



Australian Government
IP Australia

Privacy Policy

April 2014



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Who should read this policy?

IP Australia's privacy policy is written primarily for the benefit of our customers and staff (whether teleworking or located in the National office).

You should read this policy if you are:

- an applicant for an Intellectual Property Right (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;
- a person seeking employment with IP Australia; or
- an IP Australia employee.

The Privacy Act

The [Privacy Act 1988](#) (Privacy Act) regulates how Australian Government and certain private sector organisations must handle personal information.

The Privacy Act contains 13 Australian Privacy Principles (APPs) which provide the rules for how agencies such as IP Australia must handle your personal information, including how you can request access to, and correction of, that personal information.

Detailed information on the Privacy Act and the APPs can be found on the website of the [Office of the Australian Information Commissioner](#) (OAIC).

IP Australia and the Privacy Act

IP Australia is committed to compliance with the Privacy Act. This policy sets out how IP Australia, as an 'APP entity' under the Privacy Act, manages personal information and complies with that Act and the APPs under that Act.

IP Australia is the Australian Government agency responsible for administering IP Rights. We are a prescribed agency within the [Department of Industry](#). For more information about IP Australia visit: www.ipaustralia.gov.au

In accordance with performing our functions and activities, IP Australia may collect, hold, use and/or disclose your personal information.

IP Rights legislation and privacy

IP Australia administers the following legislation:

- *Patents Act 1990*;
- *Trade Marks Act 1995*;
- *Designs Act 2003*;
- *Plant Breeder's Rights Act 1994*; and

- *Regulations* made under those Acts.

All require or authorise IP Australia to collect and publish information about IP Rights. This includes collecting and publishing some personal information about people in relation to those IP Rights.

If you require more detailed information regarding the handling of personal information collected under our IP Rights legislation, please see the [IP Australia – Information Digest](#).

Information covered by this policy

The Privacy Act only provides protection for personal information. If IP Australia does not collect your personal information, the Privacy Act and this policy will not apply.

Section 6 of the Privacy Act defines ‘personal information’ as:

...information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- (a) whether the information or opinion is true or not: and*
- (b) whether the information or opinion is recorded in a material form or not.*

Personal information includes information such as:

- your name or address;
- bank account details and credit card information;
- photos; and
- information about your opinions and what you like.

Kinds of personal information collected and held

The personal information we may collect includes:

- name and date of birth;
- marital status and details of family members;
- gender;
- address (for correspondence and address for legal service and may include your home address);
- contact details, such as email address, fax and telephone numbers;
- information about applications for an IP Right, opposition to another’s IP Right or ownership of an IP Right;
- financial information such as debts, bank account, credit card details and results of bankruptcy checks;
- declarations of pecuniary interest;
- occupation, employment and position, qualifications, work experience, professional memberships, referee reports, employment history and academic record;
- disciplinary records of patent and trademark attorneys – including conduct;
- employee and contractor information and files, including leave, building and systems access, photograph and security clearance level;
- employee performance and remuneration arrangements;
- passport details, visas and overseas travel;
- citizenship or immigration status;
- business details (Australian Business Number and Australian Company Number); and

- Tax File Numbers of employees, contractors and vendors.

IP Australia may also collect sensitive information (a particular type of personal information under the Privacy Act), where relevant to our functions and activities, such as:

- information concerning personal circumstances (such as a medical history or other health-related information);
- sexual orientation;
- disabilities;
- racial and ethnic origin;
- criminal convictions and intelligence, including security assessments; and
- religious affiliation.

The sensitive information we collect is primarily information about our staff, collected for the purposes of the administration and management of our human resources.

Need more information on IP Australia's personal information collections?

For detailed information on IP Australia's current personal information holdings, please view the [IP Australia – Information Digest](#).

For details on the information collected by our website, see IP Australia's [Website Usage Information Policy](#).

What are IP Australia's personal information handling practices?

How is personal information collected?

