

The Auditor-General

Audit Report No.5 1999–2000

Performance Audit

IP Australia— Productivity and Client Service

Australian National Audit Office

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Canberra ACT
9 August 1999

Dear Madam President
Dear Mr Speaker

The Australian National Audit Office has undertaken a performance audit of IP Australia in accordance with the authority contained in the *Auditor-General Act 1997*. I present this report of this audit, and the accompanying brochure, to the Parliament. The report is titled *IP Australia—Productivity and Client Service*.

Following its tabling in Parliament, the report will be placed on the Australian National Audit Office's Homepage—
<http://www.anao.gov.au>.

Yours sincerely



P. J. Barrett
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Abbreviations/Glossary

ACIP	Advisory Council on Industrial Property
AIPO	Australian Industrial Property Organisation, the former name for IP Australia
ANAO	Australian National Audit Office
BASS	Business Name Applicant Search Service
CD	compact disc
CD-ROM	CD—read only memory
GDP	Gross domestic product
industrial property	patents, trade marks and designs
IP	intellectual property. Intellectual property includes industrial property and, in addition, copyright, plant breeders' rights and circuit layout and design.
IT	information technology
TM2000	a business process review being undertaken within the Trade Marks Office of IP Australia
UK	United Kingdom
US	United States of America
WIPO	World Intellectual Property Organisation

Summary and Recommendations

Audit summary

Introduction

1. IP Australia, a division of the Department of Industry, Science and Resources, is the sole agency in Australia which provides intellectual property (IP) rights in respect of patents, trade marks and designs.
2. IP Australia provides IP rights by testing applications against requirements set out in legislation. The requirements include examination for novelty and an inventive step (for patents) and distinctiveness (for trade marks).
3. Australia's IP system is part of, and largely limited by, the international IP environment. Australia is signatory to multilateral agreements. A key element of IP Australia's strategy is to ensure that its processes are compatible with international practice.
4. The demand for IP rights has been growing strongly. Applications have almost doubled in the last five years. IP Australia will process an estimated 60 000 patent applications and almost 50 000 trade mark applications in 1998–99.
5. IP Australia is required to recover its full costs on an accrual basis. It earned some \$75 million revenue in 1997–98; about two-thirds of this related to patents and most of the balance to trade marks. Its operating expenses for the same period were about \$64 million, resulting in a surplus of \$11.7 million for the year.

Audit objective and methodology

6. The objective of the audit was to examine the effectiveness of IP Australia's management of productivity and client service.
7. The audit addressed performance information on productivity and client service; the impact of improved productivity and increased demand for IP Australia's services on the achievement of its cost-recovery objectives; and the adequacy and effectiveness of mechanisms for improving productivity and client service.
8. Processing of designs was excluded from the audit as it represents only one per cent of IP Australia's revenue.
9. The audit criteria were based on goals set by IP Australia for itself, adapted in some cases to reflect the scope of the proposed audit. The audit methodology involved file examination and staff interviews,

and assessing IP Australia's performance against relevant better practice. An expert consultant was engaged to address business process reengineering issues.

Conclusion

10. IP Australia has improved its productivity and the cost and timeliness of its client services substantially in the last few years. Prices were reduced by some 22 per cent in 1998. The average time taken for key steps in the processing of applications for IP rights has reduced markedly.

11. IP Australia's output performance information framework is quite robust, with a strong focus on cost efficiency, productivity and timeliness. The continuity of performance measures over time enables trend information to be determined. This shows that IP Australia's performance has improved steadily and that it met all performance targets in 1997–98.

12. Improvement of business processes has been a focus of management attention for a number of years and has delivered significant benefits to IP Australia and its customers in terms of improved cost and timeliness of services. IP Australia has taken action to improve service in a number of areas identified by customers as important.

13. IP Australia is the sole provider of IP rights in Australia. It has exceeded the cost recovery target set out in its financial framework. Revenue has exceeded costs for each of the past five years, due in part to a surge in demand, and hence revenue, which was not predicted. As a result IP Australia had accumulated a surplus of \$31.5 million at 30 June 1998, equivalent to almost six months' expenditure.

14. Looking forward, IP Australia faces a number of challenges in delivering its IP services efficiently and effectively. It is entering an increasingly uncertain environment of developing international harmonisation of, and competition within, the world IP system. IP Australia would be better placed to address the changing environment by formalising its approach to analysis of its competitive position and by integrating this into its planning, performance management and performance improvement processes.

15. IP Australia can also strengthen its performance information framework in two important areas. Currently there are no measures of the effectiveness with which IP Australia's outcomes meet its objectives, although this issue is being considered in the Outcomes and Outputs Framework. Furthermore, there are limited measures of quality of the

product, an area which clients have identified as of key importance to them. A quality assurance framework which focuses more on client perceptions of quality, and which makes greater use of information already available, would improve quality management of processes and outputs.

16. Enhancements to IP Australia's financial system to measure unit costs of production more conclusively would enable it to assess the extent to which it has achieved its unit cost reduction objective.

17. Finally, IP Australia could strengthen its management of process improvement by enhanced use of business cases and of prioritisation of projects to improve accountability, support better resource allocation, and provide assurance that process improvement efforts are appropriately focused. Consideration of external factors to generate redesign ideas, such as analysis of customer/stakeholder needs and process and performance benchmarking, would be more consistent with better practice business process reengineering.

Recommendations and responses

18. The ANAO made 10 recommendations to improve the effectiveness of IP Australia's management of productivity and client service. IP Australia has agreed to all recommendations.

19. IP Australia has indicated that it agrees with the thrust of the report and is continually striving to improve performance to meet the quickly changing domestic and international Intellectual Property environments.

Key Findings

Planning and strategic positioning

20. IP Australia has a hierarchy of plans which provide organisational goals and strategies. However, key strategic documents are not always inter-linked to provide a coherent overall strategic approach to achieve effective results. Furthermore, plans have limitations in their inclusion of performance information, for example, the business plan for Patents and Designs does not contain performance indicators. There is a risk that IP Australia's planning may become disjointed over time, with possible adverse consequences for successful outputs and outcomes. Compliance with IP Australia's existing planning guidelines would promote greater consistency in planning and performance management.

21. International IP systems are evolving towards greater international harmonisation and competition between national IP offices. The Minister for Industry, Science and Resources has determined that IP Australia should seek to be a leading provider of IP rights in the world.

22. IP Australia is an active participant in international fora, and is one of only eight offices approved by the World Intellectual Property Organisation to implement new international patent searches and examinations from any country upon request. While IP Australia has some international benchmarking data, for example on patent prices, it has not yet formalised its approach to analysis of its competitive position to ensure a credible result. IP Australia should further develop its strategic approach to benchmarking and competitive positioning of its patent services, to ensure that its planning, performance management and performance improvement processes address the future challenges of increasing internationalisation.

Performance information

23. IP Australia's output performance information framework is quite robust. The framework has a strong focus on cost efficiency, productivity, timeliness, and the continuity of performance measures over time to enable trend information to be determined. This information shows that IP Australia's performance has improved steadily and that it met all performance targets in 1997–98.

24. However, being output focused, performance measures tend to be basically process-oriented. There are no measures of the effectiveness

with which IP Australia's outcomes meet its objectives, although this issue is being considered in the context of the Outcomes and Outputs Framework.

25. The ANAO found that some performance indicators are not accurate or consistent descriptors of what is measured. Furthermore, most reported indicators have for some time exceeded their targets. The dynamism and improvement orientation of IP Australia's performance information framework would be enhanced by setting targets which encourage performance improvement.

26. The use of measures of so-called financial effectiveness (such as price changes and output per total cost) has been a positive aspect of IP Australia's performance information framework. One of these measures—the ratio of revenue-weighted output to total cost—is used to measure productivity for the purposes of the Certified Agreement. Under the Agreement, bonus payments are paid for 1997–98 and 1998–99 if this measure exceeds four per cent for the year. However, this indicator can in fact be influenced by factors unrelated to staff productivity, such as changes in legislation that alter processing requirements and changes to the business mix. More appropriate measurement of productivity would be desirable for use in future Certified Agreements.

Client service

27. IP Australia has a wide range of mechanisms to obtain satisfactory customer feedback. These include consultation with stakeholders, direct client feedback and market research.

28. IP Australia launched its Customer Service Charter in February 1998. Its standards address accessibility; responsiveness; the provision of accurate, easy to understand information; and efficiency. Many aspects of the Charter are sound, and the IP Australia Executive receive regular reports on performance against the Charter where data is available. However, some standards are not well-defined or are not measurable. These features make monitoring and overview of performance difficult.

29. IP Australia has identified increasing knowledge and use of IP by Australian businesses as an important aim, especially for the small business sector, and to this end has developed a marketing strategy. The strategy includes client seminars and editorials in relevant publications. IP Australia is yet to establish a framework for the evaluation of this strategy and related activities. An evaluation framework would enable IP Australia to monitor progress in achieving its aim for increased IP awareness, and to adjust its strategies accordingly.

30. Appropriately timely processing of the various stages of IP applications is an important consideration for IP Australia's clients. For example, applications lapse if processes are not completed within specified times (there is, however, provision for IP Australia to extend the time available where delays are attributable to it). IP Australia has steadily reduced the time of key processing steps in recent years, providing greater control to clients over the progression of their applications, in accordance with the expressed wishes of clients.

31. IP Australia's clients have identified the quality and consistency of decision-making as of key importance. IP Australia's processes do have features such as right of appeal and delegation of authority, but these are more in the nature of normal administrative practices, rather than being directed at structured assurance of the quality of the original decision. While IP Australia has begun to address some quality issues, its overall approach has tended to focus on process characteristics, such as cost and timeliness, rather than on quality of the product as perceived by the client.

32. As IP Australia emphasised the difficulty of developing reliable measures of quality of search and examination, the ANAO examined available management information to provide some insight into performance with respect to quality and consistency. This revealed that trade marks examiners do not have consistent rates of clearing reports. As there are no distinguishing features between applications allocated to examiners, this suggests inconsistent practice between examiners. The extent to which examiners clear reports at less than the average potentially represents reduced client service and possible costs to both clients and IP Australia when applications are re-submitted.

