

# Designs Reform Project



Australian Government  
IP Australia



## Outcomes of the review

IP Australia has completed a year of research and consultation exploring Australia's design economy. Australian designers contribute more than \$67 billion to the economy each year, making up 3.5% of GDP on average, with a strong presence in manufacturing and global value chains. We are now progressing legislation and other reforms to deliver a more fit-for-purpose design right to support this innovative ecosystem.

The research has given us a clearer picture of what drives design innovation and the role that design protection, including design rights, plays within the broader design ecosystem.

We've built relationships with areas of the design, business and academic communities who otherwise have had limited or no interactions with IP Australia. We have deepened our understanding of the experiences and needs of those who interact with the design rights system.

We now have a significant body of evidence to inform potential changes to, and surrounding, the design rights system, and potential impacts on the economy.

## Research findings

Research findings support the overall picture that the design rights system in Australia is currently a niche IP right serving a niche set of industries. Evidence of the economic value of design rights is positive but limited. Meanwhile, the design rights system is difficult to understand. Even experienced users can find it difficult to register and use design rights successfully.



## The research is summarised in four reports that are available to the public:

### Defining design

setting the context for the research by defining design and its contribution to the Australian economy.

### Talking design

summarising the insights and experiences of members of the design ecosystem learned through interviews.

### Valuing designs

an economic study assessing whether Australia's design rights system has provided incentives for Australian businesses to invest in design.

### Protecting designs

analysing experiences of Australian businesses turning design ideas into products, their methods and motives for protecting designs and their encounters with copying.

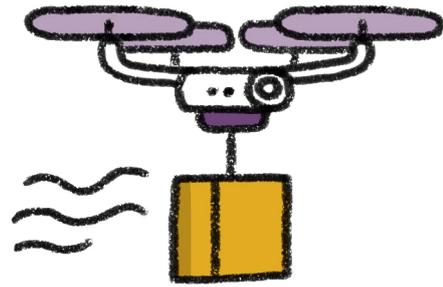
The economic value of design rights, as part of a broader competitive strategy and in combination with other IP rights, is an important part of how they generate value.

IP Australia's Office of the Chief Economist showed this in a study about the ownership of IP rights, business profitability, and market competition. This was summarised in Chapter 7 of the [Australian Intellectual Property Report 2020](#)

# Key findings

## 1. Design activity in Australia is much larger than what is protected by design rights.

Design-related industries and workers more broadly contribute approximately AU\$67.5 billion per annum to the Australian economy – more than 3.5% of GDP – yet less than 0.5% of Australian businesses have held a design right in the last 16 years.



## 2. Not all businesses can expect an economic benefit from having design rights.

Economic analysis shows having a design right predicts some productivity gains for a narrow segment of the economy – businesses in a limited set of 'design rights-intensive' industries, primarily in manufacturing and some in wholesale trade.

## 3. Awareness of design rights is low and the system is difficult to use.

Many in the design ecosystem have no or very limited knowledge of design rights, their purpose, or how to make use of them. Even experienced users find the registration process difficult, and incompatible with the iterative nature of design.

## 4. Design rights provide value as part of a broader business strategy.

A broader strategy that includes design rights often also includes being a part of global value chains, having strong competitive strategies, and using informal design protection methods.

## 5. Design rights work in tandem with patents and trade marks.

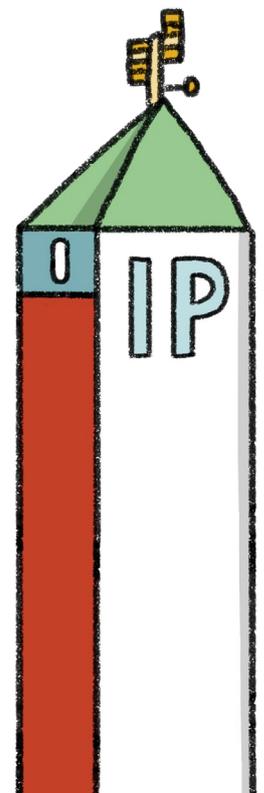
Australian businesses with an IP portfolio that combines design rights with patents and/or trade marks are seen to live longer, have more employees, and have a higher average profit per employee than businesses who just have design rights on their own.

