



Australian Government

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Official Notice

Filing of Unnecessary Correspondence in Trade Mark Oppositions

Approximately 30% of the correspondence received by IP Australia in relation to trade mark oppositions comprises material that is not required under the *Trade Marks Act and Regulations 1995* and does not require official action.

Parties to opposition proceedings are requested to consider the relevance of correspondence before filing it with IP Australia. This will assist in reducing the level of unnecessary handling and processing activities within IP Australia, resulting in more efficient service to clients. Examples of unnecessary correspondence are set out below:

Type of Correspondence	Reason correspondence is unnecessary	Exceptions (instances where we need advice and from whom)
1. Confirmation of Faxes. (See Journal of 17/4/03)	<ul style="list-style-type: none">No requirement for either party to confirm faxed correspondence¹.	<ul style="list-style-type: none">Where there is a requirement to file an original declaration as part of evidence pursuant to Parts 5 and 21 of the Trade Mark Regulations.
2. Receipt of Notice of Opposition.	<ul style="list-style-type: none">The responsibility is on the opponent to provide notification of service pursuant to regulation 21.8	<ul style="list-style-type: none">Advice is required from the applicant or the non-use applicant only if they have not received a copy of the Notice within one month of being notified by IP Australia of its filing.
3. Receipt of an application for an extension of time.	<ul style="list-style-type: none">The responsibility is on the applicant for the extension of time to provide notification of service pursuant to regulation 21.8.	<ul style="list-style-type: none">a party has not been served with the extension application after being notified by IP Australia of its filing; orif there is an objection to the extension.
4. Consent to an application for extension of time.	<ul style="list-style-type: none">No requirement for the recipient to advise IP Australia.	

¹ IP Australia now has an improved tracking process for the receipt and recordal of faxed documents. The parties to opposition matters are therefore asked to cease, in particular, the confirmation of routine faxes.

5. Advice of intention not to request an award of costs after the withdrawal of a Trade Mark Application, Notice of Opposition or Application for Removal for Non-use.	<ul style="list-style-type: none"> ▪ No requirement on a party to advise the IP Australia. 	
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If parties have any doubts as to whether certain opposition correspondence is needed, they should contact IP Australia's Customer Service Network before filing the correspondence.

Contact details are: Phone: 1300 651 010; Fax: (02) 6283 7999; E-mail: assist@ipaaustralia.gov.au

Opposition Evidence — Identification

The manner in which evidence is presented often creates difficulties for Trade Marks Hearings Section staff and hearing officers. In the interests of most efficient tracking and consideration of opposition evidence, customers are requested to provide the following details with their filed and served evidence, either as a clear and obvious part of the letter or as a cover sheet:

- type of evidence (eg, support, answer, etc);
- whether it is part, balance or complete evidence;
- the name of the declarant(s);
- date of the declaration(s); and
- an index giving details of any exhibits and/or annexures to the declaration(s).

Queries: Robert MacRae
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