33. A quality assurance framework which focuses more on client perceptions of quality, and which makes greater use of information already available to IP Australia, would improve quality management of processes and outputs.

34. IP Australia has bettered its target of keeping fee rises below the level of inflation. Fees were reduced in 1998 by some 22 per cent on average.

Financial targets—productivity and cost recovery

35. IP Australia is the sole provider of IP rights in Australia. It operates under a financial framework agreed with the Department of Finance and Administration. This agreement requires IP Australia to achieve 'real reductions in unit costs', and to 'recover full costs on an accrual basis'.

36. IP Australia has made significant efficiency improvements, processing a large increase in applications, with relatively constant staff numbers.

37. IP Australia's financial system does not measure unit costs of production conclusively. The establishment of such measures would enable IP Australia to assess the extent to which it has achieved its unit cost reduction objective, and would contribute to a useful measure of productivity in future Certified Agreements. It would also contribute to sound business management, particularly having regard to the increasingly competitive environment in which IP Australia is operating.

38. IP Australia's revenue has exceeded costs for each of the past five years, and it had an accumulated surplus of \$31.5 million at 30 June 1998 (equivalent to almost six months' expenditure). IP Australia has therefore exceeded its cost recovery target.

39. The accumulated surpluses are due in part to a surge in demand, and hence revenue, which was not predicted by IP Australia's financial forecasting models. A sound management structure should seek to respond appropriately, and in a timely manner, to such outcomes. This could be supported, for example, by guidelines for management action based on variations from forecasts and on considerations such as the desire for price stability over time.

40. The most recent financial outlook suggests even higher accumulated surpluses, indicating that, for the foreseeable future, IP Australia does not anticipate redressing the situation where it is exceeding its cost recovery target. IP Australia should therefore devise a financial plan to deal with the accumulated surplus—this may require a review of the financial framework under which it operates.

Process improvement

41. Improvement of business processes has been a focus of management attention for a number of years and has delivered significant benefits to IP Australia and its customers in terms of improved cost and timeliness of services.

42. Notwithstanding these achievements, IP Australia's Business Improvement Framework could be strengthened. For example, the approaches taken to managing business improvement have varied across IP Australia's business units. In the Patents and Designs Business Unit, emphasis has been placed on a range of projects driven by staff teams. The method of prioritisation of these projects could be enhanced to improve accountability, support better resource allocation, and provide assurance that process improvement efforts are appropriately focussed.

43. In the Trade Marks Business Unit, the principal activity has been a major business process review covering all processes of the Business Unit. There was no direct consideration of external factors to generate redesign ideas such as analysis of customer/stakeholder needs, and process and performance benchmarking. These aspects are widely recognised ingredients of successful business process reengineering exercises. Similar limitations are apparent in a business process reengineering exercise planned for the Patent Operations Business Unit.

44. Implementation and trials of some recommendations of the Trade Marks Review commenced before IP Australia decided that it would consider the proposed implementation strategy, including a business case.

45. Upgrading of IP Australia's information technology infrastructure to put it on a par, in terms of functionality, with the best practices of overseas IP offices is planned or underway. However, most information technology development projects were not supported by business cases, which detracts from accountability for outcomes and business decisions. Most information technology projects were also not supported by project plans, which jeopardises the achievement of project outcomes.

46. IT developments and process redesign have, and will continue to, replace services currently provided by state offices. The ANAO considers that a review of the way that these services are delivered, and whether more cost effective alternatives are available, is likely to allow IP Australia to reallocate some of the \$2.7 million currently devoted to state offices.

Recommendations

Set out below are the ANAO's recommendations with Report paragraph references and IP Australia's abbreviated responses. More detailed responses are shown in the body of the report. The ANAO considers that IP Australia should give priority to recommendations 2, 4, 6 and 8.

Recommendation No.1 The ANAO recommends that IP Australia strengthen its planning by:

Para. 2.10

- aligning plans and strategies; and
- incorporating performance indicators and measures in business plans.

IP Australia: Agree.

Recommendation No.2 The ANAO recommends that IP Australia incorporate into its planning processes for patent services analysis of its competitive position in target markets.

Para. 2.22

IP Australia: Agree.

Recommendation No.3 The ANAO recommends that IP Australia develop its performance information and monitoring framework to ensure that:

Para. 3.22

- there are indicators of how effectively IP Australia meets its stated objectives;
- performance indicators accurately and consistently describe their relevant performance characteristic; and
- targets encourage performance improvement.

IP Australia: Agree.

**Recommendation No.4
Para. 3.30** The ANAO recommends that IP Australia establish a measure of productivity for future Certified Agreements which is less affected by factors other than unit productivity than the measure currently in use.

IP Australia: Agree.

**Recommendation No.5
Para. 4.30** The ANAO recommends that IP Australia establish a framework for evaluating the degree to which its marketing strategy and related activities are meeting its aim of increasing awareness of IP matters in the Australian community.

IP Australia: Agree.

**Recommendation No.6
Para. 4.59** The ANAO recommends that IP Australia establish a quality assurance framework which monitors and evaluates the quality of its processes and outputs. The framework should enable management to address, *inter alia*, variation in acceptance rates between examiners.

IP Australia: Agree.

**Recommendation No.7
Para. 5.6** The ANAO recommends that IP Australia introduce systems to establish accountability for unit costs of production.

IP Australia: Agree.

Recommendation No.8
Para. 5.17 The ANAO recommends that IP Australia review the financial framework under which it operates and establish financial management arrangements which:

- facilitate prompt business responses to unexpected financial outcomes;
- investigate predictive and forecasting models with levels of accuracy sufficient to support its cost recovery target; and
- include a financial plan for dealing with the actual and predicted revenue surpluses.

IP Australia: Agree.

Recommendation No.9
Para. 6.24 The ANAO recommends that IP Australia redefine its Business Improvement Framework to ensure decision making:

- identifies priority areas for process improvement;
- benchmarks performance and processes with relevant organisations, where cost-effective;
- addresses gaps between current performance and customer/stakeholder needs;
- requires business cases for proposals;
- requires project plans which address the implementation timetable, resources, responsibilities and project dependencies for all major projects; and
- includes mechanisms to review progress and outcomes of major improvement initiatives.

IP Australia: Agree.

Recommendation No.10
Para.6.35 The ANAO recommends that IP Australia review the role of state offices and associated service delivery arrangements, with a view to maximising the efficient use of resources consistent with client service objectives.

IP Australia: Agree.

Audit Findings and Conclusions

1. Introduction

This chapter provides an overview of IP Australia. The objective, criteria, scope, focus and methodology of the audit are also discussed.

Background

1.1 One of the ways in which national governments promote innovation, competitiveness and trade is to pass laws which enable owners to protect their intellectual property (IP). IP Australia (formerly the Australian Industrial Property Organisation), is the agency in Australia which provides intellectual property rights in respect of patents, trade marks and designs. Its program objective is:

To benefit Australia through the use of intellectual property (IP) by:

- *providing valid IP rights¹ and related services;*
- *monitoring and developing the Australian IP system;*
- *influencing the development of the international IP system; and*
- *creating awareness of IP matters in the Australian community.²*

1.2 Patents provide an exclusive right to exploit an invention in return for its public disclosure. The exclusive right to exploit an invention provides a more secure basis for the owner to use the invention in business operations; to license its use by others; and to take legal action against unauthorised use. Patents are granted for a set period, normally 20 years, subject to the payment of renewal fees.

1.3 Trade marks allow businesses to register and then protect a distinctive mark (which may be written, or a shape, or packaging) which serves to identify the supplier of a product or service. Trade marks are used to build and protect trade reputations by enabling consumers to distinguish between suppliers of products and services. They reduce deception and confusion in the marketplace. Trade marks can be renewed repeatedly.

1.4 The grant of an IP right related to the design of a product protects the visual appearance of the product. Design rights can provide a marketing advantage to the owner.

¹ Patents, trade marks and designs are examples of 'IP rights' and are sometimes referred to as 'industrial property'. Other IP rights, outside IP Australia's scope, include copyright, plant breeders rights and electronic circuit layout and design.

² Industry Science and Tourism Portfolio Budget Statements 1998–99, p117.

1.5 IP Australia provides IP rights by testing applications against requirements set out in legislation. These requirements include examination for novelty and an inventive step (for patents) and distinctiveness (for trade marks).

1.6 Australia's IP system is part of, and largely limited by, the international IP environment. Australia is signatory to multilateral agreements, including the World Trade Organisation agreement on Trade Related Aspects of Intellectual Property Rights, and to treaties made under the auspices of the World Intellectual Property Organisation (WIPO). These agreements require that signatory nations have intellectual property systems that meet minimum standards. For most countries, these arrangements involve the establishment of a national office to grant IP rights.

Corporate governance

1.7 IP Australia is a Division within the Department of Industry, Science and Resources, but operates independently of the Department as a prescribed agency under the *Financial Management and Accountability Act 1997*. Under this Act, the Director-General of IP Australia issues Chief Executive Instructions to the staff of IP Australia. IP Australia is led by an executive management team comprising the Director-General and each of the five business unit (branch) heads.

