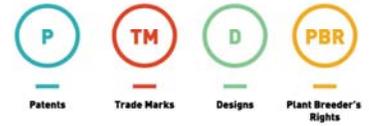




Australian Government
IP Australia

UNCLASSIFIED



Delivering a world leading IP system

REGULATOR PERFORMANCE FRAMEWORK

2018-19 SELF ASSESSMENT

November 2019



Executive Summary

Our Role

IP Australia administers Australia's Intellectual Property (IP) rights system; specifically, patents, trade marks, designs and plant breeder's rights. This includes processing applications, maintaining the IP rights registers, conducting hearings and deciding on disputed matters relating to granting or refusing Australian IP rights, and regulating the IP attorney profession.

IP Australia also promotes awareness of the IP system, provides advice to Government on the development of IP policy, and contributes to international negotiations and development cooperation programs to support the global IP system for the benefit of the Australian economy and society.

Our Stakeholders

IP Australia's customers are individuals and businesses in Australia and overseas. IP Australia's stakeholders further include IP professionals, representative bodies, international counterparts and other government agencies.

IP Australia's stakeholder consultation mechanism under the Regulatory Performance Framework (RPF) includes representatives from:

- Australian Chamber of Commerce and Industry (ACCI)
- Australian Federation of Intellectual Property Attorneys (FICPI Australia)
- Australian Industry Group (AIG)
- Institute of Patent and Trade Mark Attorneys of Australia (IPTA)
- International Association for the Protection of Intellectual Property (AIPPI)
- Law Council of Australia IP Committee
- Licensing Executives Society of Australia and New Zealand (LESANZ)
- Knowledge Commercialisation Australasia (KCA)
- Universities Australia

Regulator Performance Framework (RPF)

The RPF is an important part of the Government's commitment to reduce unnecessary or inefficient regulation imposed on individuals, business and community organisations. The RPF sets up a process to measure the performance of regulators, including IP Australia.

Annual externally validated self-assessment reports aim to identify the extent to which the regulator is achieving the performance indicators in the RPF and highlight areas for improvement against the six key performance indicators (KPIs), which state the Government's expectations of a regulator's performance.

IP Australia's measures for KPIs under the RPF have been selected to ensure:

- high-quality services are provided in a timely way
- communication is clear, meaningful and timely
- compliance standards are transparent
- ongoing stakeholder engagement to improve the way we work.

Performance Summary

IP Australia met the majority of its performance targets in 2018-19. The following examples highlight some of our achievements in 2018-19 across the six RPF KPIs.

Quality and timeliness

In 2018-19, IP Australia continued to develop and implement systems and strategies to improve the quality and timeliness of IP rights. A significant milestone for 2018 was the renewal of IP Australia's status as an International Searching and Preliminary Examining Authority under the Patent Cooperation Treaty for another 10 years. IP Australia also delivered the new Rights in One (RIO) administration system for trade marks in late 2018, consolidating and modernising trade mark systems and optimising processes to provide quality outcomes for IP Australia customers.

A review of the quality review system across all IP rights commenced in 2018-19 to ensure quality examination products and practices and drive optimal behaviours. This includes reviewing the definition of 'quality', benchmarking with other IP offices, and ensuring internal systems support the delivery of quality products.

Customer experience and building IP awareness

In 2018-19, IP Australia continued to implement customer-focused, digital solutions to assist our customers with IP rights management and enhance their experience of IP Australia.

Since 2016 IP Australia's virtual assistant, Alex, has supported IP Australia to become one of the first fully digital federal government service delivery agencies. Alex now handles 38 per cent of all enquiries, with a first contact resolution rate of 82 per cent.

IP Australia's Trade Mark Assist uses advanced machine learning and artificial intelligence to simplify the process of applying for a trade mark by identifying the classes of goods or services that applicants wish to protect, searching existing trade marks and assisting users to prepare and submit an application. Customers who use Trade Mark Assist to submit their application are approximately 18 per cent more likely to be successful in receiving an acceptance report.

