currently required in writing. While these provisions can be used to make changes to the current records, prior published editions of the Official Journal will reflect the information at that time and cannot be changed.

The Patents Act (Section 192 *Orders for rectification of Register*) also allows a person to apply to a prescribed court for an order to rectify an incorrect entry in the Register of Patents. Certain information provided in relation to an international application filed with IP Australia may also be corrected by the applicant either by filing a request with IP Australia or with the World Intellectual Property Organization (WIPO).

6.4 Disclosure of personal information

6.4.1 Authority to disclose personal information

IP Australia publishes information, including personal information, about patent applications and granted patents and other actions taken under the Patents Act in the Australian Official Journal of Patents, (AOJP) and the [Supplement to the Australian Official Journal of Patents](#). The AOJP is searchable via the Internet using [AusPat](#) – IP Australia's search system for Australian patent data. Publication is required under numerous provisions of the Patents Act (including Sections 53 *Publication of certain information about applicants, etc.*, 62 *Grant and publication of innovation patent* and 92 *Notice of publication*) and Patents Regulations (including Regulations 6.1 *Publication of notice of grant of standard patent* and 13.1 *Publication of notice of withdrawal of application*).

The Register of Patents and prescribed particulars of patents are required to be available for public inspection under the Patents Act (Sections 190 *Inspection of Register* and 193 *Inspection of documents*). The Register is searchable on the Internet using [AusPat](#).

Under the Patents Act (Section 55 *Documents open to public inspection*) and Patents Regulations (Regulation 4.3 *Prescribed documents: public inspection*), almost all documents relating to a patent application or granted patent must be made publicly available once the application becomes Open to Public Inspection (OPI). IP Australia provides access to this information over the internet and by paper copies. Once an application becomes OPI, all documents and information subsequently filed or generated in relation to that application or

patent become OPI automatically from the time they are filed or generated. This includes information that may be filed by third parties in relation to, for example, opposition and re-examination proceedings.

A **standard patent** application (level AU-A) usually becomes OPI 18 months after the application's earliest priority date but may become OPI earlier in certain circumstances including if requested by the applicant. Innovation patent applications become OPI when the innovation patent is granted. This usually occurs shortly after filing.

The Patents Act authorises the Commissioner of Patents to give any person information about a patent, a patent application that is OPI or a prescribed document or matter (Section 194 *Information obtainable from Commissioner*).

IP Australia routinely discloses all of the information in patent applications to foreign IP offices (Regulation 3.22 *Disclosure of patent documents and information to International Bureau etc.*), to IP professionals and to IP rights information subscribers (Section 222 *Publication of Official Journal etc.*).

Information relating to an international application under the PCT filed with IP Australia is disclosed to WIPO and may be provided to other foreign IP offices as required by the PCT. That information is published by WIPO 18 months after the application's earliest priority date and most information in the international application becomes OPI from that date.

6.4.2 Sensitive information

Sensitive information is held securely within IP Australia, but the Patents Act (Section 55 *Documents open to public inspection*) requires that almost all information relating to patents be made publicly available. This means that sensitive information contained in declarations and other

sensitive information provided in the course of pursuing a patent right may be viewed by the general public. The Patents Regulations (Regulation 4.3 *Prescribed documents: public inspection*) contain some exceptions to this disclosure.

6.4.3 Disclosure of personal information to foreign recipients

As indicated above, IP Australia routinely discloses information in patent applications to the International Bureau of the World Intellectual Property Office (WIPO) and/or to foreign IP offices in a number of countries as authorised under the Patents Regulations (Regulation 3.22 *Disclosure of patent documents and information to International Bureau etc.*) or under the PCT. This disclosure is necessary to enable patent applications to be made in other countries and also facilitates work-sharing arrangements between international IP offices.

The disclosed applications form part of the prior art used to determine whether patents can be granted in other jurisdictions.

Information in an application is generally not disclosed to foreign recipients before it is OPI unless as a result of a request made by the applicant or otherwise with their consent.

Anyone from Australia or overseas can access the information about patents and patent applications that is available on IP Australia's website. This includes the contact details for applicants and owners and their attorneys or agents that are published in the AOJP, the Register of Patents and our databases in connection with patents.