Our broad research has also captured, and allowed us to share, findings and insights that go beyond IP Australia's role as the administrator of design rights, patents, trade marks, and plant breeder's rights in Australia.

Accessibility challenges from different perspectives are evident in many of our research findings – for example, access to the design rights system itself, access to personalised advice about design protection and commercialisation, access to justice in situations where copying is believed to have occurred, and access to good design and products in the Australian market at a price that consumers are willing and able to pay.

For many in the design community, the true value of design and any competitive advantage lies beyond what a final product looks like, and therefore what the design rights system currently protects. Answers to some challenges lie outside the design rights system. IP Australia will continue to explore this with industry and help clarify the role that design rights can play in the bigger picture.

As we progress initiatives within IP Australia's remit to remove barriers and improve accessibility where we can, we will continue to work closely with industry bodies and across government. We are committed to sharing broader accessibility issues important to those we spoke with in the design community so they are understood and considered in the context of the Australian economy.



## What are we doing now?

IP Australia is undertaking a range of initiatives informed by our research.

Initially, we are focusing on giving Australian businesses better access to the tools and information they need when:

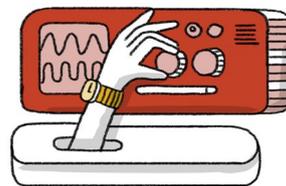
- exploring whether design rights are a good fit for them
- going through the process of getting a design right
- developing a strategy for commercialisation and growing their business overseas that involves design protection.

The process of filing design right applications was identified by many as a barrier for businesses. IP Australia has prioritised work to improve these systems and processes, including a **completely new online design rights filing service** for customers.

We are **refreshing the information available about the design rights system**, so that it is accessible and relevant.

We will also be providing **more targeted support to businesses seeking to protect their designs** and grow their business in the current economic climate.

We are **partnering with industry peak bodies and across government** to connect tools and information with businesses who need it, when they need it.



## What are we working towards?

We expect changes in the short term will break down some accessibility barriers.

However, our focus on the bigger picture continues through longer-term education and awareness initiatives and legislative reforms.

We are exploring ways to further address the disconnects between design rights and the broader ecosystem. Over time we will improve access to the design rights system, increase certainty for those who register their designs, and better connect the system to the needs of the design community and the economy. These changes will help to build a design rights system that is geared towards Australia's overall economic benefit.

We recognise that parts of the design community are unable to register a design right in its current form. This may be due to the kinds of products being designed, especially in some technology sectors, or because the design rights system is not compatible with their design processes, especially developing in iterations and making designs public before registering.

A significant upcoming legislative change to help address the publication issue is the **grace period for those applying for design rights**. This is expected to be a significant step to remove barriers for many who are prevented from participating in the design rights system and to create new opportunities for those seeking to protect their designs.

IP Australia is partnering with peak industry bodies and across government to ensure the changes we make are effective and meaningful, balance different needs, and help people make informed, proactive business decisions about their designs.

## Want to be involved?

Visit our webpage for more information, including where the reform work is currently up to:

[ipaaustralia.gov.au/beta/designs-review](https://ipaaustralia.gov.au/beta/designs-review)

If you want more information about our findings, or would like to share your own experiences in the Australian design sector, please write to us at [MDB-DRP@ipaaustralia.gov.au](mailto:MDB-DRP@ipaaustralia.gov.au).

Some of the options related to the design system that are currently in our policy register include introducing partial design protection for products and expanding protection to virtual designs. If you would like to provide any feedback on these or other issues, or if you would like to submit new policy issues for consideration, please visit the policy register.

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