

# About Exporting



Australian Government

IP Australia



## At a glance

- *protection of your intellectual property (IP) in Australia does not automatically protect it internationally*
- *you can protect your brand, invention, design, or plant variety in another country*
- *you can apply directly to a country's IP office or authority or via an international system*
- *you will need to pay fees for each overseas IP right you apply for*
- *the lifespan of intellectual property (IP) protection differs from country to country.*

Intellectual property (IP) rights registered in Australia only apply to Australia, they do not apply in overseas markets. It is important to know which IP you intend on registering as there are different approaches for each. [Understanding IP protection](#) can help you establish your market position and ensure you do not infringe on existing IP in that country.

International IP registration and protection can be complex, we recommend you seek advice from an IP professional to discuss your specific circumstances.

Before entering the global market start by answering these six questions:

1. Would I generate the best returns by establishing my product in Australia first, or should I approach the Australian and world markets at the same time?
2. Do I have the resources to successfully commercialise outside Australia?
3. Will I need financial support, and do I have the track record and security to generate that finance?
4. Do I have the manufacturing and distribution capabilities to supply to countries outside Australia?
5. Should I manufacture my product in Australia and distribute it to other countries, or outsource production to another country?
6. Do I have the marketing and promotion networks to successfully commercialise in other countries?

Our [short video](#) explains.

## Commercialising overseas

When commercialising in international markets it is common to retain some activities for yourself and to partner with external providers on others. This can be achieved by:

- retaining the manufacturing and selling rights in Australia, whilst licensing manufacturing and selling rights to a partner to commercialise overseas
- retaining manufacturing and selling rights in the international market, whilst outsourcing manufacturing and selling tasks to an overseas provider over which you retain total control.

## Bringing your IP to Australia

If you're looking to import goods to Australia, you'll need to make sure they don't infringe on existing IP. If your goods are not already protected by an IP right here, you may want to consider securing protection.

Bringing products and services into Australia for commercial purposes is big business. If you're an Australian business owner looking to import goods from an international manufacturer or an overseas business wanting to export to Australia, you'll need to consider how IP rights will play a part.

## Understand Australian IP

While intellectual property (IP) rights are similar worldwide, there can be important differences from country to country. Before you get started, you should understand how we define and manage IP in Australia. This can help you avoid issues when importing goods and services here.

## Consider IP protection overseas

Australia's negotiated free trade agreements include IP chapters that facilitate trade and investment. Understanding IP protection can help you establish your market position and ensure you do not infringe on existing IP in another country.

Our partner agency, [Austrade](#), is committed to supporting Australian businesses throughout their export journey. As part of their digital service offering, they have worked with IP Australia and other partners to develop Free Trade Advantage, an online platform that brings together practical advice and resources to help businesses understand Australia's free trade agreements (FTAs) and how to access these.

## International intellectual property (IP)

### Applying for trade marks overseas

#### What is the Madrid System?

Trade marks can be filed directly via the trade marks office (or equivalent) of foreign countries or via an 'International Application'.

The Madrid System allows you to file trade mark applications in a number of countries through one application. Australia is a signatory member of the Madrid System.

The Madrid System is a convenient and potentially cost-effective solution for registering and managing trademarks worldwide. You can file a single application and pay one set of fees to apply for protection in up to 128 countries.

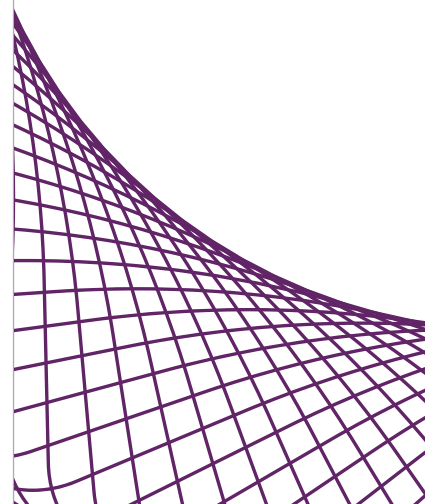
The online process allows you to modify, renew or expand your global trademark portfolio through one centralised system. Protection (an 'International Registration') can only be obtained once you have an Australian trade mark, and for countries and regions which have joined the (Madrid) system.