7. Trade Marks and Personal Information

7.1 Trade Marks and privacy

IP Australia is required under the *Trade Marks Act 1995* (the Trade Marks Act) to publish certain information in trade mark applications, including names of trade marks applicants and owners and their addresses for legal service, in the Australian Official Journal of Trade Marks (AOJTM) and the Register of Trade Marks. The information may also be published in databases in Australia and elsewhere.

Once published, this information is available over the internet or paper copies can be purchased from IP Australia. To prevent private residential addresses from being published, applicants may choose to use a post office box for their address and also as their address for legal service if they are not represented by an attorney or agent.

Recent amendments to the Trade Marks Act introduced an updated regime for accessing information relating to trade mark applications. The new system applies to trade mark applications and documents filed on or after 27 March 2007. Previously trade mark documents were available only under the provisions of the *Freedom of Information Act 1982* (the FOI Act). The new regime is intended to enable easier access to trade mark documents and information.

7.2 Collection and holding of personal information

7.2.1 Authority to collect personal information

IP Australia is authorised or required to collect information about trade marks under numerous sections of the Trade Marks Act and Regulations (including Sections 27 *Application – how made*, 69 *Registration – how effected*, 96 *Notice of opposition*, and 117 *Application to have claims to interest etc. recorded*) and Trade Marks Regulations (including, Regulations 5.3 *Extension of time for filing - application*, 10.4 *Recording of the assignment etc. of registered trade marks*, 17.1 *Evidence in support of applications*, and 21.3 *Filing of documents – common requirements*). The Minimum Filing Requirements for a trade mark application include a requirement for sufficient information to establish the identity of the applicant and to enable IP Australia to contact the applicant (Regulation 4.2 *Application in approved form – requirements for filing*).

7.2.2 What personal information is collected

The personal information collected in connection with a trade mark may be about:

- a person applying for registration of a trade mark or the owner of a registered mark;
- a person approved to certify goods and/or services in respect of which a certification trade mark has been registered;
- a person opposing registration of a trade mark;
- a prior and subsequent owner of a trade mark;
- a person applying for removal of a registered trade mark from the register for non-use or a person opposing such an application;
- a person claiming an interest in, or right in respect of a trade mark (other than the owner);
- a person applying for, or opposing, an extension of time for an act to be done under the trade marks legislation; or
- an agent acting on behalf of any of these persons.

Personal information is collected at key points in the lifecycle of a trade mark, including when making an application; registering or renewing a trade mark; requesting amendments or extensions of time; making payments; filing notices of opposition; and at various other points in the application and registration processes.

7.2.3 How IP Australia holds personal information

IP Australia's main holdings of personal information about trade marks customers are in:

- databases, journals, registers and documents related to trade mark applications and registered trade marks;
- databases of subscribers to our trade marks publications and bulk data products; and
- mailing lists for notifications about system upgrades and other news.

Trade Mark records are mainly held in the Trade Marks Records and Correspondence System (TRACS) which is a secure electronic document management system.

The records are required to be kept for at least 25 years after the registration of a trade mark expires, or 10 years after an application lapses or is withdrawn. A small subset of records is retained even longer if they have a particular historical or legal significance. Physical evidence and some documentary evidence supplied for the purpose of obtaining registration is also required to be kept for 25 years after the registration of a trade mark expires, or ten years after an application lapses or is withdrawn.

7.3 Access to and correction of personal information

The Trade Marks Act provides for corrections to be made to the Register of Trade Marks where required (Section 81 *Correction of the Register*). Some minor corrections may be requested by phone, however most requests for corrections are required in writing. Corrections can be made only to trade marks that are "in force" or "protected".

When a trade mark application is filed with IP Australia, the applicant has 14 days in which to request amendments to their application before the application is published (Section 64 *Amendment before particulars of application are published*). These amendments may be to correct only a clerical error or obvious mistake. Once published, only minor amendments are allowable to the trade mark itself and the goods and services for which registration is sought (Sections 65 *Amendment after particulars of application have been published – request for amendment not advertised*, and 65A *Amendment after particulars of application have been published – request for amendment advertised*).

The Trade Marks Act provides for changes to names and addresses of applicants and trade mark owners to be made (Sections 215 *Address for service*, 216 *Change of name* and 106 *Assignment etc. of trade marks* and associated Regulations). While these provisions can be used to make changes to the current records, the changes will be recorded in the database history and are viewable online. In addition, prior published editions of the Official Journal will reflect the information at that time and cannot be changed.