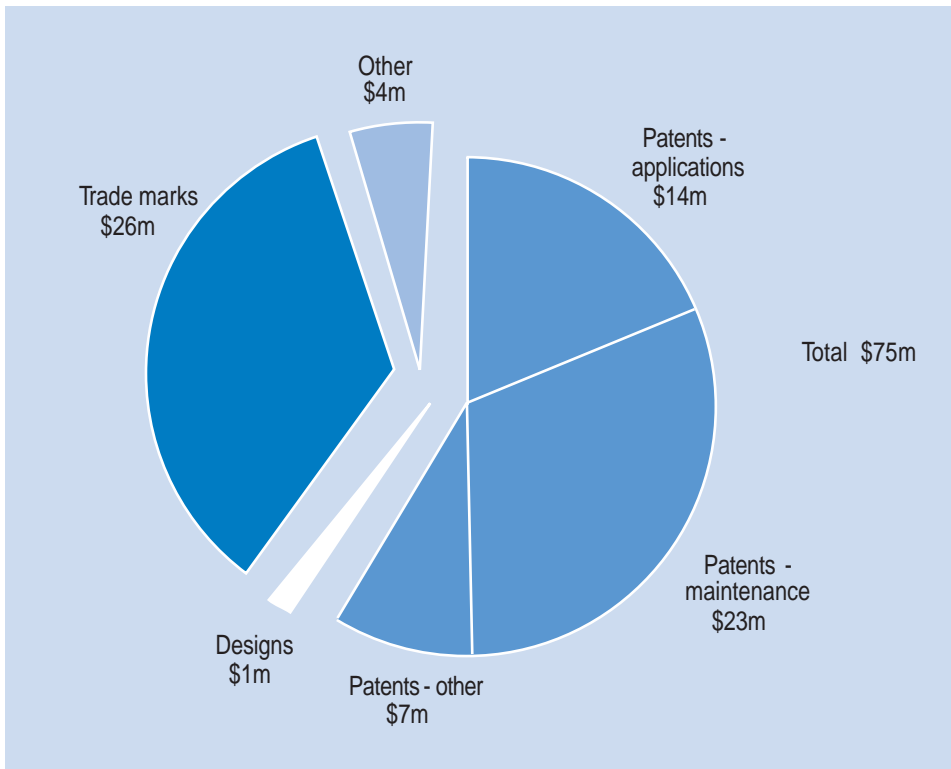
1.8 An Advisory Council on Industrial Property (ACIP) advises the Minister for Industry, Science and Resources on industrial property policy and on IP Australia's administration. ACIP members are drawn from industry, academe, and the IP and legal professions. IP Australia provides administrative and financial support to ACIP.

Financial overview

1.9 IP Australia is required to recover its full costs on an accrual basis.

1.10 IP Australia earned revenue of some \$75 million in 1997–98. This was principally from fees for applications for IP rights, and for maintaining rights (ie the continuation of applications and renewal of IP rights which have been granted already). As described in Figure 1.1, almost two-thirds of IP Australia's fee income relates to patents.

Figure 1.1
IP Australia revenues—1997–98



1.11 IP Australia's operating expenses in 1997–98 amounted to almost \$64 million, resulting in a surplus of \$11.7 million for the year.

Staffing

1.12 Staffing in IP Australia has been relatively constant since 1993–94, with average staffing levels of between 700 and 750 over the period. Most of these staff work in IP Australia's head office in Canberra. Approximately 30 staff work in IP Australia's state office network, which comprises shop-front offices in each state capital and the ACT.

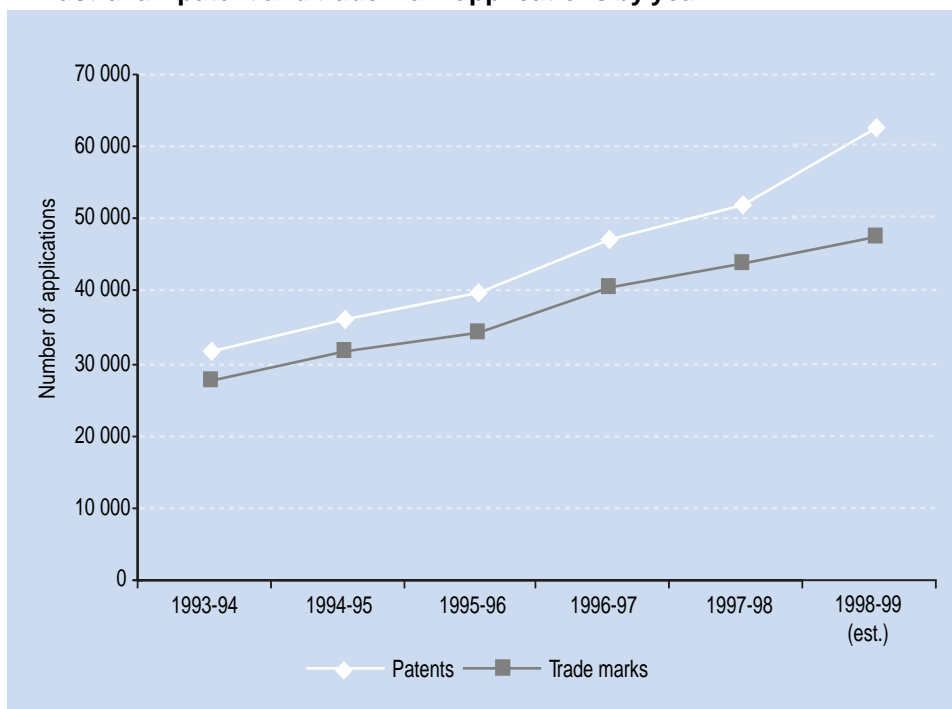
Business environment

1.13 There is a trend towards internationalisation of the world's IP systems. This trend is focusing on developing common processing systems, harmonising IP laws, and achieving greater international recognition of examination processes. A consequence of this trend is that countries' IP offices are increasingly being placed in competition with one another.

1.14 At the same time the demand for IP rights has been growing strongly, as shown in Figure 1.2.

Figure 1.2

IP Australia—patent and trade mark applications by year



Source: Historical data: Departmental Annual Reports, various.

Estimate: Portfolio Budget Statements, Industry, Science and Tourism Portfolio, 1998–99

Audit objective and criteria

1.15 The objective of the audit was to examine the effectiveness of IP Australia’s management of productivity and client service.

1.16 The audit addressed performance information on productivity and client service; the impact of improved productivity and increased demand for IP Australia’s services on the achievement of its cost recovery objectives; and the adequacy and effectiveness of mechanisms for improving productivity and client service.

1.17 The audit criteria were derived from IP Australia’s strategic goals, adapted in some cases to reflect the scope of the proposed audit, and developed incorporating sources such as the US General Accounting Office criteria for assessing business process reengineering projects. The detailed audit criteria are in Appendix 1.

Scope and focus

1.18 The scope of the audit covered activities relating to patents and trade marks and had regard to a business process review in the Trade Marks Office. Processing of designs was excluded from the audit as it represents only one per cent of IP Australia's revenue.

1.19 The audit focus was on the management of productivity and client service by IP Australia, including the production and reporting of relevant management and performance information.

Audit methodology

1.20 The audit methodology involved:

- file examination and staff interviews, primarily at IP Australia's head office in Canberra, but also at state offices;
- assessing the scope for productivity improvements and mechanisms for managing process improvement;
- assessing client service against relevant better practice benchmarks (including the ANAO *Better Practice Guide on Quality in Customer Service*); and
- assessing performance information against relevant better practice benchmarks (including the ANAO *Better Practice Guide on Performance Information Principles* and accrual budgeting guidance from the Department of Finance and Administration).

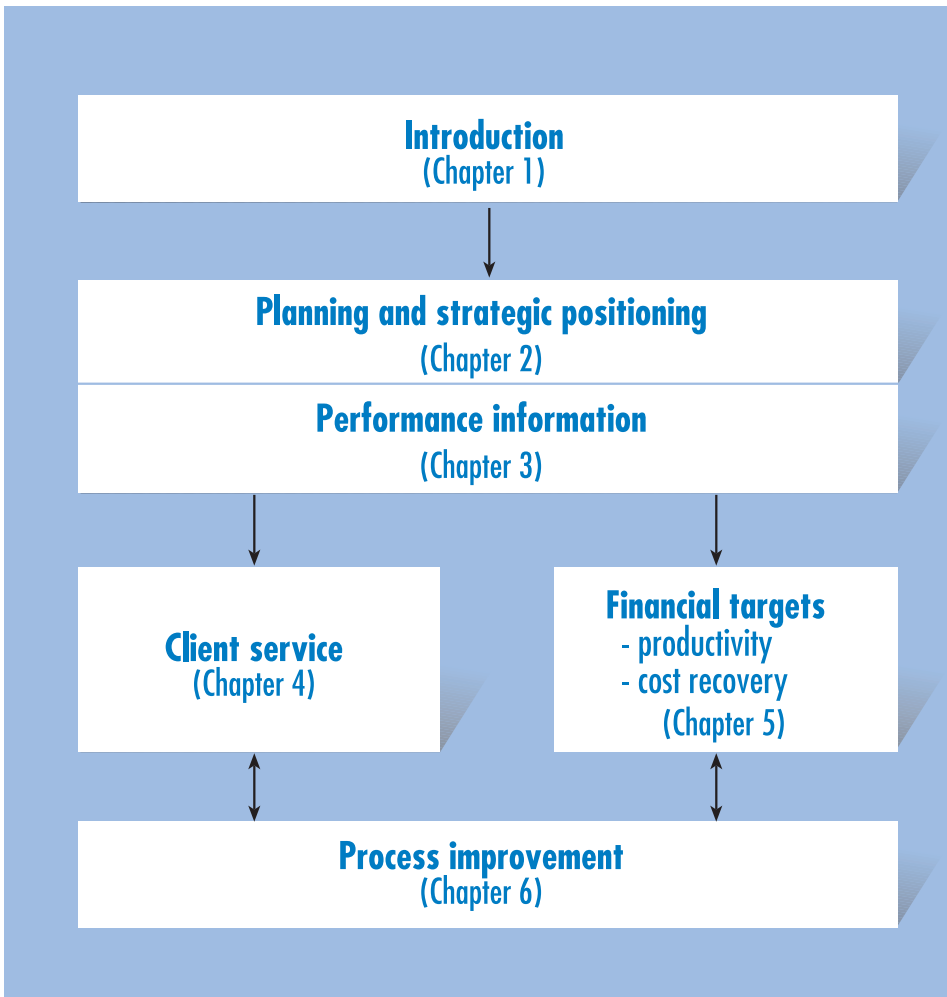
1.21 The ANAO sought the assistance of technical expertise in the field of business process reengineering to assist it in assessing the scope for productivity improvements and mechanisms for managing process improvement in IP Australia. The firm of Reengineering Australia was contracted to provide this assistance. Their contribution to the audit included designing and carrying out fieldwork, evaluating data gathered, and drawing out findings and conclusions. In working with the ANAO's audit team, the contractor's staff were authorised under the *Auditor-General Act 1997*.

