



12 November 2021

(21-8595)

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**Council for Trade-Related Aspects of
Intellectual Property Rights**

Original: English

**NOTIFICATION OF LAWS AND REGULATIONS
UNDER ARTICLE 63.2 OF THE TRIPS AGREEMENT**

AUSTRALIA: DESIGNS AMENDMENT (ADVISORY COUNCIL ON
INTELLECTUAL PROPERTY RESPONSE) ACT 2021

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| Notifying Member | AUSTRALIA |
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Details of the notified legal text

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| Title | Designs Amendment (Advisory Council on Intellectual Property Response) Act 2021 |
| Subject matter | Industrial designs |
| Nature of notification | <input checked="" type="checkbox"/> Main dedicated intellectual property law or regulation <input type="checkbox"/> Other law or regulation |
| Link to legal text* | https://ip-documents.info/2021/IP/AUS/21_7111_00_e.pdf |
| Notification status | <input type="checkbox"/> First notification <input checked="" type="checkbox"/> Amendment or revision to notified legal text <input type="checkbox"/> Replacement or consolidation of notified legal text(s) |
| Previous notification(s) referred to | IP/N/1/AUS/D/10 ; IP/N/1/AUS/D/8 ; IP/N/1/AUS/D/6 ; IP/N/1/AUS/D/5 |

Brief description of the notified legal text

The law implements recommendations from a review of the Australian designs system by the Advisory Council on Intellectual Property, providing more flexibility to designers in the early stages of getting registered design protection, and simplifying and clarifying aspects of the designs system.

In particular, the Act:

- Introduces a 12-month grace period to file a design application after the design is disclosed
- Introduces a prior use defence to infringement, protecting third parties who start using a design during the grace period
- Streamlines the initial steps for registering a design, removing the option to publish without registration and simplifying the process for requesting registration
- Expands protection for those who innocently infringe a design between filing and registration
- Provides exclusive licensees with the right to take infringement action through the courts
- Streamlines the process for changing the formal requirements for design applications

Makes minor technical changes and clarifications relating to the standard applied when assessing substantial similarity, the grounds for revocation of a design registration, and the renewal of design registrations.

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| Language(s) of notified legal text | English |
| Entry into force | 11 September 2021; The Act received Royal Assent on 10 September 2021. Schedule 7 Parts 1 & 2 entered into force on 11 September 2021. Schedule 1-6, and Schedule 7 Part 3 will commence on 10 March 2022. |
| Other date | |

Notification details

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| Submission date of notification | 7 November 2021 |
| Other information | https://www.legislation.gov.au/Details/C2021A00100 |
| Agency or authority responsible | IP Australia Ground Floor Discovery House 47 Bowes Street Phillip ACT 2606 Australia +61 2 6283 2999 Postal address PO Box 200 Woden ACT 2606 |

* Links are provided to texts of laws and regulations notified under the TRIPS Agreement in the form supplied by the Member concerned; the WTO Secretariat does not endorse or revise their content.