The Trade Marks Act (Section 85 *Amendment to correct error or omission*) also allows a person to apply to a prescribed court for an order to rectify an incorrect entry or omission in the Register of Trade Marks.

7.4 Disclosure of personal information

7.4.1 Authority to disclose personal information

As required under the Trade Marks Act, IP Australia publishes information, including personal information, about trade mark applications and registrations and other actions taken under the Trade Marks Act in the [Australian Official Journal of Trade Marks](#) (AOJTM) which is searchable on the [Internet](#). Information, including personal information, contained in a trade mark application is published in the AOJTM within a few days of filing provided the application meets the minimum filing requirements (including Sections 30 *Particulars of application to be published*, 71 *Notification of registration*, 95 *Notification of application*, and 226 *Publication of Official Journal etc.*) and Trade Marks Regulations (Regulations 4.7 *Publication of particulars of application*, 10.3 *Particulars of recorded assignment or transmission to be published*, and 17A.25 *Notice of final decision on examination*).

The Register of Trade Marks and prescribed particulars about trade marks are required to be available for public inspection under the Trade Marks Act (Section 69 *Registration – how effected*, 209 *Inspection of the Register*, and 217A *Prescribed documents relating to trade marks to be made available for public inspection*) and Trade Marks Regulations (Regulation 7.2 *Particulars to be entered in Register*, 17A.72 *Documents to be made available for public inspection*, and 21.11A *Documents to be made available for public inspection*). The Register is searchable via the Internet using the Australian Trade Marks Online Search System ([ATMOSS](#)).

Under the trade marks legislation, if a trade mark application, notice or request is withdrawn, IP Australia must notify all of the applicants concerned (Regulation 21.10 *Withdrawal of application etc. – Registrar’s notice to applicants*). If an applicant notifies IP Australia that the address for service for the application has changed, IP Australia must give copies of this notification to any other people connected to the application and others as directed by the Registrar (Regulation 21.11 *Change of address for service – notice to interested persons*).

Under the trade marks legislation IP Australia must disclose all of the information in applications for certification trade marks to the Australian Competition and Consumer Commission (ACCC) (Section 174 *Registrar to send documents to Commission* and Regulation 16.2 *Documents to be sent to the Commission*).

Copies of documents related to trade mark applications undergoing opposition proceedings are routinely made available to parties involved in the opposition.

IP Australia routinely discloses information in trade mark applications to IP professionals and IP rights information subscribers (Section 226 *Publication of Official Journal etc.*).

7.4.2 Sensitive information

Sensitive information is held securely within IP Australia. The Trade Marks Act states that prescribed documents relating to trade marks are to be made available for public inspection (Section 217A *Prescribed documents relating to trade marks to be made available for public inspection*). There are a number of exceptions to this disclosure under Trade Marks Regulation 21.11A *Documents to be made available for public inspection*, including declarations and documents subject to court orders or legal privilege however, under the FOI Act, sensitive information contained in declarations and other sensitive information provided in the course of pursuing a registered trade mark may be accessed by members of the general public.

7.4.3 Disclosure of personal information to foreign recipients

IP Australia usually discloses all of the information in trade mark applications made under the Madrid Protocol to the International Bureau of the World Intellectual Property Office (WIPO) in Switzerland. This disclosure is necessary to enable trade mark applications to be made in other countries (Trade Marks Regulation 17A.7 *Application for international registration*).

Anyone from Australia or overseas can access the information about trade marks and trade mark applications that is available on IP Australia's website. This includes the contact details for applicants and owners and their attorneys or agents that are published in the AOJTM, the Trade Marks Register and our databases in connection with trade marks.

8. Designs and Personal Information

8.1 *Designs and privacy*

IP Australia is required under the *Designs Act 2003* (the Designs Act) to make almost all documents relating to a design publicly available once that design is registered or published. Information about design applications and registered and published designs is also published in the Australian Official Journal of Designs, in the Register of Designs and in databases in Australia and elsewhere.

Once published, this information is available over the internet or paper copies can be obtained from IP Australia. To prevent private residential addresses from being published, applicants may choose to use a post office box for their address for legal service if they are not represented by an attorney or agent.

8.2 *Collection and holding of personal information*

8.2.1 Authority to collect personal information

IP Australia is authorised or required to collect information about designs under various sections of the Designs Act (including Section 21 *Person may file a design application*) and Regulations (including Regulations 3.01 *Minimum filing requirements*, 3.10 *Disputes between applicants – requests for determinations*, and 11.13 *Extensions of time for doing a relevant act*).

