Inputs from Member States and Regional Patent Offices to the Thirty-Eighth Session of the Standing Committee on the Law of Patents

Respondent Information

First Name:

[redacted]

Last Name:

[redacted]

Country:

Australia

IP Office

IP Australia

Job title

Policy Officer

Email address:

[redacted]

Email address confirmation:

[redacted]

Disclaimer:

The information provided in response to this questionnaire is understood to be submitted on behalf of the Member State or regional organization concerned, through its competent authority and in accordance with its applicable official internal procedures.
It is assumed that the person completing and submitting the questionnaire is duly authorized to do so and that the information reflects the official position or practice of the Member State or organization, to the extent possible.

I confirm that I have read and understood the statement above and that I agree with its contents.

i) Study on the determination of inventorship and conditions of foreign filing, with a view to identifying potential challenges for innovators in the cross-border collaborative environment

2. Please list the statutes or guidance documents that patent applicants in your country can consult to inform themselves of the foreign filing requirements and the procedure to follow.

For the question "which of the following does the applicable legal framework in your jurisdiction require before a patent application can be filed in another country or at a regional patent organization?", none apply to Australia. However, if general secrecy orders are in place (see Patents Act 1990 sections 173, 147), a variation to such an order would be required to file in another jurisdiction.

Sections 173, 147 and 184 of the Patents Act 1990 are relevant as means of facilitating secrecy orders.

An attached file, "Prohibition Orders under the Patents Act – REVIEWED April 2025" is provided to parties that are the subject of such an order.

The IP Australia Patents Manual of Practice and Procedure page 5.6.14 Prohibition Orders-Applications Concerning Defence Technologies or Associated Technologies provides further guidance. Also see subpages 5.6.14.1, 5.6.14.2 and 5.6.14.3.

4. Does your law allow for a deemed license or automatic approval, if the Office does not act or respond within a specific time period?

No

5. Does your jurisdiction's patent law provide for the imposition of a "Secrecy Order" (or other similar national security restrictions) that prohibits or restricts an applicant from filing for patent protection in other jurisdictions?

Yes

What is the nature/impact of this restriction regarding foreign filing?

N/A

7. Please provide any additional information that you feel would be relevant to this study, by attaching the corresponding document (Word, PDF, etc.)

Prohibition_Orders_under_the_Patents_Act_-_REVIEWED_April_2025.doc

Final review before submission

Confirmation of submission

I am aware that by clicking "Submit" below, my responses will be sent to the SCP Secretariat.