



Australia

IP OFFICES

Industrial Property (Patents, Trade Marks and Industrial Designs)	
Competent Authority	IP Australia
Web site address	http://www.ipaustralia.gov.au
Address	Mailing address: PO Box 200, Woden ACT 2606
Telephone	(61 2) 62832999
E-mail	eservices@ipaustralia.gov.au

Copyright	
Competent Authority	Content & Copyright Branch, Department of Communications and the Arts
Web site address	https://www.communications.gov.au/what-we-do/copyright
Address	2 Phillip Law Street Canberra ACT 2601
Telephone	(61 2) 6271 1000
Telefax	(61 2) 6271 1901
E-mail address	copyright@communications.gov.au

MAIN INTERNATIONAL IP CONVENTIONS TO WHICH THE COUNTRY IS PARTY

S.No.	Instrument	In Force Since
1.	Berne Convention	April 14, 1928
2.	Brussels Convention	October 26, 1990
3.	Budapest Treaty	July 7, 1987
4.	Madrid Protocol	July 11, 2001
5.	Marrakesh VIP Treaty	September 30, 2016
6.	Nice Agreement	April 8, 1961
7.	Paris Convention	October 10, 1925
8.	Patent Cooperation Treaty	March 31, 1980
9.	Patent Law Treaty	March 16, 2009
10.	Phonograms Convention	June 22, 1974
11.	Rome Convention	September 30, 1992
12.	Singapore Treaty	March 16, 2009

13.	Strasbourg Agreement	November 12, 1975
14.	Trademark Law Treaty	January 21, 1998
15.	UPOV Convention	March 1, 1989
16.	WIPO Convention	August 10, 1972
17.	WIPO Copyright Treaty	July 26, 2007
18.	WIPO Performances and Phonograms Treaty	July 26, 2007

For More Information, please refer to:

https://www.wipo.int/treaties/en/ShowResults.jsp?country_id=10C

IP Rights	Legal Requirements	Duration	Responsible Authority
Copyright	<ul style="list-style-type: none"> - Originality - In material form - No copyright registration process in Australia 	<p>Life of author + 70 years</p> <p>Life of author + 70 years for literary, dramatic, artistic and musical works.</p> <p>70 years after creation or 70 years after first publication (if it is within 50 years of creation) - for sound recordings and cinematograph films.</p> <p>50 years after the year of the broadcast - for broadcasts.</p> <p>50 years after creation - for works made or published by the Commonwealth or a State or Territory ("Crown copyright").</p> <p>25 years after the year of publishing - for published editions.</p>	Department of Communications and the Arts
Trade Marks	<ul style="list-style-type: none"> - Distinctiveness - Not in conflict with prior signs/marks - Not generic - Not descriptive - Not contrary to Public Order/Morality 	10 years renewable	The Registrar of Trade Marks, IP Australia
Standard Patents & Innovation Patents	<p>For Standard Patents:</p> <ul style="list-style-type: none"> - Novelty - Industrial applicability - Inventive step - Disclosure 	<p>20 Years from the date of Patent in case of Standard Patent</p> <p>8 Years from the date of Patent for Innovation Patent</p>	The Commissioner of Patents, IP Australia

	For Innovation Patent: - Improvement over an existing technology - New & Useful	Extension of Patent term is allowed on certain grounds for Pharmaceutical Patents (Sect. 70)	
Industrial Designs	- New - Distinctive	5 Years (Renewable for further 5 years, for a total of 10 years)	The Registrar of Designs, IP Australia

PATENT SYSTEM	
National Law	<i>Patents Act 1990</i> (consolidated as of August 25, 2018, and lately revised as February 24, 2019) https://wipolex.wipo.int/en/legislation/details/18976
Requirement of Agent for Foreigners	Yes
Language in which request may be filed	English
Non-Patentable Subjects	- Discoveries with no means of putting them into effect; - Mere ideas; schemes or plans; - Scientific theories; and - Mathematical algorithms - Human beings, and the biological processes for their generation
Substantive Examination	Mandatory for Standard Patent. Optional for Innovation Patent
Opposition	Yes (Sect. 59).
PCT international application through the national office of the country as a receiving office under the PCT	https://www.wipo.int/export/sites/www/pct/guide/en/gdvol1/annexes/annexc/ax_c_au.pdf
PCT international application to the national office of the country as a designated office under the PCT	https://www.wipo.int/export/sites/www/pct/guide/en/gdvol2/annexes/au.pdf

