



Challenging a decision made by IP Australia



How to review, oppose or appeal a decision

This factsheet is for people and businesses who have applied for or opposed a trade mark or patent. It explains what you can do if you disagree with a decision, such as:

- an examiner's report identifying issues with your application (an 'adverse examination report')
- a decision relating to an extension of time application
- a decision from a hearing or opposition proceeding
- other outcomes or decisions you wish to review.

Receiving an adverse examination report

You may receive an adverse examination report that identifies issues with your application. Once received, it's important to:

- **read the report carefully** – it details the issues and how you might resolve them
- **respond as soon as possible** – the report sets a time limit for resolution, if you don't respond in time, your application will lapse
- **contact the examiner of your application if you have questions.**

For further information, visit:

- [How to respond to an examination report – trade marks](#)
- [How to respond to an examination report – patents.](#)

Request a hearing

If you can't resolve the issues raised by an examiner, you can request a hearing before one of our decision-makers.

A hearing is conducted by a hearing officer who sits within IP Australia and is independent of the examination area. The hearing officer reviews any information before them and may decide to accept or refuse your application, or provide a further opportunity to address remaining issues.

Acceptance of an application doesn't guarantee registration or grant – third parties can still oppose your application through an opposition proceeding.

Fees apply when a hearing is requested. For more information, visit [Opposition and objection fees](#).

Disputing someone else's accepted application

If one of your competitors applies for a trade mark or patent and we accept that application, you can oppose it.

For more information, visit:

- [How to challenge someone else's IP](#)
- [Opposition and objection fees](#)
- [Evidence in oppositions and PBR objections](#)
- [Opposition hearings](#)



Appealing the outcome of a hearing or opposition proceeding

You can appeal a trade mark decision from a hearing or opposition proceeding to the [Federal Court of Australia](#) or [Federal Circuit and Family Court of Australia](#) (FCFCOA) within 21 days of the decision date.

For patent hearings and oppositions, you can appeal only to the Federal Court of Australia within the same 21-day timeframe.

This will not be a review of the decision, but will be a complete rehearing of the matter – the court can consider new grounds and evidence not previously presented by the parties. Following the hearing, the court will make its own determination on the matter.

- For detailed information on how the court manages these matters, visit: [Intellectual Property Practice Notes](#) (Federal Court of Australia).
- [Standard Directions for Australian Patent Proceedings](#) (Federal Court of Australia) – outlines how patent matters are managed to ensure disputes are resolved as quickly, inexpensively and efficiently as possible.
- [General Federal Law Practice Direction – Intellectual Property proceedings](#) (FCFCOA).

Before taking further action, it's recommended you seek advice from a qualified IP professional.



Other types of decisions

For other types of decisions made by us that you disagree with, there may be additional review options available, such as:

- internal review within IP Australia, or
- external review through the [Administrative Review Tribunal](#) or a court.

If you have further questions about the options available to you following the outcome of a decision, you can contact us for further information.

Before taking further action, it's recommended you seek advice from a qualified IP professional.



Seek advice from a qualified IP professional

Before deciding what to do next, we recommended you seek advice from a qualified IP professional such as a lawyer, or a patent or trade marks attorney. A qualified IP professional can explain your options and help you assess risks and likely outcomes.



Want to know more?

To learn more, please see our [Going to court for an IP dispute](#) factsheet, or visit [Get professional assistance with your IP](#).

This is general information only and is not legal advice. Your individual circumstances may vary and you should seek informed advice from a legal professional.