8.2.2 About the personal information we collect

The personal information collected in connection with a design may be about:

- an author of a design;
- an applicant for a registered design;
- an owner of a registered design;
- a person contesting the registrability of a design;
- a person requesting or opposing an extension of time for the doing of an act under the designs legislation; or
- an agent acting on behalf of any of these persons.

Personal information is collected at key points in the lifecycle of a design, such as when making an application; requesting registration; requesting amendments or extensions of time; making payments; requesting examination; filing notices of opposition; and at various other points in the application and registration process.

8.2.3 How IP Australia holds personal information

IP Australia's main holdings of personal information about designs customers are in:

- databases, journals, registers, files, microfiche and search cards related to design applications and registered or published designs;
- databases of subscribers to our designs; and
- mailing lists for notifications about system upgrades and other news.

Designs paper files are held securely within IP Australia's premises.

Designs records are generally eligible for destruction seven years after a design registration ceases, although those of national or historic interest are kept permanently.

8.3 Access to and correction of personal information

The Designs Act provides for corrections to be made to the Register of Designs where required (Regulation 9.05 *Correction of Register*). Requests for corrections are required in the approved form. Changes of ownership and changes of address for service and/or correspondence are required to be recorded in the Register under the Designs Act (Section 114 *Amendments of Register to record changes in ownership*) and Designs Regulations (9.03 *Amendments of Register to record changes in ownership*, 11.19 *Service of documents* and 11.20 *Address for correspondence*).

The Designs Act (Section 120 *Rectification of Register*) also allows a person to apply to a prescribed court for an order to rectify an incorrect entry or omission in the Register of Designs. While these provisions can be used to make changes to the current records, prior published editions of the Official Journal will reflect the information at that time and cannot be changed.

8.4 Disclosure of personal information

8.4.1 Authority to disclose personal information

IP Australia publishes information, including personal information, about design applications and registrations and other actions taken under the Designs Act in the [Australian Official Journal of Designs](#) (AOJD) which is searchable on the [Internet](#). Information, including personal information, contained in a design application is required to be published in the AOJD once the design is “registered” or “published”, under the Designs Act (including Sections 25 *Publication of receipt of application*, 45 *Registrar must notify applicant and give public notice*, and 57 *Publication of a design*), and Designs Regulations (including Regulations 3.04 *Publication of receipt of application*, 4.08 *Certificate of registration and notice of registration*, *Certificate of examination and notice of examination*, and 11.13 *Extensions of time for doing a relevant act*).

The Register of Designs and prescribed particulars about registered or published designs are required under the Designs Act to be available for public inspection (Section 111 *Registrar must keep a Register*, Section 113 *Inspection of the Register* and Regulations 9.01 *Other particulars to be entered in the Register* and 9.02 *Inspection of Register*). The Register is searchable online using the Australian Designs Data Searching ([ADDS](#)). Limited information on design applications is also available on ADDS.

Under the Designs Act, almost all documents relating to a registered or published design must be made available for public inspection (Section 60 *Design applications for registered designs and associated documents to be open for public inspection* and Section 61 *Certain documents not to be published*).

The Registrar of Designs must make available to the public any material provided in relation to whether a registered design is new or distinctive (Section 64 *Requirements for request for examination of design* and Section 69 *Certain material may be provided to Registrar*).

Copies of documents related to designs undergoing opposition proceedings are routinely made available to parties involved in the opposition.

8.4.2 Sensitive information

Sensitive information is held securely within IP Australia. The Designs Act requires almost all documents relating to a registered or published design to be made available for public inspection (Section 60 *Design applications for registered designs and associated documents to be open for public inspection*). There are a number of exceptions to this disclosure under Section 61 *Certain documents not to be published*, including documents subject to court orders or legal privilege. It is possible however that sensitive information may be required to be made available to the public under the designs legislation.

8.4.3 Disclosure of personal information to foreign recipients

While the personal information we collect is not disclosed to specific foreign recipients, anyone from Australia or overseas can access the information about designs and design applications that is available on IP Australia's website. This includes the contact details for applicants and owners and their attorneys or agents that are published in the AOJD, the Register of Designs and our databases in connection with designs.