Outreach and awareness activities

A key stakeholder engagement and public education and awareness activity for 2018-19 was the second IP Summit, held in April 2019, which attracted 175 attendees. Of the attendees who responded to satisfaction surveys, 88 per cent were satisfied with the event; 96 per cent found the day to be well structured; 86 per cent rated the speakers as engaging and 91 per cent rated the speakers as knowledgeable. All of those surveyed said that the event had improved their understanding of IP and/or the steps to export.

In 2018-19, building on reviews by the Productivity Commission and the Advisory Council on Intellectual Property, IP Australia commenced a holistic review into the design economy in Australia. This multi-year project aims to better understand what drives design innovation and identify opportunities to improve the contribution of the design system to the Australian economy.

The 2018-19 performance scorecard provides further detail on IP Australia's performance against specific metrics for the purposes of the RPF.

2018-19 Performance Scorecard

REGULATOR PERFORMANCE FRAMEWORK

KPI	RPF MEASURE	IPA MEASURE	OWNER	PERFORMANCE	COMMENTARY
KPI 1 - Do not unnecessarily impede the efficient operation of regulated entities	RPF 1: Regulators demonstrate an understanding of the operating environment of the industry or organisation, or the circumstances of individuals and the current and emerging issues that affect the sector.	90 per cent+ overall customer satisfaction with IP Australia as an organisation is maintained.	PEOPLE AND COMMUNICATION GROUP (P&CG)	Target not met	82 per cent of customers surveyed in the annual Customer Satisfaction Survey indicated that they were satisfied with IP Australia as an organisation. This is broadly consistent with previous years. IP Australia is undertaking further analysis of the Customer Satisfaction Survey results to identify the underlying factors behind the failure to meet the stretch target and improve performance.
	RPF 2: Regulators take actions to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains.	85 per cent of applications for standard patents will be examined and a first report issued within 12 months of receiving the request for examination.	PATENTS	Target met	89 per cent of standard patent applications were examined and a first report issued within 12 months of receiving the request for examination.
		85 per cent of plant breeder's rights applications will have initial examinations conducted within eight weeks of receiving the application.	PLANT BREEDER'S RIGHTS (PBR)	Target met	100 per cent of plant breeder's rights applications were examined within eight weeks of receiving the application.
		85 per cent of trade mark applications will be examined and issued with a report within 13 weeks of receiving the application.	TRADE MARKS (TM)	Target not met	22 per cent of trade mark applications were examined and a first report issued within 13 weeks. To address the backlog of trade mark applications, IP Australia is investing in recruitment to replenish and increase capacity. Mitigation strategies also include trialing a more contemporary staff performance model.
		85 per cent of registered designs will be examined and issued with a report within 13 weeks of receiving the request for examination.	DESIGNS	Target not met	69 per cent of registered designs were examined and a report issued within 13 weeks of receiving the request for examination. The examination of designs experienced delays early in 2018-19 as a result of limited staffing availability and an increase in examination requests prior to the start of the financial year. These factors were remediated over the course of 2018-19, but the initial delays did reduce the overall result for the financial year.
		Give at least 12 weeks of notice before implementing a change in fees or introducing major new fees	FINANCE AND BUSINESS SERVICES GROUP (FBSG)	N/A	No changes to fees or introduction of major new fees occurred in 2018-19.
		Tier 1 - 93.5 per cent of search and research strategy is correct	IP RIGHTS	Target met	Compliance was met across IP Rights for 2018-19 as follows: <ul style="list-style-type: none"> • Patents – 97 per cent • Plant breeder's rights – 100 per cent • Trade marks – 94 per cent • Designs – 100 per cent
		Tier 2 - 90 per cent of reports are comprehensive and informative and free of invalid objections / considerations	IP RIGHTS	Target partially met	Compliance was met across all IP Rights, except Designs, for 2018-19 as follows: <ul style="list-style-type: none"> • Patents – 96 per cent • Plant breeder's rights – 100 per cent • Trade marks – 96 per cent • Designs – 88 per cent
		Tier 3 – 85 per cent of written formalities are complete and correct	IP RIGHTS	Target met	Compliance was met across all IP Rights for 2018-19 as follows: <ul style="list-style-type: none"> • Patents – 89 per cent • Plant breeder's rights – 100 per cent • Trade marks – 96 per cent • Designs – 93 per cent