IP Australia usually collects personal information via forms, online portals (such as e-Services) and other electronic and paper correspondence.

IP Australia may also collect personal information via:

- telephone;
- face to face meetings;
- IP Australia's website; and
- IP Australia's social media websites and accounts.

Collection of personal information from you

Where possible, we will collect your personal information directly from you or your authorised representative.

If we receive your personal information from another party, we will contact you (if we have sufficient information to do so and it is reasonable in the circumstances). Some exceptions to advising you may arise where:

- you have provided consent or reasonably expect the collection to occur;
- the collection is required or authorised by or under law;
- the collection is for the purposes of an investigation or personnel issues; or
- the collection is for the purposes of litigation or legal advice.

There may also be instances in which we receive your personal information from our contracted service providers, who have collected your information on behalf of IP Australia.

Contracted Service Providers

The Privacy Act requires agencies to take contractual measures to ensure that contracted service providers (including sub-contractors) do not breach the APPs. IP Australia requires all contractors and their sub-contractors to comply with the requirements of the Privacy Act.

Such agreement between IP Australia and our contractors ensures that personal information in the possession of a contractor receives the same level of privacy protection as it would within IP Australia.

What are the purposes for collecting, holding, using and disclosing personal information?

IP Australia will only collect the personal information needed to perform our functions and to undertake our activities.

IP Australia collects personal information 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;
- perform other functions under the IP Rights legislation we administer - including publishing information on our Registers and in the Official Journals;
- perform employment and personnel functions in relation to IP Australia employees and contractors;
- handle complaints (including privacy complaints);
- manage correspondence with the public;
- perform our administrative functions and activities;
- manage financial arrangements, such as payment to vendors, contracted service providers and funding recipients;
- keep our information and property secure (security information); and
- contribute to the World Intellectual Property Organization (WIPO) meetings, training and processes.

Uses of personal information

IP Australia uses personal information for the primary purpose for which it is collected. You will ordinarily be given information about the primary purpose of collection at the time the information is collected.

Uses - IP Rights personal information

Under the IP Rights legislation we administer, IP Australia uses 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, other government agencies, research institutions and other key stakeholders;
- enable IP Australia, and other people, 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 our mailing list subscribers;
- conduct market research and consultative review processes; and
- perform other functions under the IP Rights legislation.

Uses - other personal information (not for the purposes of IP Rights)

Personal information is used for the primary purpose for which it was collected, including to:

- perform IP Australia's other legislative and administrative functions and activities;
- perform employment and personnel functions in relation to employees and contractors;
- handle complaints;
- process requests (including request for access to information under legislative regimes, such as Freedom of Information); and
- provide correspondence.

Disclosure

IP Australia can, and usually will, disclose personal information where:

- you have consented to the disclosure;
- you would reasonably expect that your information will be disclosed; or
- the disclosure is authorised or required by or under law.

In particular, IP Australia discloses information, including personal information, about IP Rights applicants, owners and others as required under the IP Rights legislation we administer. Generally, this disclosure occurs via publication in the Official Journal, Registers and our databases, all of which are publicly available on the Internet.

Disclosure of certain personal information enables other people to contact IP Rights 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 also provides a variety of data products that are intended to suit the requirements of large companies, research organisations, libraries and overseas IP offices. This data includes personal information, such as names and addresses, but does not include any sensitive information. IP Australia's Bulk Data Terms and Conditions prohibit the use of this data for creation of mailing lists or other marketing material.

When IP Australia publishes personal information on the internet or in online databases, that information may be accessed by individuals anywhere in the world. IP Australia has no control over the subsequent use and disclosure of that personal information and cannot be accountable for any subsequent use under the Privacy Act.

IP Australia discloses personal information to other Australian Government agencies in accordance with provided notices and as required or authorised by or under law, such as Tax File Numbers and personnel records to the Australian Taxation Office.

IP Australia may also give personal information to our associated entities, such as:

- Australian Council of Intellectual Property Rights;
- Professional Standards Board;
- Patent and Trade Marks Disciplinary Tribunal; and
- Plant Breeder's Rights Advisory Committee.