1.22 The audit was conducted in accordance with ANAO Auditing Standards at a cost of \$393 000.

Report structure

1.23 The structure of the report is shown in Figure 1.3.

Figure 1.3
Report structure



2. Planning and strategic positioning

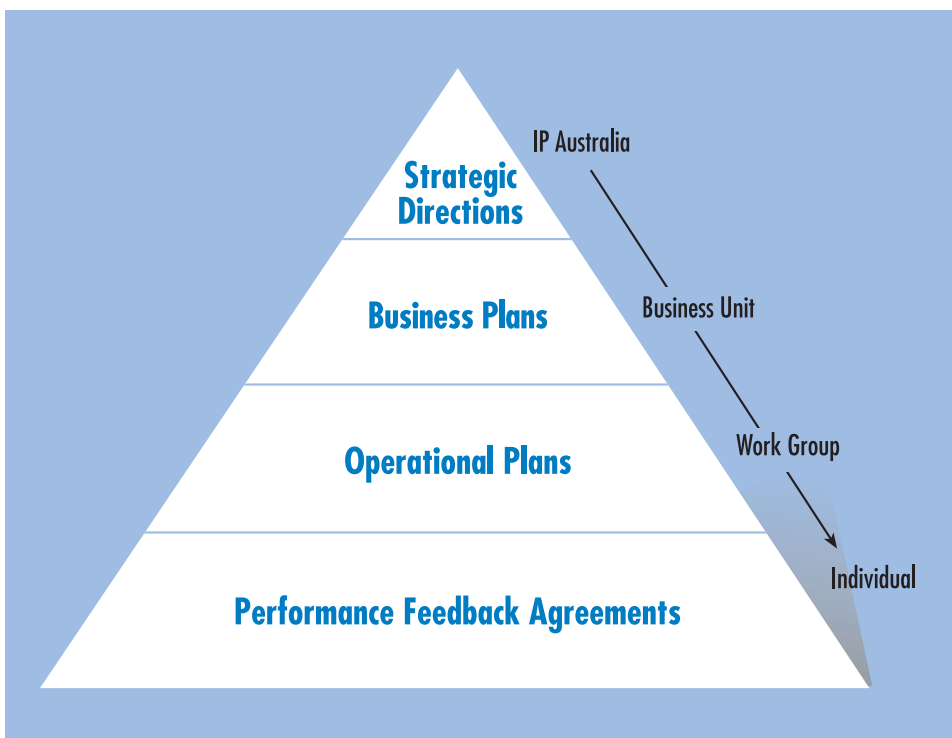
This chapter reviews IP Australia’s planning arrangements and strategic approach to participation in an international IP system evolving towards greater harmonisation and competition. The ANAO has recommended that IP Australia establish better alignment of plans and strategies, include performance information in all plans, and enhance the market and competitive strategy for its patent services.

Introduction

2.1 IP Australia’s planning hierarchy is set out in Figure 2.1.

Figure 2.1

IP Australia—planning hierarchy



2.2 *Strategic Directions* is IP Australia’s Strategic Plan. It describes the organisation’s mission, vision, values and goals. Each goal has a number of strategies, which are the action steps directed at achieving the goals.

2.3 *Strategic Directions* is complemented by a recent document from the Executive entitled *Service Delivery in IP Australia*. This document defines organisation strategies at a lower level than *Strategic Directions* and incorporates:

- IP Australia’s vision of the international and domestic environments;
- the attributes IP Australia desires;
- service delivery principles; and
- current or planned activities in support of these directions.

2.4 Each of IP Australia’s business units has a four-year business plan. The plans include workload, staffing, cost and revenue projections.

Linkages between plans and use of performance information

2.5 Effective planning arrangements seek to ensure that strategies articulate the means by which program objectives will be achieved, and that plans at various levels are aligned and supported by performance information. This provides assurance that activities are appropriately directed and facilitates assessment of the extent to which desired objectives have been achieved.³

2.6 The ANAO found that, at the whole-of-organisation level, *Strategic Directions* has strategies for each organisational goal and, to that extent, provides the actions to achieve progress towards the goals. However, the ANAO notes that, while *Service Delivery in IP Australia* also has a distinct strategic focus, it does not mention *Strategic Directions* or business unit plans, and does not contain performance indicators. The ANAO considers that it would be beneficial to combine, or more clearly reconcile, this document to *Strategic Directions* and to business units’ plans to provide a coherent overall strategic approach to achieve effective results. It would also remove the possibility of IP Australia’s planning becoming disjointed over time.

2.7 The ANAO found that the business plans of the Patents and Designs and Trade Marks Business Units provided detailed analyses of resources and of proposed activities within the context of the IP Australia Strategic Plan. However, the structure and content of the business plans can be improved. For example, the Patents and Designs business plan does not contain performance indicators or performance information. The Trade Marks business plan does not define the linkage with

³ ANAO Performance Information Principles Better Practice Guide.

organisational strategies and, while it incorporates performance information, there are some limitations in terms of the balance of performance measures (discussed further in Chapter 3).

2.8 In addition, both business plans do not include priorities and timeframes for completion of tasks. These are important for management's consideration of alternatives and for achieving planned outcomes.

2.9 The ANAO concluded that key strategic documents are not always inter-linked to provide a coherent overall strategic approach to achieve effective results. Furthermore, plans have limitations in their performance information, with the risk that IP Australia's planning may become disjointed over time, with possible adverse consequences for successful outputs and outcomes. IP Australia indicated that it has guidelines to promote consistency in planning and performance management, and that it will seek to achieve greater compliance with guidelines in the future.

Recommendation No.1

2.10 The ANAO recommends that IP Australia strengthen its planning by:

- aligning plans and strategies; and
- incorporating performance indicators and measures in business plans.

IP Australia response

2.11 Agree. IP Australia will continue to improve the alignment of plans and strategies as part of the business planning process. IP Australia will further integrate the corporate plan and business plans, and refine and develop performance indicators at all levels.

Strategic positioning in a rapidly changing IP environment

2.12 While trade marks are essentially a domestic product for which IP Australia is the sole provider, international competition to provide patent services is increasing. Continuing moves towards harmonising, regionalising and centralising IP activities internationally may force some countries to reassess the nature and level of service their IP offices provide. This applies not only to competition for new patents business (emerging, for example, from the requirements of developing countries) but also to services provided domestically.

2.13 To succeed in such an environment strategic processes should address the future challenges from international developments. The

ANAO therefore examined whether IP Australia was testing its position against other IP offices and developing business strategies, as appropriate, that support internationally competitive services.

Responding to the environment

2.14 An international working party to the Advisory Council on Industrial Property (ACIP) was formed in 1997 to review IP Australia's international activities and to investigate strategies to meet the challenges created by the increasingly globalised IP environment. The working party provided a report to the Minister for Industry, Science and Resources in December 1998. The report described IP Australia's strengths, weaknesses, opportunities and threats, and the pressures for change:

changes to existing IP systems are being driven primarily by the globalisation of trade and commerce, and by advances in information technology such as the Internet. These changes include:

- *an increasing number of countries seeking to implement effective IP systems;*
- *the simplification and harmonisation of IP systems around the world;*
- *increasing competition in the cost and quality of services;*
- *greater cooperation and information sharing between IP offices, including the development of distributed information pools; and*
- *a trend towards granting IP rights on a regional rather than a national basis.⁴*

2.15 The Minister for Industry, Science and Resources has endorsed the recommendations of the working party, including that IP Australia should seek to be a leading provider of IP rights in the world.

2.16 IP Australia's broad international involvement has included active participation in the international fora of the World Intellectual Property Organisation (WIPO), which shape the nature of the global IP system. IP Australia's close involvement in international developments is reflected in the fact that it is one of only eight offices appointed by WIPO to implement new international patent searches and examinations from any country upon request.

Assessing international competitiveness

2.17 IP Australia advised the ANAO that it has not yet formalised its approach to analysis of its competitive position and to testing against

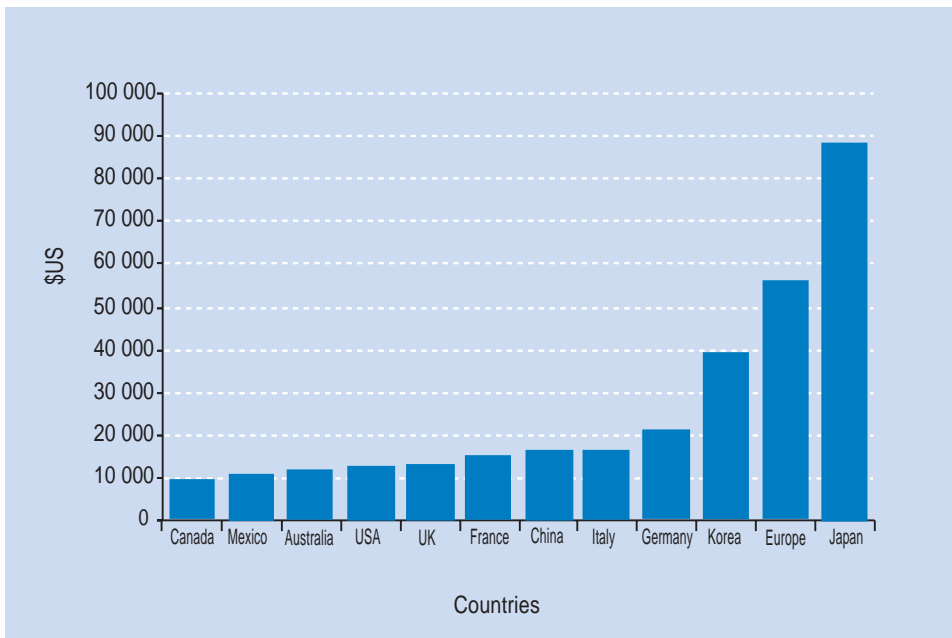
⁴ IP Australia's International Strategy, A Report from the International Working Party on Industrial Property, 1998.

other IP offices. However, benchmarking data on international patent prices has been obtained and some questions concerning international competitiveness have been asked in IP Australia’s market research surveys.