	RPF3: Regulators implement continuous improvement strategies to reduce the cost of compliance for those they regulate.	IP Australia's customer-focused ICT initiatives are designed to reduce customer costs (costs comprise money, time or effort).	INNOVATION AND TECHNOLOGY GROUP (ITG)	Target met	IP Australia released the cloud-based analytics environment, the IP Data Platform, to the public in April 2019. This platform includes IP Australia's latest initiative, TM-Link, which is a single, internationally linked dataset that allows researchers, businesses and IP offices to track the use of similar trade marks across different countries. Other country-specific trade mark databases are expensive and make it difficult for businesses to learn what is already registered in each jurisdiction. TM-Link removes this burden from business and links national trade mark data via company names, text, and images. It opens up opportunities for global research in brand behaviour, trends, and patterns, and helps businesses make evidence-based decisions on whether they should enter the market. Trade Mark Assist uses advanced machine learning and artificial intelligence to simplify the process for customers when applying for a trade mark. It identifies the classes of goods or services that applicants wish to protect, searching existing trade marks and assisting users to prepare and submit an application. Customers who use Trade Mark Assist to submit their application are approximately 18 per cent more likely to be successful in receiving an acceptance report.
KPI 2 - Communication is clear, targeted and effective	RPF 4: Regulators provide guidance and information that is up to date, clear, accessible and concise through media appropriate to the target audience.	Qualitative evidence provided against strategies under IP Australia's strategic objective 'Service Excellence': Engage effectively with customers and stakeholders, domestically and internationally. Provide appropriate advice and systems to support effective engagement.	P&CG ITG	Target met	IP Australia provided up-to-date, clear, accessible and concise guidance and information to customers and stakeholders. Evaluations of IP Australia's workshop/webinar series for small and medium businesses showed that 90 per cent of attendees surveyed were satisfied with the event. Participants noted high levels of engagement and relevant content and said they would recommend workshops to others. The 2018-19 Customer Satisfaction Survey recorded that 89 per cent of customers were satisfied with the quality of tools to support user accessibility. IP Australia's commitments for external support services are included in the Customer Service Charter and the commitment to notifying customers of planned outages within four days was met 100 per cent of the time.
	RPF 5: Regulators consider the impact on regulated entities and engage with industry groups and representatives for the affected stakeholders before changing policies, practices or service standards.	Qualitative evidence provided against IP Australia's engagement calendar. This includes IP Rights consultative groups, the IP Stakeholder Forum (IPSF) and broader industry engagement.	P&CG	Target met	See commentary against RPF 18
	RPF 6: Regulators' decisions and advice are provided in a timely manner, clearly articulating expectations and the underlying reasons for decisions.	Complete final registration within 15 working days of receipt of applications for either individual or incorporated attorney registration, that are compliant with legislative requirements.	TRANS-TASMAN IP ATTORNEYS BOARD (TTIPAB)	Target met	100 per cent of applications for Trans-Tasman attorney registration were processed within the internal measure of 15 working days of being assessed as ready to proceed to registration.
	RPF 7: Regulators' advice is consistent and supports predictable outcomes.	Maintain certification of IP Australia's QMS for business processes to the ISO 9001 standard to ensure the organisation fulfils its role as administrators of the IP system effectively, efficiently and to a high standard.	FBSG	Target met	IP Australia has maintained quality management system certification ISO 9001:2015. IP Australia manages the quality management system in compliance with the certification provided through an independent assessment conducted in March 2019.
KPI 3 - Actions are proportionate	RPF 8: Regulators apply a risk-based, proportionate approach to compliance obligations, engagement and regulatory enforcement actions. RPG 9: Regulators' preferred approach to regulatory risk is regularly assessed. Strategies, activities and enforcement actions are	IP Australia does not have a compliance or enforcement role regarding IP rights once they are granted. Accordingly, this KPI is not relevant to IP Australia.			