INDUSTRIAL DESIGN SYSTEM	
National Law	<i>Designs Act 2003</i> (consolidated as of August 25, 2018) https://wipolex.wipo.int/en/legislation/details/18974
Language	English
Non-Registrable Subjects	- Designs that are not new and not distinctive - Medals - Layout for an integrated circuit - The Olympic rings symbol, the Olympic motto or the torch and flames design, prescribed under the Olympic Insignia Protection Act 1987 - The word 'Anzac' - Information or graphics which might reasonably be

	<p>regarded as scandalous</p> <ul style="list-style-type: none"> - Currency notes of a kind prohibited by subsection 19(1) of the Crimes (Currency) Act 1981 - The coat of arms, flags or seal of the Commonwealth or any State of the Commonwealth - The coat of arms or emblems of any city or town in the Commonwealth or any State, Territory, public authority or public institution in Australia - Armorial bearings, flags, State emblems or signs of any country other than the Commonwealth.
Substantive Examination	No
Designs for a set of products	It is possible to file a single design application for more than one design of multiple products if each product belongs to the same Locarno class. (Section 22)
International application through and to the national office of the country under the Hague System	Australia is not a party to the Hague Agreement.

TRADE MARK SYSTEM	
National Law	<p>The Trade Marks Act 1995</p> <p>https://wipolex.wipo.int/en/legislation/details/18978</p>
Subjects of Protection	<ul style="list-style-type: none"> - Distinctive Marks - Non-Traditional trademarks like sounds, scents, shapes, colour or aspects of packaging. However, these should be accompanied by a concise and accurate description. - Certification Marks - Collective Marks
Language	English
Non-Registrable Subjects	<ul style="list-style-type: none"> - Descriptive Mark (Sect. 41) - Mark that is scandalous or contrary to Law (Sect. 42) - Mark that is likely to deceive or cause confusion (Sect. 43) - Trade marks that are identical or similar to previously registered signs (Sect. 44)
Substantive Examination	Yes (Sect. 31).
Opposition System	Yes (Sect. 54).
International application through the national office of the country as an office of origin under the Madrid System	https://www.wipo.int/madrid/memberprofiles/#/result?countries=9122&datafields=9584,9583,9582
International application to the national office of the country as a designated office of designated country under the Madrid System	https://www.wipo.int/madrid/memberprofiles/#/result?countries=9122&datafields=9580,9577,9581,9579,9578,9582,9583,9584,9639,9640,9637,9633,9634,9635,9636,9631,9629,9630,9638,9601,9596,9600,9602,9597,9604,9599,9603,9598,9605,9628,9587,9586,9592,9589,9593,9590,9585,9588,9591,9594,9595,9623,9625,9626,9627,9622,9624,9614,9618,9611,9613,9619,9617,9615,9606,9608,9621,9610,9612,9607,9609,9620,9616

COPYRIGHT SYSTEM	
National Law	<p>Copyright Act 1968</p> <p>https://wipolex.wipo.int/en/legislation/details/18588</p>
Subjects of Protection	<ul style="list-style-type: none"> - Literary works - Dramatic works - Musical works - Artistic works - Films - Sound Recordings - Broadcasts - Published Editions <p>There is no copyright registration process in Australia.</p>
Foreign Copyright Holders	<p>Australia is a party to Berne Convention, hence works of foreign copyright holders whose countries are members of the Berne Convention are automatically protected.</p>
Moral Rights	<p>Moral Rights in Australia consists of:</p> <ul style="list-style-type: none"> - Right to Attribution - Right not to have authorship falsely attributed - Rights to integrity
Economic Rights	<p>The copyright conferred by the Copyright Act is a bundle of exclusive rights in relation to the work or material in question. They include the right:</p> <ul style="list-style-type: none"> - To reproduce the work; - To communicate to the public; - To make an adaptation of it; - To publish it; - To perform it in public; and - To broadcast it to the public
Limitation to Author's Rights	<p>The Copyright Act provides certain exceptions to copyright infringement. These include a number of so-called statutory licenses, under which copyright acts that would otherwise be infringing are permitted, usually subject to payment or some remuneration.</p>
Fair Dealing	<p>The Copyright Act provides for certain circumstances where one can use Copyrighted material without seeking the owner's permission. Fair dealing exceptions to copyright infringement are provide for various activities, including:</p> <ul style="list-style-type: none"> - Criticism or review; - Parody or satire; - Reporting news; - Research or study; - Taking processional legal advice; and <p>For access by persons with a disability. (Sections 40-43, 103A-104, 113E)</p>