For detailed information on IP Australia's current personal information holdings, please view the [IP Australia – Information Digest](#).

Overseas recipients of personal information

IP Australia discloses certain personal information to overseas recipients with consent, where authorised by or under law, or in accordance with an international treaty or convention, and as listed below:

- In accordance with IP Rights legislation, IP Australia publishes IP Rights-related personal information on the IP Australia website. Once information is available in the internet, it is accessible world-wide and may be collected by overseas recipients. This information is also available for purchase as a data product and may be sold to overseas recipients.
- IP Australia acts as an Office of Origin for the International Bureau of WIPO. On behalf of an applicant, IP Australia will file applications for IP Rights with the International Bureau of WIPO in Geneva, Switzerland.
- IP Australia may disclose the following details of technical trainers to WIPO, in Switzerland and the [Association of Southeast Asian Nations](#) countries:
 - name, date of birth;
 - biographical details, including qualifications, education and experience; and
 - passport and visa details and citizenship.
- IP Australia may also disclose certain information about IP Rights to overseas IP Offices. It is not practicable to list all countries that IP Australia may disclose this information to, however, if you would like further information on this, please [contact us](#).

Further details of IP Australia's disclosure of personal information to overseas recipients are provided in the [IP Australia – Information Digest](#).

Accidental or unauthorised disclosure of personal information

At IP Australia we do our best to ensure that accidental or unauthorised disclosure of personal information does not occur. If an accidental or unauthorised disclosure of personal information does occur, we will take it seriously, and deal with it promptly.

Internal auditing of the processes that enable the disclosure of information assists to ensure that any accidental disclosure of or interference with personal information by IP Australia is identified quickly and remedied promptly.

IP Australia bases its process for handling personal information security breaches on OAIC's [Data Breach Notification - Guide to handling Personal Information Security Breaches](#).

Access to, and correction of, personal information

How you may access and correct personal information we hold about you

You may request access to personal information we hold about you. We will provide you with access as requested, if it is reasonable and practicable to do so. There may be instances where IP Australia may refuse your request, as discussed [below](#).

You may request corrections to any of your personal information that IP Australia holds to ensure the information is accurate, up to date, complete, relevant and not misleading.

Process for request for access or correction

IP Australia must be satisfied that you are seeking access to or correction of your own personal information. We may ask you to provide verification of your identity.

This process is free of charge.

How to request access or correction

If you wish to access or correct personal information we hold about you, you may:

- Complete the [Online Enquiry Form](#)
- Email: privacy@ipaaustralia.gov.au
- Write to: Privacy
IP Australia
PO Box 200
Woden ACT 2606
Australia
- Call the IP Australia switchboard: 1300 65 10 10

What we will do

IP Australia will acknowledge your request within 5 business days.

We will provide you with a written response within 30 calendar days after receiving your request, by:

- providing access to the documents;
- advising you of our decision to refuse access to or correction of documents; or
- advising you of any difficulties we have encountered in actioning your request, in which case we will provide you with an expected timeframe for finalising your request.

If your request requires a significant number of documents or requires consultation with other parties, we may ask you to make a [request](#) under the *Freedom of Information Act 1982*, in order to provide a clear structure for our response to your request

There are also specific provisions in the IP Rights legislation about access to the information we hold, including access by other people to this information. See the [IP Australia – Information Digest](#) for further information.

Enquiries and Complaints about privacy

If you wish to inquire or make a complaint about the way IP Australia has handled your personal information, you may:

- Complete the [Online Enquiry Form](#)
- Email: privacy@ipaustralia.gov.au
- Write to: Privacy
IP Australia
PO Box 200
Woden ACT 2606
Australia
- Call the IP Australia switchboard: 1300 65 10 10

IP Australia's privacy complaints handling process

We will acknowledge that we have received your complaint within 5 business days.

We will usually respond to your privacy complaint within 30 calendar days after the request is made, if you provide your contact details.