	amended to reflect changing priorities that result from new and evolving regulatory threats, without diminishing regulatory certainty or impact.				
	RPF 10: Regulators recognise the compliance record or regulated entities, including using earned autonomy where this is appropriate. All available and relevant data on compliance, including evidence of relevant external verification is considered.				
KPI 4 - Streamlined and coordinated compliance monitoring	RPF 11: Regulators' information requests are tailored and only made when necessary to secure regulatory objectives, and only then in a way that minimises impact.	Undertake an annual audit of compliance with continuing professional education (CPE) requirements for Patent and Trade Marks Attorneys by 30 November each year to ensure continued competence in the profession.	POLICY AND GOVERNANCE GROUP (PGG)	Target met	The annual audit of compliance with 2018-19 CPE requirements for Patent and Trade Mark Attorneys was conducted in September 2019. Analysis will be completed by 30 November 2019 as per the performance criteria.
	RPF 12: Regulators' frequency of information is minimised and coordinated with similar processes including those of other regulators so that, as far as possible, information is only requested once.	Not relevant for IP Australia – Information is not sought if it would result in duplication by other regulator requests.			
	RPF 14: Regulators base monitoring and inspection approaches on risk, and, where possible, take into account the circumstances and operational needs of the regulated entity.	Undertake an annual audit of compliance with continuing professional education (CPE) requirements for Patent and Trade Marks Attorneys by 30 November each year to ensure continued competence in the profession.	POLICY AND GOVERNANCE GROUP (PGG)	Target met	See commentary against RPF 11.
	RPF 13: Regulators utilise existing information to limit the reliance on requests from regulated entities and share the information among other regulators, where possible.	Not relevant for IP Australia - Information requested by IP Australia for examination applications is not open for public inspection in line with other IP Offices.			
KPI 5 - Open and transparent in dealings	RPF 15: Regulators' risk-based frameworks are publicly available in a format which is clear, understandable and accessible.	The Corporate Plan, Annual Report and advice and guidance on the operation of the IP system are made available on IP Australia's website in fit for purpose formats.	PCG	Target met	IP Australia provides a range of advice and guidance on its website, including information on its performance measurement results. Feedback from the 2019 Customer Satisfaction Survey results indicated that the ease of finding information on IP Australia's website was rated at overall 90%. IP Australia also published the 2018-19 Corporate Plan containing the agency's governance structure and framework for risk management on its website. The Corporate Plan is provided in an online format that can be searched by chapter and is available as a downloadable PDF. IP Australia's 2018-19 Annual Report will also be published on the Department of Industry, Innovation and Science's website.
	RPF 16: Regulators are open and responsive to requests from regulated entities regarding the operation of the regulatory framework, and approaches implemented by regulators.	85 per cent of correspondence relating to the examination of an application will be issued within 20 working days of receiving the correspondence.	IP RIGHTS	Target met	Compliance across all IP Rights for 2018-19 was recorded as follows: <ul style="list-style-type: none"> Patents - 89 per cent of Patents correspondence responded to within 20 working days Plant Breeder's Rights - 100 per cent of Plant Breeder's Rights correspondence responded to within 20 working days Trade marks - 85 per cent of trade marks correspondence was responded to within 20 working days Designs - 95 per cent of Designs correspondence responded to within 20 working days