9. Plant Breeder's Rights and Personal Information

9.1 *Plant Breeder's Rights and privacy*

IP Australia is required under the *Plant Breeder's Rights Act 1994* (the PBR Act) to publish certain information about plant breeder's rights (PBR) applications for plant varieties, including names of PBR applicants and owners and their agents and their addresses for legal service, in the Plant Varieties Journal and the Register of Plant Varieties. Almost all information contained in PBR applications and granted PBR is available directly from IP Australia or may be obtained under the provisions of the *Freedom of Information Act 1982* (the FOI Act).

9.2 *Collection and holding of personal information*

9.2.1 Authority to collect personal information

IP Australia is authorised or required to collect information about PBR under a number of sections of the PBR Act, (including Sections 26 *Form of application for PBR*, 27 *Names of new plant varieties*, 31 *Requests for variation of application*, and 34 *Detailed description in support of application to be given to Secretary*).

9.2.2 About the personal information we collect

The personal information collected in connection with a PBR may be about:

- the applicant for a PBR;
- a breeder of a plant variety;
- a person applying for a declaration of essential derivation;
- a subsequent owner;
- a licensee or other person entitled to an interest in a PBR;
- a person commenting on, or objecting to, grant of the PBR;
- a person who contests the validity of an existing PBR; or
- an agent acting on behalf of any of these persons.

Personal information is collected at key points in the lifecycle of a plant breeder's right, such as when making an application; requesting amendments or extensions of time; making payments; requesting examination; filing notices of objection; and at various other points in the application and registration process.

9.2.3 How IP Australia holds personal information

IP Australia's main holdings of personal information about PBR customers are in:

- databases, journals, registers and files related to PBR applications and registered plant varieties;
- databases of subscribers to our PBR publications; and
- mailing lists for notifications about system upgrades and other news.

PBR records are held in hardcopy case files and a number of secure internal electronic systems. Case files, including documents related to plant breeder's rights applications, are kept indefinitely.

9.3 Access to and correction of personal information

The PBR Act authorises the Registrar of PBR to change applicant names and addresses for service in applications and in the Register of Plant Varieties when required (including Sections 21 *Registrar must be notified of an assignment of PBR* and 31 *Requests for variation of an application*). Information contained in the Register of Plant Varieties can be corrected (Section 61 *Register of Plant Varieties*). While these provisions can be used to make changes to the current records, prior published editions of the Plant Varieties Journal will reflect the information at that time and cannot be changed.

9.4 Disclosure of personal information

9.4.1 Authority to disclose personal information

The Registrar is required under the PBR Act to publish the [Plant Varieties Journal](#) (PVJ), and to publish in the PVJ the name and contact numbers of the title-holder, and the name and address of the qualified person describing the variety, any public notices and a list of all approved persons in relation to particular species of plants (Sections 8 *Approved persons* and 68 *Public notices*).

The Registrar is required under the PBR Act to give public notice when an application is varied, including assignments of ownership (Section 32 *Notification of decisions on requests to vary application*).

Under the PBR Act, any person may inspect or be given a copy by IP Australia of an application, an objection, or a detailed description of a plant variety; however, some information in the application, including details of the parent varieties used in a breeding program, is available only to the applicant, the applicant's authorised agent, the Minister, the Secretary of the Department, a person required to inspect (such as a PBR examiner) and a person prescribed to inspect (Section 36 *Inspection of applications and objections*).

The Registrar is required under the PBR Act to keep a Register of Plant Varieties, and may disseminate the information in the Register on the [internet](#) or any other way that would make it easily accessible (Section 61 *Register of Plant Varieties*). This information may be inspected by members of the public and copies of the information can be purchased (Section 62 *Inspection of the Register*).

Copies of documents related to PBR applications undergoing opposition proceedings are routinely made available to parties involved in the opposition.

9.4.2 Sensitive information

Sensitive information is held securely within IP Australia; however, under the FOI Act, sensitive information contained in declarations and other sensitive information provided in the course of pursuing a plant breeder's right may be accessed by members of the general public.

9.4.3 Disclosure of personal information to foreign recipients

While the personal information we collect is not disclosed to specific foreign recipients, anyone from Australia or overseas can purchase copies of PBR applications from IP Australia. This information includes the contact details for applicants and owners and their attorneys or agents that are collected in connection with plant breeder's rights. In addition, the contact information of PBR applicants and owners and their attorneys or agents is published on IP Australia's website, making this information available to any person from Australia or overseas.



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