2.18 The benchmarking data on patent prices compares IP Australia’s total of official fees and annuities per patent against selected national IP offices (see Figure 2.2). While the data will be affected by differences in international systems and, in countries such as Japan, the need to provide translations, it demonstrates that IP Australia’s whole-of-life fees are not significantly different from the UK and US. The ANAO notes that market research has suggested that IP Australia may be less well placed internationally with respect to perceptions of quality (see Chapter 4).

Figure 2.2

Whole-of-life IP office patent charges⁵



Source: Michael N Meller and Eli J McKhool, *Statutory and Procedural Changes which could Reduce Patenting Costs in Canada*, paper presented to the Third International Symposium on Reduction of Patent Costs, San Francisco, 29–30 June 1998

2.19 Apart from price competitiveness, strategic decisions concerning participation in a more internationalised environment require consideration of factors such as:

- the quality requirements of customers and other issues that will

⁵ Based on a 20 page English language patent application including 20 claims plus five sheets of drawings.

differentiate the services and products of IP Australia from those of its competitors; and

- the target markets in which IP Australia would plan to operate.

2.20 These decisions require an understanding of customer needs; market characteristics; and the objectives, behaviour, strengths and weaknesses of competitors. IP Australia has yet to address these considerations formally.

2.21 The ANAO concludes that IP Australia should develop its strategic approach to benchmarking and competitive positioning of its patent services, to ensure that its planning, performance management and performance improvement processes produce a credible result in addressing the future challenges from increasing internationalisation.

Recommendation No.2

2.22 The ANAO recommends that IP Australia incorporate into its planning processes for patent services analysis of its competitive position in target markets.

IP Australia response

2.23 Agree.

3. Performance information

This chapter examines IP Australia's performance information framework. The ANAO has made two recommendations to improve performance management and monitoring.

Performance information framework

3.1 IP Australia publishes a range of performance indicators and associated targets in the Annual Report of the Department of Industry, Science and Resources. These are summarised in Table 3.1.

Table 3.1

IP Australia—published performance information framework

Indicator group:	Indicator targets include:
Financial effectiveness	100 per cent cost recovery price increases below inflation increasing output per dollar
Labour productivity	measures of output per unit
Timeliness	time to issue first report
Quality	number of reports per acceptance number of oppositions (a)

Note (a): An 'opposition' occurs when a third party opposes the proposed grant of an IP right by IP Australia (see Appendix 5). IP Australia publishes proposed IP rights grants.

3.2 The published performance indicators are supported by more extensive internal performance information which address the same performance areas, but often at a lower, more detailed, level than the published indicators. These indicators are reported monthly to business unit managers.

3.3 The ANAO reviewed IP Australia's key performance indicators against better practice. This included addressing measurability; use of targets or standards; whether there is a balance of measures; reliability and accuracy; and ability to make comparisons over time.

IP Australia is meeting performance targets

3.4 In the last five years IP Australia's performance has improved steadily. In 1997–98 it met all targets. Appendix 2 details these performance results. Specific aspects of performance outcomes for client service, cost recovery and financial effectiveness are described more fully in subsequent chapters.

Some strengths in IP Australia's performance indicators

3.5 There is considerable strength in IP Australia's performance information framework. In particular, indicators are measurable and provide a strong focus on cost efficiency, productivity and timeliness of processes. Furthermore, the indicators relate to internal factors that managers can influence.

3.6 IP Australia's performance information forms an integral part of the ongoing management processes of the organisation and is reported regularly. External accountability is provided through publication of results in the Annual Report of the Department. There has been a considerable degree of continuity in the organisation's performance information, facilitating comparisons of performance over time.

Achieving a better balance of measures

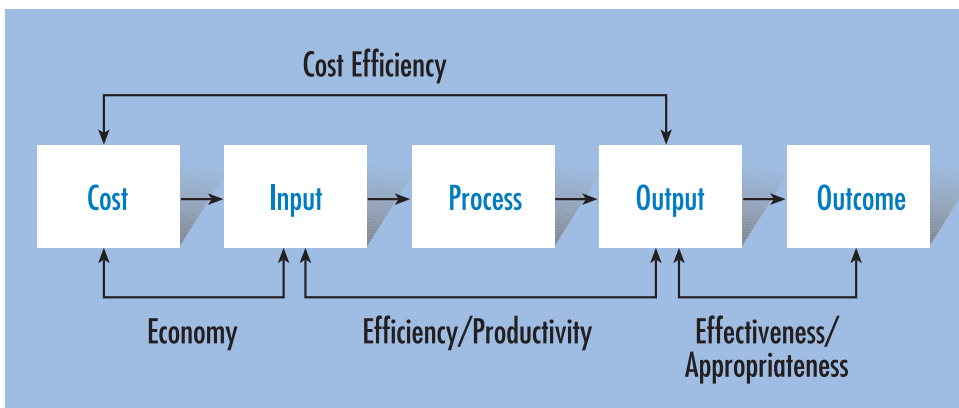
3.7 A balanced set of performance measures includes assessment of:

- **Economy**—the cost per unit of input;
- **Efficiency (or productivity)**—eg, minimising inputs for a given level of outputs;
- **Cost efficiency**—the relationship between costs and outputs;
- **Effectiveness**—the extent to which the outcomes of an activity are achieving the stated objectives; and
- **Quality** of customer service.

3.8 The relationships between some of these measures are summarised in Figure 3.1.

Figure 3.1

Relationships between program elements and outcomes



3.9 The ANAO found that current performance measures focus internally on processes, rather than externally on the delivery of value adding services to customers. How effectively IP Australia's outcomes are meeting its objectives is not measured. While such measures are difficult, they are important in assessing how well IP Australia is achieving its objectives. There is also limited assessment of quality of customer service; this is discussed more fully in Chapter 4.

3.10 IP Australia is considering expansion of its range of performance indicators, and in particular assessing performance outcomes, in the context of the Outcomes and Outputs Framework under the Accrual Budgeting reforms. The measurement framework currently being developed assesses performance on broader dimensions than currently applied, particularly having regard to the growth in IP applications and rights relative to GDP; customer satisfaction; and measuring the link to increased innovation, investment and trade.

3.11 The ANAO considers that these developments have the potential to address the current weakness in the IP Australia performance measurement framework, whilst recognising that there will be challenges in measuring some of these factors.

Description of some measures can be improved

3.12 Some indicators are not accurate descriptors of what is measured. An example is the measure of the proportion of patent applications accepted by IP Australia which, after publication, are opposed (that is, there is an objection by a third party to the proposed grant by IP Australia of an IP right). This is used as an indicator of the quality of examination. However, it is not a reliable quality measure because, for example, the opposition process may be used by competitors of an applicant to deter market entry or expansion.

3.13 The ANAO also found that some targets/standards are mis-specified. For example, the indicator 'patents: issue of first report' has a target/standard of 'within three months from the request for examination'. This is actually intended to refer to 80 per cent of applications rather than all applications.

3.14 The basis for reported measures is also not always transparent and can vary between indicators. For example, the indicator for which the target/standard is 'issue 95 per cent of directions to request examination within 32 months from the priority date' was reported in the 1997-98 Annual Report on the basis of data for the full financial year; the indicator for which the target/standard is the 'issue of the first patent report within three months' was reported on the performance for June 1998 only.

3.15 Accordingly, the ANAO considers that IP Australia would benefit from reviewing the detail of its performance indicators to ensure the description of measures and their related targets/standards is accurate and reflects a consistent approach supporting comparisons.

Standards and targets enhance accountability

3.16 Standards relate to levels of excellence or performance specifications and are set with the aim of defining the appropriate level of performance expected to be delivered. Targets express quantifiable performance levels or changes of level to be attained at a future date, as opposed to the minimum level of performance.

3.17 The ANAO notes that most reported indicators have for some time exceeded the expressed target (see Appendix 2). This suggests the 'targets' are more in the nature of standards. The ANAO considers that the dynamism and improvement orientation of IP Australia's performance information framework would be enhanced by setting targets which encourage performance improvement.

3.18 The ANAO also notes that the target for the Patents timeliness indicator was changed from five to three months in the 1997–98 Annual Report but without reference or discussion. This change undoubtedly reflects improving performance over time, however the ANAO considers that accountability for performance requires explaining changes to targets.

Conclusion

3.19 IP Australia's output performance information framework is quite robust. The framework has a strong focus on cost efficiency, productivity, timeliness, and the continuity of performance measures over time to enable trend information to be determined. This information shows that IP Australia's performance has improved steadily and that it met all performance targets in 1997–98.

3.20 However, being output focused, performance measures tend to be basically process-oriented. There are no measures of the effectiveness with which IP Australia's outcomes meet its objectives, although this issue is being considered in the context of the Outcomes and Outputs Framework.

3.21 Some other measures have limitations in terms of their accuracy and consistency of description. The performance information framework could also be further strengthened by setting targets which encourage performance improvement.

Recommendation No.3

3.22 The ANAO recommends that IP Australia develop its performance information and monitoring framework to ensure that:

- there are indicators of how effectively IP Australia meets its stated objectives;
- performance indicators accurately and consistently describe their relevant performance characteristic; and
- targets encourage performance improvement.

IP Australia response

3.23 Agree. IP Australia's most recent Performance Indicators were developed as part of the newly introduced Outcome/Output Framework. IP Australia will continue to regularly review them.

