



Designs (Means of Filing Documents) Determination 2019

I, Frances Roden, Registrar of Designs, make the following determination.

Dated 15 January 2019

Frances Roden

Frances Roden
Registrar of Designs

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Part 1—Preliminary

1 Name

This determination is the *Designs (Means of Filing Documents) Determination 2019*.

2 Commencement

- (1) Each provision of this determination specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this determination	At the same time as Parts 2 and 3 of Schedule 2 to the <i>Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018</i> . However, the provisions do not commence at all if those parts do not commence.	
Note 1:	This table relates only to the provisions of this determination as originally made. It will not be amended to deal with any later amendments of this determination.	
Note 2:	Parts 2 and 3 of Schedule 2 to the <i>Intellectual Property Laws Amendment (Productivity Commission Response Part 1 and Other Measures) Act 2018</i> commence at the same time as Parts 2 and 3 of Schedule 1 to that Act: see item 6 of the table in subsection 2(1) of that Act. Parts 2 and 3 of Schedule 1 to that Act commence on 24 February 2019, unless proclaimed to commence earlier: see item 3 of the table in subsection 2(1) of that Act, after that Act received the Royal Assent on 24 August 2018.	

- (2) Any information in column 3 of the table is not part of this determination. Information may be inserted in this column, or information in it may be edited, in any published version of this determination.

3 Authority

This determination is made under subsection 144A(1), for the purposes of section 144 of the Act.

4 Definitions

In this determination:

Act means the *Designs Act 2003*.

ALS (short for Alternative Lodgement Service) means the backup function accessible from IP Australia's website that can be invoked during outages of the digital lodgement systems.

API system (short for Application Programming Interface system) means any transactional interface, application, mobile application, website or the like that utilises an application programming interface provided by IP Australia.

B2B (short for Business to Business) means the electronic channel known as B2B maintained by IP Australia.

digital lodgement systems means any website, mobile application or other similar system provided by IP Australia to lodge transactions.

Note: At the time this determination commenced, the only digital lodgement system was the website known as eServices.

EFS (short for Emergency Facsimile Service) means the facsimile service that is provided by IP Australia when digital lodgement systems and ALS are unavailable due to planned or unplanned outage.

IP Lodgement Counter means a facility provided by IP Australia for the processing of transactions in person.

Note: At the time the determination commenced, the IP Lodgement Counter is located at IP Australia, 47 Bowes Street, Phillip, ACT 2606.

Regulations means the *Designs Regulations 2004*.

5 Application of determination

This determination does not apply to a document mentioned in subsection 5(1) of the *Designs (Documents and Evidence) (Proceedings) Instrument 2019*.

Note: The *Designs (Documents and Evidence) (Proceedings) Instrument 2019* determines the means for filing documents and evidence for proceedings in relation to designs.

Part 2—Means for filing documents

6 Approved means of filing documents

- (1) A document is to be filed with the Designs Office using:
- (a) the electronic means mentioned in subsection (2); or
 - (b) the other means mentioned in subsection (3).

Note: The Regulations deal with the filing date for design applications: see regulation 3.05 of the Regulations. Where documents comprising a design application are filed partly using electronic means and partly using other means, and the documents are received on different dates, the application of the Regulations may mean that the filing date for the application is the date on which the last document was filed.

- (2) For paragraph (1)(a) the electronic means are:
- (a) digital lodgement systems;
 - (b) an API system;
 - (c) B2B;
 - (d) ALS;
 - (e) EFS, if no other electronic means is available.

Note: For a document (including any attachments) filed with the Designs Office using electronic means, the time of receipt of the document is the time in Canberra, ACT

(Australian Eastern Standard/Daylight Time) when the entirety of the document is capable of being retrieved from IP Australia's information system; see section 14A of the *Electronic Transactions Act 1999*. Users should note that the time of receipt may be different to the time in the user's location.

- (3) For paragraph (1)(b), the other means are:
- (a) post;
 - (b) delivery in person to the IP Lodgement Counter.

Note 1: At the time this determination commenced, the postal address of the Designs Office was PO Box 200, Woden, ACT 2606.

Note 2: Section 29 of the *Acts Interpretation Act 1901* may govern when filing of a document with the Designs Office by post is taken to be effected.

7 Preferred means for filing documents

- (1) The preferred means for filing a document with the Designs Office are:
- (a) digital lodgement systems; or
 - (b) an API system; or
 - (c) B2B.
- (2) If a person is attempting to file a document with the Designs Office by a means specified in subsection (1), and the person is unable to do so due to maintenance, the preferred means of filing a document is by ALS.

Note: Note: At the time this determination commenced, the *Alternative Lodgement Service user guide* provided guidance on using ALS, and was available on IP Australia's website at <http://www.ipaustralia.gov.au>.

- (3) For the purposes of subsection (2), if ALS is unavailable due to a planned or unplanned outage, the preferred means of filing a document is by EFS.
- (4) Where subsection (3) applies, the person must also complete and file a Declaration for use of Emergency Fax form.

Note 1: At the time this determination commenced, the Declaration for use of Emergency Fax form was available on IP Australia's website at <http://www.ipaustralia.gov.au>.

Note 2: Under the Regulations, reduced fees may be payable for filing a document by preferred means: see subsection 130(2A) of the Act