There are advantages and disadvantages to filing directly in foreign countries or via the Madrid System. An IP professional can provide useful legal and strategic advice on which option is best for your business.

You can access the [Madrid System via the IP Australia website](#).



*Visit Austrade's website  
to find out how you  
can take advantage of  
Australia's FTAs*



## Applying for patents overseas

There are two ways to apply for patent protection overseas:

1. Directly through the country or regional IP office
2. The [Patent Cooperation Treaty \(PCT\)](#) allows you to file a single international application that has the same effect as filing multiple single applications in each country. Australia is a signatory member of the PCT.

PCT is a treaty administered by the World Intellectual Property Organization (WIPO). Under PCT, you can file a single application that you can then use to apply for protection in multiple countries that you want to patent. There are over 150 signatory countries through PCT.

You can access the [PCT system via the IP Australia website](#).

If you decide to go through PCT, you will need to take your international application and convert it to a national application in each country where you want a patent. This is known as entering the national phase.

## The Patent Cooperation Treaty (PCT)

If you have an Australian provisional application, you have 12 months to either file an equivalent application overseas or to file your international application. This allows you to maintain your priority date from your provisional application.

## Applying for design rights overseas

In most cases, you will have to apply for a design right in your country of interest directly.

Each country or region will have its own legal requirements and terms of protection. In some countries, designs can be protected without the need for registration.

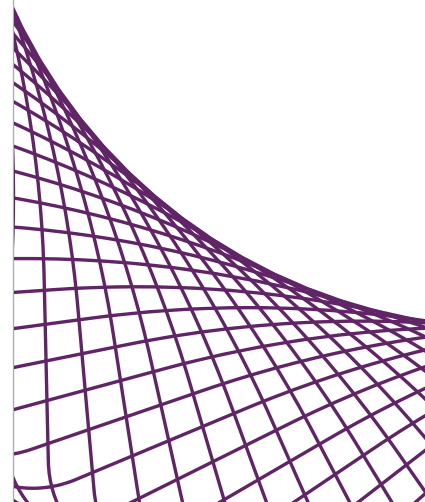
The [Paris Convention](#) allows overseas protection in many countries to be back dated to your original Australian filing date. If you file in Australia first then in another country within 6 months, your priority date will be the date that you originally file in Australia.

While Australia isn't a member, you may be able to apply using the Hague System if you meet [eligibility requirements](#).

IP registration and protection can be a complex process, especially in an international setting. It may be in your best interests to consult an IP professional experienced in Design rights to provide advice on which



*Get professional  
assistance with your IP*



## Applying for plant breeder's rights overseas

There are two ways to apply for plant breeder's rights protection overseas:

1. Directly to the country's [relevant registration office](#).

You can use a single application for:

- The European Union (EU) – the [Community Plant Variety Office](#) provides potential plant breeder's rights protection in all EU countries.
- All African countries that are affiliated under the [African Regional Intellectual Property Organization \(ARIPO\)](#).

2. If you are applying to an individual country or multiple countries that are members of the International Union for the Protection of New Varieties of Plants (UPOV), then you may be able to apply to that country or countries via the UPOV online application form tool ([PRISMA](#)). It should be noted that most but not all UPOV members accept PRISMA applications, and some countries limit the species that they will accept.

You can find more information here [UPOV PRISMA PBR Application Tool](#).



For further information on Design rights head to <https://www.ipaustralia.gov.au/international-ip>

Contact us: <https://www.ipaustralia.gov.au/about-us/contact-us>

Phone: 1300 651 010 (9am to 5pm, Monday to Friday)