TECHNOLOGY TRANSFER OFFICE IN THE COUNTRY

While there is no official national technology transfer office, most research organizations have established dedicated units or companies to facilitate technology transfer. For more information, please visit: <https://www.alrc.gov.au/publications/17-technology-transfer/technology-transfer-offices>

ATTORNEYS IN THE COUNTRY

Information in this regard is available at: <https://www.ipaustralia.gov.au/about-us/doing-business-us/ip-professionals-and-other-sites>

FILING PROCEDURES

Patents

Procedures for obtaining a Patent in Australia under the National Law

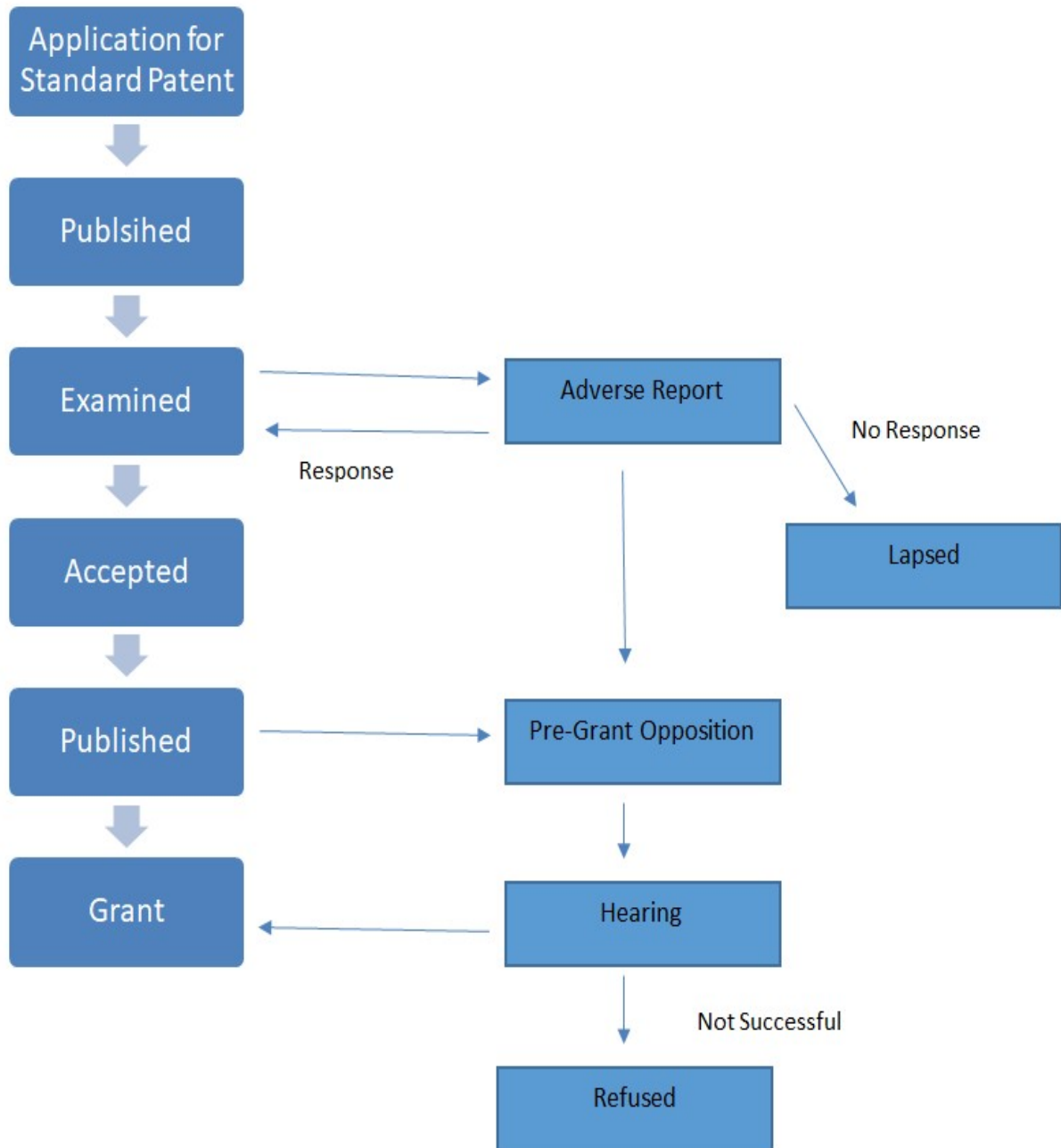
1. An application for the grant of a patent has to be filed in accordance with Section 29 of the Act. An application can be filed with provisional or complete specifications.
2. The filing date of the patent shall be as provided in the regulations (Sect. 30).
3. Once a complete application is filed, the Commissioner may conduct a preliminary search and issues an opinion with regard to the patent request (Sect. 43A).
4. After filing of a complete application, the applicant may request for the examination of the application within the prescribed period, or the Commissioner may, on some prescribed grounds, direct the applicant to request an examination, or, in case the patent request and specification relating to a complete application for a standard patent are open to public inspection, a person may ask the Commissioner to direct the applicant to request for examination (Sect. 44).
5. Following the request for examination, the application undergoes a detailed examination. During the examination stage, an application is either accepted or an adverse examination report may be issued, with an opportunity for the applicant to respond with amendments to the application (Sect. 45).
6. If the Commissioner accepts the patent application, he/she will notify the acceptance and publish a notice of acceptance in the official journal (Sect. 49). The Commissioner may also refuse the application (Sect. 49, 50).
7. The Minister or any other person may oppose the patent application based on the grounds mentioned under Section 59. In case any opposition is received, the Commissioner conducts a hearing and accordingly decides the matter.