Limitations in the use of the financial effectiveness indicator

3.24 IP Australia has a Certified Agreement which links pay to overall corporate productivity improvement, with one off bonus payments triggered by productivity improvements above four per cent per annum for each of the financial years 1997–98 and 1998–99. A so called 'financial effectiveness' performance indicator—the ratio of revenue weighted output to total cost—is used as the measure of productivity for the purposes of the Agreement, with the results to be externally audited.

3.25 This measure showed an increase over the previous year of 13.4 per cent and 9.3 per cent for 1996–97 and 1997–98 respectively.

3.26 The measure ratio is calculated by dividing 'revenue weighted outputs' by total accrued costs, which are price adjusted to remove the effects of inflation. 'Revenue weighted outputs' are the patents, designs and trade marks outputs (eg number of first reports, number of renewals) multiplied by a factor which recognises the revenue contribution that the different outputs make.

3.27 However, the ANAO considers that this financial effectiveness measure can be affected by factors other than unit productivity. For example, external influences unrelated to staff productivity may impact the calculation. IP Australia has estimated that changes to the Trade Marks Act have led to reductions in the work involved in handling multi-class applications and to greater acceptance of applications at the first report stage. This is reflected in improved performance measures and will have a positive impact on the 'productivity' measure.

3.28 The ‘productivity’ measure can also be affected solely because of changes in IP Australia’s ‘business mix’. For example, patent charges are ‘back end loaded’ through renewal fees in order to encourage innovation. A change in the mix of applications and renewals will therefore affect the revenue weighted measure with no change in underlying unit costs.

3.29 The ANAO therefore considers that, while the use of measures of financial effectiveness has been a positive aspect of IP Australia’s performance information framework, more appropriate measurement of productivity would be desirable for use in future Certified Agreements.

Recommendation No.4

3.30 The ANAO recommends that IP Australia establish a measure of productivity for future Certified Agreements which is less affected by factors other than unit productivity than the measure currently in use.

IP Australia response

3.31 Agree. IP Australia has already commenced action to obtain advice on developing the most appropriate productivity measure for future agreements.

4. Client service

This chapter examines IP Australia's management of client service against better practice criteria, including identifying client needs, performance in addressing needs, and creating a customer service environment. The ANAO has made two recommendations to improve client service through better identification of client needs, evaluation of the marketing strategy and related activities and establishment of a stronger quality assurance framework.

Introduction

4.1 IP Australia services a range of clients including:

- owners and prospective owners of IP rights;
- the business community in general, by working to strengthen the national IP systems of other countries. This helps to create conditions supporting trade and investment between Australia and these countries; and
- the broader community, in that creating awareness of IP matters is one of IP Australia's objectives.

4.2 The ANAO examined IP Australia's management of client service against better practice criteria, including identifying client needs, performance in addressing needs, and creating a customer service environment.

Identifying client needs

4.3 Identifying client needs and requirements, and regular communication with clients regarding services, underpins effective client service. IP Australia has several means of obtaining, and assessing, information on client needs, as discussed below.

IP Australia has consultative mechanisms with stakeholders

4.4 IP Australia meets at least annually with the Institute of Patent and Trade Mark Attorneys of Australia, the Law Council of Australia, the Australian Manufacturers' Patents, Industrial Designs, Copyright and Trade Marks Association, and the Inventors Association of Australia. The Advisory Council on Industrial Property (ACIP) also acts in part as a consultative forum for IP Australia, as its membership comprises a range of stakeholders.

4.5 The principal issues which the ACIP has addressed over the past two years have been:

- the effective enforcement of industrial property rights;
- IP Australia’s future role in the rapidly changing international industrial property environment; and
- industrial property promotion and marketing.⁶

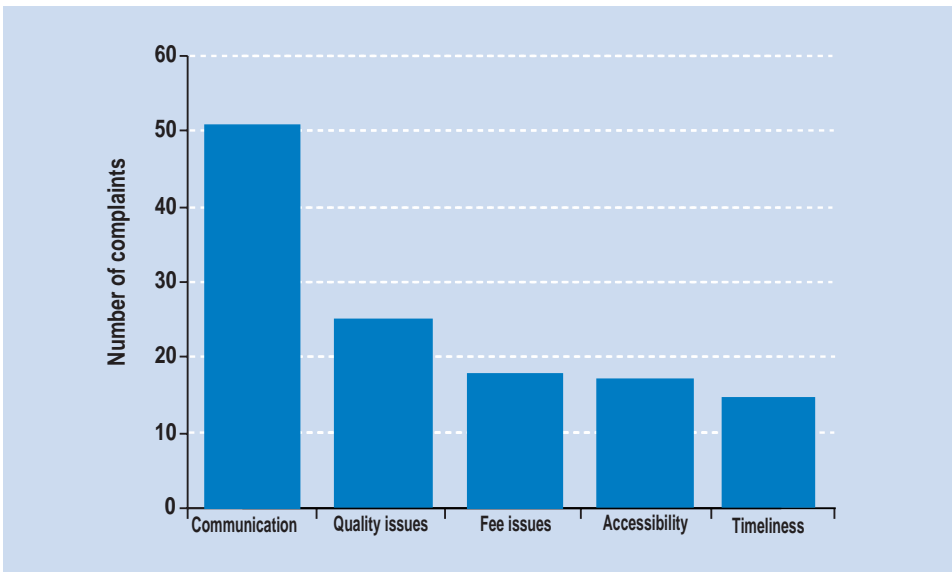
There are client feedback mechanisms

4.6 IP Australia has direct contact with clients who apply for IP rights. IP Australia formalised its direct client feedback processes by establishing an organisation-wide feedback mechanism early in 1998. Client feedback is recorded, and a response is considered first by the staff member, then by a supervisor, and subsequently, if appropriate, at more senior levels. IP Australia also obtains feedback from ‘Have Your Say’ forms which may be completed by visitors to state offices, and from client seminar programs (see 4.24).

4.7 Information from these sources is collated and reported to IP Australia’s Executive Committee.

4.8 Almost 60 per cent of the feedback received during the first nine months of these arrangements were complaints, just over one-quarter were compliments and most of the remainder were suggestions. The most common areas of complaint are summarised in Figure 4.1.

Figure 4.1
Principal reasons for complaint —April to December 1998



⁶ DIST Annual Reports for 1996–97 and 1997–98.

Market research is undertaken

4.9 IP Australia began a program of market research surveys in 1995. The first survey referred to IP Australia clients in general, but focused on patent owners and patent attorneys. The second survey focused on IP Australia's state offices and on trade mark owners and attorneys. A third survey is scheduled for 1999.

4.10 Key issues for clients arising from this research have been:

- the lack of **knowledge** about, and use of, IP by Australian business, especially in the small business sector;
- the **quality** of search, examination and related decisions was not perceived as being consistently of a high enough standard;
- **timeliness**, specifically the ability of the applicant to control the speed of the application process; and
- **accessibility** of IP Australia's search material and administrative data.

4.11 IP Australia makes the results of the consultative mechanisms available for use by managers, who draw on them when proposing improvements to IP Australia's processes and services. However, this can mean that important feedback messages are not identified and acted upon. As discussed later in this chapter, quality of decision-making as perceived by customers is one such issue. The ANAO suggests that IP Australia could better direct its feedback to influence service delivery improvement processes, as part of its strategic management. The ANAO suggests further that this process incorporate consolidation of the feedback information available to IP Australia.

Responding to client needs

4.12 The rest of this chapter considers IP Australia's Customer Service Charter and performance in those areas which IP Australia's feedback measures have identified as important to customers, in particular:

- knowledge of IP;
- timeliness;
- quality (other than timeliness);
- cost; and
- accessibility.

Enforcement, and IP Australia's international role, are not considered. The former is not within the scope of this audit, the latter is addressed in Chapter 2.

Customer Service Charter

4.13 IP Australia launched its Customer Service Charter in February 1998. IP Australia has advised that stakeholders were invited to comment on the draft, with comments incorporated into the Charter where possible. The Charter describes:

- industrial property;
- IP Australia and what it does;
- the legislation;
- what IP Australia cannot do;
- the nature of customer involvement with IP Australia's processes;
- IP Australia's commitments;
- standards of service;
- customer rights, obligations and responsibilities; and
- consultation and accountability information.

4.14 The standards in the Charter focus on the relationship between IP Australia and its customers. They address accessibility; responsiveness; the provision of accurate, easy to understand information; and efficiency (see Appendix 3). Only one standard (concerning fees) relates to the characteristics of IP Australia's products.

4.15 The Government has established principles for the development of client service charters. These principles have been set out by the former Department of Industry, Science and Tourism.⁷ IP Australia's Customer Service Charter is sound in addressing many of these principles, but is less strong in addressing the principles relating to monitoring of performance against the charter.

4.16 For example, the ANAO found that some standards in the Customer Service Charter are not well-defined or are not measurable. These features make monitoring and overview of performance difficult. One standard is: 'If you phone us, we will answer promptly'; better practice would seek to express this in terms such as answering within a specified number of rings or a given time period. Experience has shown that standards which are open to interpretation can hinder rather than help client service.

4.17 This is also true of the Charter's commitment to provide quality service. This is stated in terms of providing quality of service equal to or better than that offered by any other industrial property office in the

⁷ Department of Industry, Science and Tourism, *Putting Service First: Principles for Developing Client Service Charters*, March 1997

world. Such commitments can only be given substance through standards and targets. The importance of improved performance information relating to quality is considered later in this chapter (4.46).

4.18 It is also difficult to collect meaningful data for some standards. For example, management reports against the above telephone response standard report the number of complaints about telephone accessibility, which does not accurately measure performance against the standard.