	85 per cent of decisions will be issued within 13 weeks of being heard, unless we receive further submissions or evidence.	IP RIGHTS	Target not met	<p>Compliance across all IP Rights for 2018-19 was recorded as follows:</p> <ul style="list-style-type: none"> Patents - 78 per cent of Patents hearings decisions were issued within 13 weeks Trade marks - 79 per cent of trade marks hearing decisions were issued within 13 weeks. Designs - 75 per cent of Designs hearing decisions were issued within 13 weeks Plant Breeder's Rights - this measure does not apply to Plant Breeder's Rights. <p>The target of issuing 85 per cent of decisions within 13 weeks of being heard, unless a further submission or evidence is received, was not met for patents, trade marks or designs. The consistent themes impacting the ability to meet this commitment include reduced staff availability, increased complexity or volume of submitted evidence, and a need to wait for decisions in related cases to be finalised before issuing a decision. Consideration is underway to improve investment in training and the allocation of additional staff to increase hearings capacity in 2019–20.</p>		
	RPF 17: Regulators' performance measurement results are published in a timely manner to ensure accountability to the public.	External customer service charter performance results published on a quarterly basis.	FBSG	Target met	IP Australia's Customer Service Charter performance results were externally published on the agency's website on a quarterly basis https://www.ipaustralia.gov.au/tools-resources/publications-reports	
KPI 6 - Actively contribute to the continuous improvement of regulatory frameworks	RPF 18: Regulators establish cooperative and collaborate relationships with stakeholders to promote trust and improve the efficiency and effectiveness of the regulatory framework.	Consult with a representative stakeholder body on regulation reform opportunities at least twice a year, including updating stakeholders on regulation reform measures that IP Australia is progressing and inviting stakeholders to suggest their own regulation reform ideas.	P&CG PGG	Target met	<p>In 2018-19, IP Australia regularly consulted with representative stakeholder bodies including the Patents Consultation Group, the Trade Marks and Designs Consultation Group, the Plant Breeder's Rights Consultation Group and the IP Stakeholders Forum.</p> <p>IP Australia kept stakeholders updated on legislation and regulation reform measures and maintains an online Policy Register, which aims to increase transparency and enhance public participation in government decision making.</p> <p>IP Australia conducted a range of activities to facilitate access to the IP system and promote understanding of its value, including:</p> <ul style="list-style-type: none"> Conducting a range of start-up workshops and webinars Promoting Subject Matter Expert focused web content and tools Continuing social media presence across multiple channels. 	
	RPF 19: Regulators engage stakeholders in the development of options to reduce compliance costs. This could include industry self-regulation, changes to the overarching framework, or other strategies to streamline monitoring and compliance approaches.	Hold outreach activities to engage with customers.				
	RPF 20: Regulators regularly share feedback from stakeholders and performance information (including from inspections) with policy departments to improve the operation of the regulatory framework and administrative process.	<p>Qualitative evidence provided against strategies under IP Australia's strategic objective 'Value Add':</p> <p>IP Australia made effective use of its skills and knowledge to deliver value to the Australian community, at home and abroad. Our role is to shape the IP system domestically and internationally to serve Australian innovation and business.</p>	P&CG PGG CHIEF DATA OFFICER (CDO)	Target met	<p><u>Provision of high-quality advice to Government</u></p> <p>IP Australia provided advice and representation to the interdepartmental IP Policy Group as required. IP Australia consistently delivered advice on time, including briefings to the Minister and Assistant Minister on policy and legislation issues. 155 ministerial briefs and replies were prepared, along with 253 responses to departmental requests.</p> <p><u>Strong domestic and international partnerships</u></p> <p>IP Australia progressed all international engagement activities as planned in line with our International Engagement Strategy 2030.</p> <p><u>High customer satisfaction with services designed to facilitate the use of IP</u></p> <p>IP Australia has an established evaluation program to assess the utility of key value-added services, in line with the strategies in our Corporate Plan. In 2018–19, the activities evaluated included:</p> <ul style="list-style-type: none"> IP Counsellor to China Patent Analytics Hub Article 15(5) Patent Landscape Report Trial <p>The evaluation of the IP Counsellor to China found that the position was successfully supporting Australian stakeholders and increasing IP Australia's engagement in China.</p>	

The Patent Analytics Hub delivered a trial of over 300 patent analytics reports provided with international-type searches (under Article 15(5) of the Patent Cooperation Treaty). Ongoing evaluation of the feedback on this trial has found that the analytics reports are considered valuable by attorneys and applicants, but there is room for improvement. The trial is ongoing until October 2019.