Additional information relating to the Procedures for obtaining a Patent in Australia through PCT

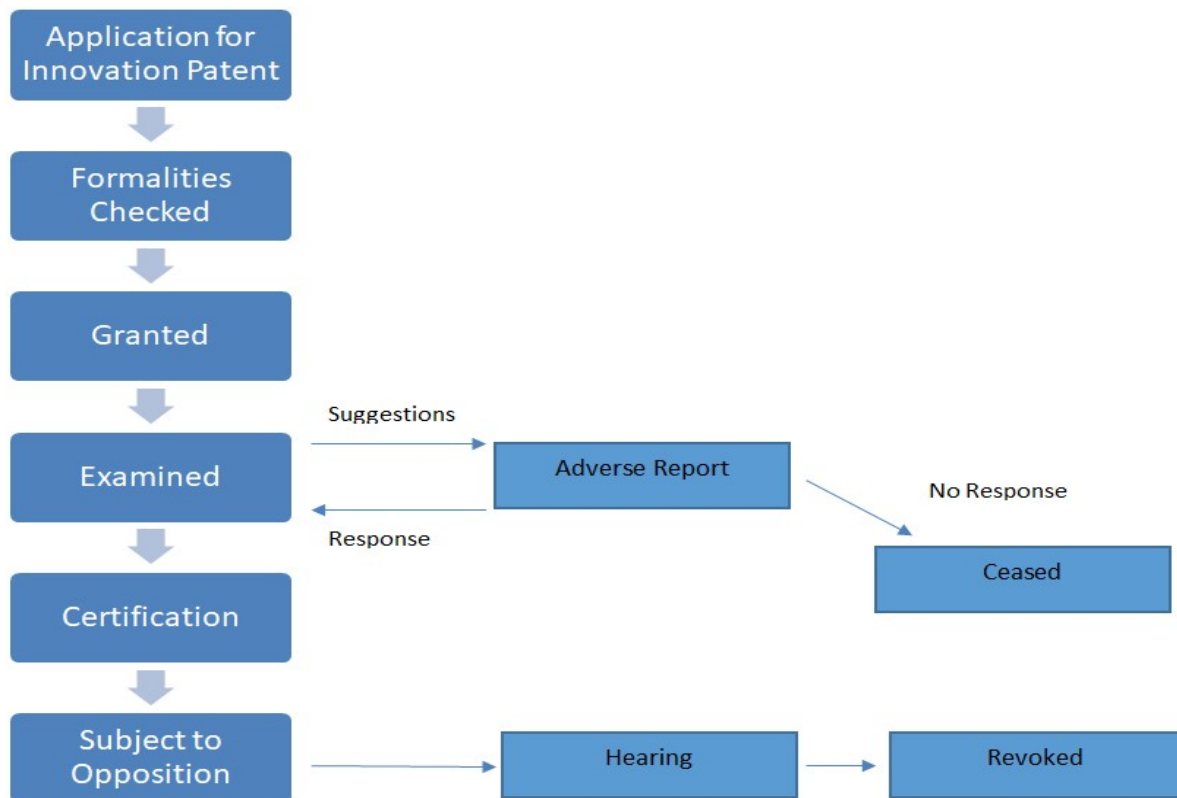
- The time limit for entering the Australian national phase of a PCT application is 31 months from the priority date.
- Special Requirement of Australian IP Office for the entry into National Phase:
 - Name of the inventor if it has not been furnished in the "Request" part of the international application;
 - Statement or notice as to the applicant's entitlement to apply for and be granted a patent;

- Statement or notice as to the applicant's entitlement to claim priority of the earlier application;
- Address for service in Australia;
- Verification of translation, if any