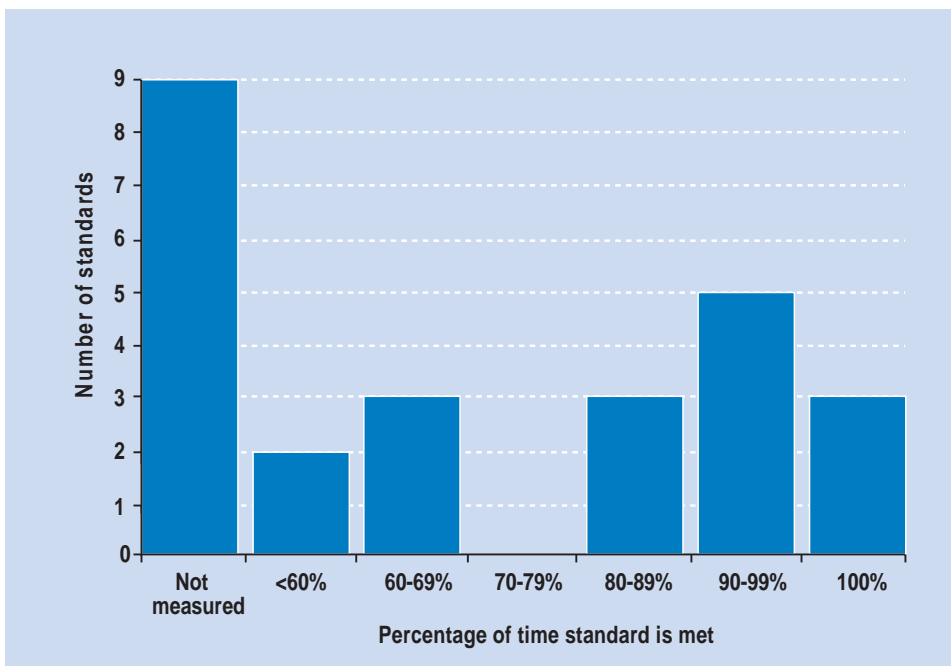
4.19 IP Australia is currently reviewing its Customer Service Charter. The ANAO conveyed to IP Australia its view that the review should address improving the means by which IP Australia can monitor its performance, including quality standards; the precision and measurability of standards; and means of collecting meaningful data for standards.

IP Australia monitors compliance with some Charter standards

4.20 The Executive of IP Australia reviews quarterly reports on performance against 25 of the 27 standards in the Customer Service Charter. The standards not reported relate to provision of intellectual property seminar programs and to charges for services. The report for the December 1998 quarter indicated that three standards were met in full by all relevant areas of IP Australia, and thirteen were not met all of the time (see Figure 4.2). Nine of the standards in the report were not measured adequately.

Figure 4.2

Compliance with customer service standards—December quarter 1998



4.21 The Customer Service Charter includes a commitment to include information on IP Australia's performance against the standards in its Annual Report. This will begin with the 1998–99 Annual Report.

Increasing knowledge and use of IP and of IP Australia's services

4.22 IP Australia has identified increasing knowledge and use of IP by Australian business as an important aim, especially for the small business sector. Effective communication of services is also a key attribute of customer-focused organisations which minimise customer dissatisfaction by ensuring that customers are provided with information that helps shape realistic expectations.⁸

IP Australia has a marketing strategy

4.23 IP Australia has responded to the need to increase the knowledge and awareness of IP and of its services principally through developing and implementing a marketing strategy, but also through its Customer Service Charter and through its state office services. It has also changed its name and corporate image following market research which identified a lack of recognition and understanding of its role or previous name.

4.24 The strategy, developed in 1997, includes activities such as:

- a seminar program in capital cities and regional centres aimed at small business;
- placing editorial in publications catering to small business and business advisers such as accountants and solicitors;
- participation in business-related exhibitions; and
- *Ippy Online*, an interactive web site directed at the education sector.

4.25 The marketing strategy is being expanded to include developing interactive software for small businesses and their advisers and a National Young Innovators' Competition.

Some awareness raising activities are not included in the strategy

4.26 Some activities of an awareness-raising or marketing nature are not included in the marketing strategy. These include the distribution of information kits by the state offices, and the Business Names Applicant Search Service (BASS).

⁸ MAB/ANAO, *Better Practice Guide to Quality in Customer Service*, para. 4.7.

4.27 The BASS is an IP Australia service which determines whether a proposed business name is likely to infringe an existing trade mark. It is advertised through brochures distributed by State Government agencies. The brochures advise of the risks of registering a name which infringes a trade mark and offer the BASS. The service attracts over 100 clients per month.

4.28 The ANAO considers that, as part of good management, IP Australia's marketing strategy should incorporate all activities with a significant awareness-raising component to ensure that activities are directed to maximum effect.

Marketing strategy and evaluation

4.29 IP Australia is yet to establish a framework for the evaluation of its marketing strategy and related activities. Although some reviews of progress have been undertaken in some areas, these reviews have been limited in scope and number. An evaluation framework would enable IP Australia to monitor progress in achieving its objective relating to awareness of IP matters in the Australian community and to adjust its strategies accordingly.

Recommendation No.5

4.30 The ANAO recommends that IP Australia establish a framework for evaluating the degree to which its marketing strategy and related activities are meeting its aim of increasing awareness of IP matters in the Australian community.

IP Australia response

4.31 Agree. The IP Australia marketing strategy has been updated to include a new three year market research program, which *inter alia*, will be used to evaluate the effectiveness of the strategy.

Marketing through state offices

4.32 During 1997–98 the state office network handled some 140 000 counter and telephone enquiries and distributed almost 66 000 IP-related information packs. IP Australia does not know what proportion of these enquiries lead to business for IP Australia.

4.33 A 1998 market research study found that visitors to the state offices tended to be from fairly small businesses across a wide range of industries. The study concluded that only a small proportion of end users of IP Australia's services ever visit state offices, and that the offices were not a viable marketing channel to small end users.

4.34 The ANAO visited the NSW and Victorian State Offices during the audit and noted:

- facilities appeared to be underutilised;
- much of the work undertaken in the state offices does not necessarily need to be undertaken locally, apart from searching patent databases on microfiche; and
- potential customers were discouraged from making their own patent and trade mark applications. They were referred to attorneys, sometimes after the office searching facilities were demonstrated.

4.35 The ANAO concludes that the state offices have a rather limited role in achieving IP Australia's objective of increasing knowledge of IP and its services. Chapter 6 considers further the opportunities for reengineering the services provided by the state offices.

Timeliness

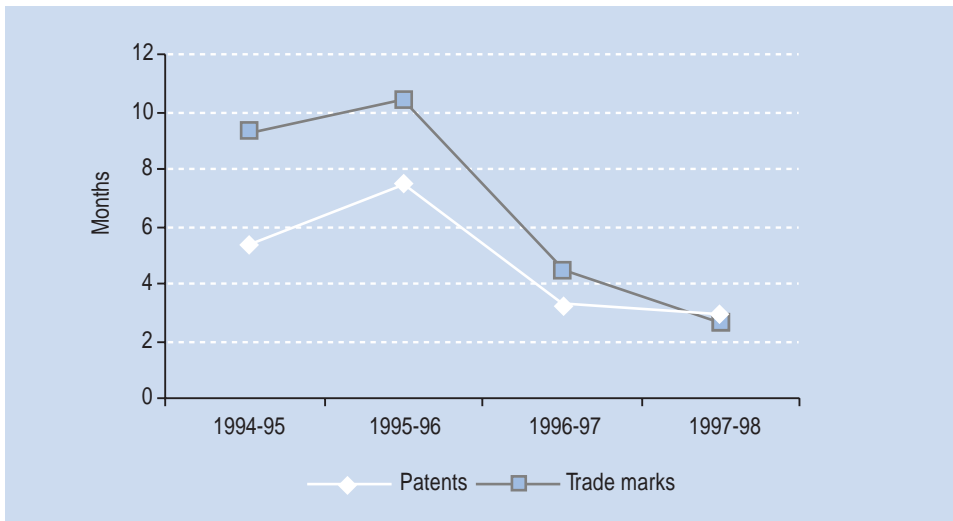
4.36 Appropriately timely processing of the various stages of IP applications (see Appendix 5) is an important consideration for IP Australia's clients. For example, applications lapse if processes are not completed within specified times⁹ (there is, however, provision for IP Australia to extend the time available where delays are attributable to it). IP Australia has steadily reduced the time of key processing steps in recent years, providing greater control to clients over the progression of their applications in accordance with the expressed wishes of clients.

4.37 For example, a key step in processing patent applications is the direction by the Commissioner of Patents to the applicant to request examination of the application. (These directions are not issued if the applicant has previously requested examination). IP Australia's target is to issue 95 per cent of these directions in a one month 'window'.¹⁰ The proportion of directions which comply with the target has risen from 91 per cent in 1995–96 to 99 per cent in 1997–98.

4.38 Another key step is the first report of the examination of the application. As described in Figure 4.3, the average time to issue this report for patent and trade mark applications has fallen markedly in recent years.

⁹ Patents Regulation 13.4 and Trade Marks Regulation 4.12.

¹⁰ The 'window' is the 32nd month after the priority date of the application. The timing relates to Australia's obligations under the Patent Co-operation Treaty.

Figure 4.3**IP Australia—time to issue first reports of examination—1994–95 to 1997–98**

4.39 Since the majority of first reports of examinations are adverse, (some 90 per cent for patents and 70 per cent for trade marks) prompt consideration of amended applications is also an important aspect of client service. The Customer Service Charter has set a standard of examining amendments to applications within four weeks. This standard is being met in over 98 per cent of cases for patent applications. Eight instances of non-compliance were recorded for trade mark applications in the December 1998 quarter.

4.40 Further details of performance against timeliness indicators are in Appendix 2.

Quality of search, examination and related decisions

Some measures have been taken to improve quality

4.41 IP Australia considers that its processes inherently incorporate a range of quality assurance elements. These include the right to appeal decisions; delegating the authority to accept applications for IP rights only to experienced and competent staff;¹¹ and having a more senior examiner review applications where an examiner proposes to reject an application for the third time (ie, after the applicant has twice unsuccessfully amended the application).

¹¹ Junior staff have authority to issue an adverse report in respect of an application for an IP right.