We are committed to quick and fair resolution of customer complaints and will ensure any privacy complaint is taken seriously. You will be treated professionally and respectfully at all times.

How to make a privacy complaint to the Office of the Australian Information Commissioner

If you are dissatisfied with the way IP Australia handles a privacy complaint, you may contact the Office of the Australian Information Commissioner (OAIC):

- Email: privacy@privacy.gov.au
- Phone: 1300 363 992
- Write to: Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

You may also make a complaint directly to the Information Commissioner, however, the Commissioner may recommend you try to resolve the complaint with IP Australia first.

The OAIC has [complaint checker](#) which may assist in determining whether you can lodge your complaint with OIAC.

Storage and data security

IP Australia is certified under [International Quality Standard ISO 9001:2008](#) for our key customer transactions.

Collected personal information is held securely in IP Australia's electronic and paper record-keeping systems.

IP Australia has controls in place to protect against interference with personal information by way of unauthorised access, misuse, loss, modification, or disclosure including in the following ways:

- access to information collected from individuals is limited to authorised persons with a need-to-know by way of audited technical controls;
- our internal network, electronic records management system, and databases are protected using firewall, intrusion detection and prevention, antivirus, user authentication complexity, and other IT security technologies and protocols;
- transactions made using the eServices sections of IP Australia's website are encrypted and monitored against misuse;
- web transactions are conducted through an Australian Signals Directorate certified gateway;
- our web services are vulnerability tested against intrusion;
- paper files containing sensitive information are protected in accordance with [Australian Government Protective Information Security Management Protocol](#) and the [Protective Security Policy Framework](#) and secured in locked cabinets, Australian Government-approved protective security containers or Secure Rooms with restricted access;
- IP Australia's premises are under 24-hour surveillance and access is via security passes only, with all access (and attempted access) logged electronically;
- IP Australia regularly conducts system audits and staff training to ensure we adhere to our established protective and IT security compliance and best practices; and
- aftercare measures (including return of devices and signing secrecy documents) are taken to support the removal of access to personal information when no longer required.

Disposal of personal information

Storage of information (and the disposal of information when no longer required) is managed in accordance with Commonwealth records management requirements, including the *Archives Act 1983*, [Records Authorities](#) and General Disposal Authorities.

Remaining anonymous or using a pseudonym

You have the right to contact IP Australia anonymously or using a pseudonym (unless there is a legislative requirement that prevents this).

Where you wish to make an enquiry or give us feedback, you may have the option of not identifying yourself. For example, you may sign up for our news services using a pseudonymous email address.

You should be aware, however, that there may be instances where we cannot respond to you or properly investigate a complaint if you do not provide contact details or sufficient information.

Please note that it is not possible to apply for or own IP Rights anonymously or under a pseudonym.

How to Contact Us

Contact IP Australia if you want to:

- obtain access to your personal information held by IP Australia;
- request correction of your personal information held by IP Australia;
- make an enquiry or complaint about IP Australia's compliance with the APPs; or
- ask any questions about our Privacy Policy.

Email privacy@ipaustralia.gov.au

Phone 1300 65 10 10 (callers within Australia)

International callers +61 2 6283 2999

TTY +61 2 6283 2363 (for hearing impaired callers)

Write to: Privacy Contact Officer
IP Australia
PO Box 200
Woden ACT 2606
Australia

Privacy Policy Updates

This policy will be updated annually at a minimum, or more frequently as required, including when the OAIC guidance material is revised or legislative amendments are made to the Privacy Act.

The [IP Australia – Information Digest](#) will be updated annually.

This policy was last updated in April 2014.

Copy of this policy

This policy and associated IP Australia documents are published on our website:
www.ipaustralia.gov.au.

If you wish to access this policy in an alternative format or hard copy, please [contact IP Australia](#).

We will provide the policy to you at no cost, together with hard copies or any documents referred to in this policy and maintained by IP Australia.

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1300 65 10 10

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