Flow Chart of Filing Procedure for Standard Patents



Flow Chart of Filing Procedure for Innovation Patents



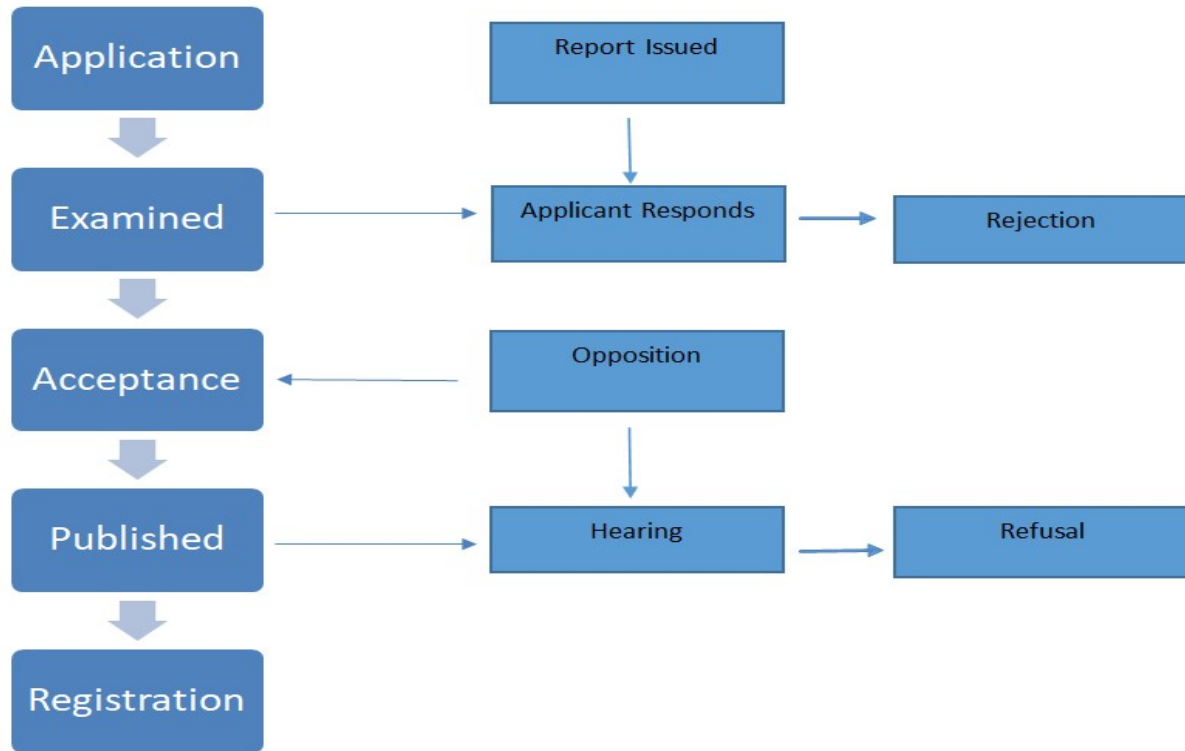
Trade Marks

Procedures for obtaining a Trademark in Australia under the National Law

1. An application for the registration of trademark can be made by a person in accordance with Section 27. In this regard, an applicant shall provide:
 - a. Full name and address;
 - b. A clear representation of the trademark (preferably in electronic format in case of device or logo);
 - c. The classes in which the application is to be filed;
 - d. A description of the goods and/or services; and
 - e. Details of any convention priority claim.
2. The Registrar conducts detailed examination of the application to assess both formal and substantive requirements provided by the Act (Sect. 31).
3. In case an adverse report is issued by the Registrar, the applicant is given an opportunity to respond.
4. The Registrar may reconsider the application, and before rejecting the application the Registrar has to give the applicant an opportunity for a hearing.
5. Once the application is accepted, a notice of acceptance is sent to the applicant and an advertisement of acceptance is published in the Australian Official Journal of Trademarks.
6. In the event that the application is opposed by third parties, the applicant is provided with an opportunity to defend his/her application by furnishing additional documents and justifications.
7. In case of opposition, a hearing is conducted by the Deputy Registrar or a Hearing Officer under delegation from the Registrar. Subsequently, the delegate of the Registrar adjudicates the opposition by either registering or refusing registration of the mark in question.

8. In case no opposition is received, the Registrar registers the trademark.
9. A trade mark may be renewed at ten year intervals dating from the original filing date of the application for registration. A person files a request for renewal and pays a fee. There is no limit upon the number of times a registration may be renewed. If the registration of a trade mark is not renewed, then it ceases to have effect after the expiry date.

Flow Chart of Filing Procedures for Trademarks



Industrial Designs

Procedures for obtaining an Industrial Design in Australia

1. An application for obtaining an industrial design in Australia can be made to the Registrar of Designs (Sect. 21). As provided by Section 22, a single design application may consist of:
 - a. One design in relation to one product
 - b. One design that is a common design in relation to more than one product
 - c. More than one design in relation to one product
 - d. More than one design in relation to more than one product, only if each product belongs to the same class of the Locarno Classification.
2. If the design application meets the minimum filing requirements, the design application receives a priority date (Sect. 27, but also 24 – 26).
3. The applicant may, within the prescribed period, request registration or publication of all or any of the designs disclosed in the application. An applicant must request either registration of each design in the application at filing, or do so within six (6) months from the priority date of the application, otherwise the application will lapse.
4. After a request is made, the design application undergoes a 'formality check'. The applicant is subsequently notified in writing of any deficiency in their application in a "deficiency notice" and the application has to be amended within two months of the first notice.

5. Where the objections in the deficiency notices have been overcome, the design is registered and published in the Australian Official Journal of Designs.
6. Once a design is registered and subject to an additional fee for the examination request, it can then be examined for certification. The examination will determine whether the design is new and distinctive when compared with the prior art base. It will result in either:
 - A certified design right (a certificate confirming a design right is enforceable), or
 - An adverse report which provides an opportunity for amendments to be made to the Register to overcome grounds of revocation raised.
7. The registered owner may respond to the report by either making amendments to the Register to remove the grounds of revocation or providing arguments contesting the examination report.
8. If the Registrar is satisfied that a ground for revocation has not been made out, or would be removed if proposed amendments are made and allowable, then the examination is complete.

Flow Chart for Filing Procedures for Industrial Designs