4.42 IP Australia has also recently begun to address some quality issues by:

- responding to concerns about the quality of international patent searches by instituting a process whereby strategies for these searches are developed by teams of three people, instead of by the individual examiner who undertakes the search;
- publishing draft quality standards for patent examination in October 1998 as part of a broader project to develop a system for managing quality in patent examination. However, the ANAO found that these draft standards are largely focused on IP Australia's internal processes, and do not address directly the key aspect of quality in search and examination from the customer's perspective, namely, that owners can presume that rights granted by IP Australia are valid; and
- undertaking a project to develop agreed customer-focused quality standards for trade mark examination (scheduled for completion at the end of March 1999).

A more structured approach to quality assurance is warranted

4.43 The ANAO considers that features such as right of appeal and delegation of authority are more in the nature of normal administrative practices rather than being directed at structured assurance of the quality of the original decision. Furthermore, while some current initiatives should improve this key area, a more structured and coordinated approach to quality assurance is required to achieve this, and should be reflected explicitly in strategies. Techniques such as ongoing monitoring of client perceptions of quality, peer review and monitoring the consistency of decision-making individually and across business units, could all form part of a quality assurance regime.

4.44 The ANAO also notes that the quality of search and examination is not explicitly addressed in the document *Service Delivery in IP Australia* (see 2.3). None of the 90 current or planned activities in the document addresses statutory search and examination services, nor their quality.

4.45 The ANAO concludes that IP Australia's overall approach to quality has tended to focus on process characteristics, such as cost and timeliness, rather than on quality of the product as perceived by the client. IP Australia does not have an effective system for assuring the quality of decisions on applications for IP rights. This matter warrants greater attention. Clients have expressed concerns about the quality of search and examination, and this is closely connected to IP Australia's mission of providing valid IP rights.

Indicators of performance in quality of decision-making

4.46 As IP Australia emphasised the difficulty of developing reliable measures of quality of search and examination, the ANAO examined available management information in this area to provide some insight into performance with respect to quality and consistency. The ANAO notes that many agencies report similar difficulties. Nevertheless development of such measures is important for organisations seeking to be client focused.

Quality of international search reports

4.47 IP Australia undertakes about 1300 international patent searches a year. As discussed at 4.42, it has introduced new international patent search strategies (a move supported by examiners during a trial).

4.48 The ANAO analysed some data on client perceptions about these searches. The information was obtained from a mail survey sent to all clients some time after the search report is issued. This seeks, *inter alia*, information on whether clients are aware of any document which is significantly more relevant to the application than the documents cited in the search report (ie indicating that the search has failed to pick up a key document).

4.49 Over the 15 month period from the start of the survey to the time when the effects of the trial were expected to be first observed, the percentage of respondents who indicated that they were aware of documents that were significantly more relevant than those cited in the report was seven per cent. It is not IP Australia's usual practice to analyse this information this way. The ANAO considers that IP Australia should make more use of such information to assess the quality of outcomes and the success of quality improvement initiatives.

Examiner clearance rates are not consistent

4.50 IP Australia's systems contain data on clearance (ie acceptance) by trade marks examiners for the grant of a trade mark.¹² The ANAO examined data for 71 examiners who were trade mark examiners for all, or substantial periods, of 1997, covering some 86 000 reports.

4.51 The calculated frequency distribution of trade mark examiners' clearance rates for first reports of examination is shown in Figure 4.4. The ANAO analysed clearance rates for second and subsequent examinations, which show a similar pattern but with a higher average

¹² Trade mark applications accepted by examiners still have to be published in the Official Journal of Trade Marks and be subject to the opposition process (ie appeal by other interested parties) before the trade mark can be registered.

acceptance rate. The means and standard deviations of first reports, and of second and subsequent reports, are shown in Table 4.1.

Figure 4.4

1997 clearance rates by trade mark examiners—first reports of examination

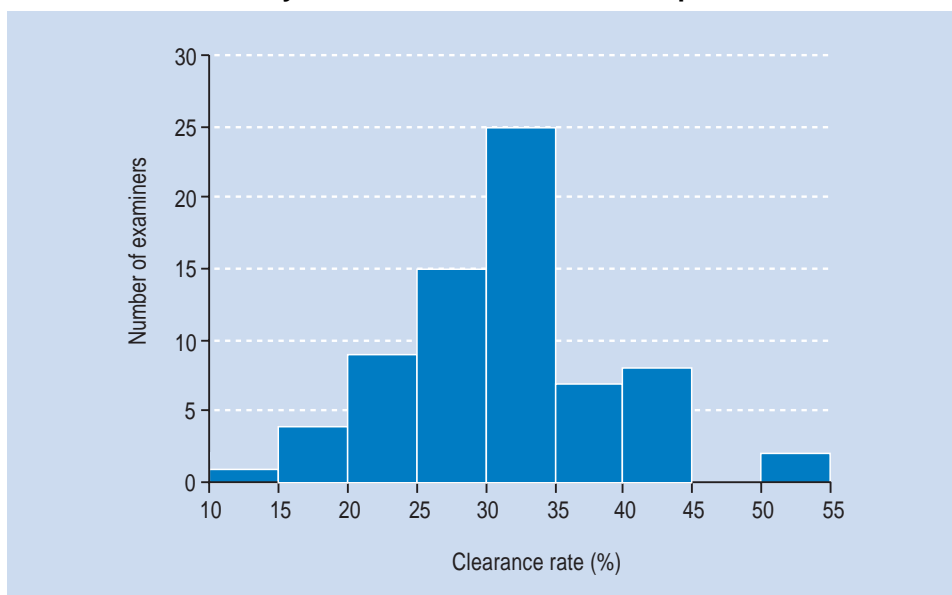


Table 4.1

Mean and standard deviation of clearance rates by trade mark examiners—1997

	<i>First report of examination</i>	<i>Second and subsequent reports of examination</i>
Mean	31%	59%
Standard Deviation (a)	8%	10%

Note (a): The standard deviation is a measure of variation in the data about its mean. For normal distributions, to which the above data broadly equates, there are two chances in three that an event will occur within one standard deviation of the mean.

4.52 Batched applications are allocated to the next available examiner in the order in which prior processing is completed. There are no distinguishing features between applications allocated to examiners. The data in Figure 4.4 and Table 4.1 therefore suggest inconsistent practice between trade mark examiners. At the extreme, the examiner most likely to clear a trade mark application at the first report of the examination cleared 53 per cent of applications. This trade mark examiner was four times more likely to clear an application at the first report than the examiner least likely to do so, who cleared 13 per cent of applications.

4.53 IP Australia has suggested that some of the variation observed may be due to variation in practice between trade mark examiners. For

example, when there is a minor difficulty with an application, some examiners may prepare an adverse report whereas others might negotiate minor amendments to enable clearance. The ANAO considers that such variation amounts to inconsistent client service and quality of decision-making. In this context it is relevant to note that a survey of trade mark attorneys reported that they were least satisfied with 'consistency of judgement'.

4.54 The ANAO was unable to readily obtain similar information for patent examination. While information on the clearance rates of examiners is collected and is used by supervisors, it is not collated by the Patents and Designs Office.

4.55 The extent to which examiners clear reports at less than the average rate potentially represents reduced client service and possible costs to both clients and IP Australia when applications are re-submitted. The ANAO estimates that the latter represents of the order of \$250 000 per year in further administrative costs for trade marks and a total of \$600 000 per year if similar patterns apply to patent examination.

4.56 Trade mark applicants are likely to be concerned primarily with the success or otherwise of their application, rather than with the number of amendments and re-submissions required. The ANAO considers it would assist IP Australia in providing greater consistency of service if it monitored the distribution of examiner clearance rates for applications, as well as for reports. Examiner clearance rates for applications cannot be obtained directly from IP Australia's management information systems. However, the ANAO has suggested to IP Australia a simple means of estimating these clearance rates, based on existing information systems.

4.57 At present IP Australia does not use management information such as clearance rates to monitor the quality and consistency of trade mark examination. While there may be limitations in such analysis, it can provide insight into what has been identified by clients and stakeholders as a key area of client service. The ANAO considers that IP Australia should incorporate such analysis into a structured approach to quality analysis and assurance.

Conclusion

4.58 IP Australia's clients have identified the quality and consistency of decision-making as being of key importance. IP Australia has emphasised the difficulty it has had in developing reliable measures of quality to assist in meeting these client expectations. A quality assurance framework which focuses more on client perceptions of quality, and which makes greater use of information already available, would improve quality management of processes and outputs.

Recommendation No.6

4.59 The ANAO recommends that IP Australia establish a quality assurance framework which monitors and evaluates the quality of its processes and outputs. The framework should enable management to address, *inter alia*, variation in acceptance rates between examiners.

IP Australia response

4.60 Agree. IP Australia has undertaken work for several years to develop quality systems for various processes as distinct from outputs. This is an ongoing process, and the quality systems will continue to be implemented and processes refined, picking up the issues raised in the report.

Cost

4.61 IP Australia's fees were constant from 1994 to 1997. In 1998 fees were reduced and the fee structure simplified on two occasions. The 1998 fee reductions were significant, amounting to some 22 per cent on average. Performance in this area has greatly exceeded the target of below inflation fee rises, and has been made possible by efficiencies (see 5.3).

Accessibility

4.62 IP Australia has improved access to its search materials and administrative data by enabling clients to access some of its databases through its web site. The systems available, free of charge, include Patent administration and indexing, Designs administration, and the Trade Marks System and Online Search System (which contains drawings and figures associated with trade marks). IP Australia is developing more user-friendly interfaces for some of these systems.

4.63 A CD-ROM service providing abstracts of Australian patent applications has also been established, with CDs available from IP Australia state offices. Internet access will be provided later this year.

4.64 A major development in customer service in terms of accessibility is the progressive introduction of CD and home page access to relevant full patent specifications, including images, from Australia and other countries. This development is part of a world-wide system of intellectual property digital libraries.

Creating a customer service environment

4.65 Human resource management practices are important tools in achieving customer-focused strategic objectives through giving staff the competence, capability and empowerment to serve customers well. Important aspects include staff training, management and leadership skills, and recruitment and promotion. Overall, IP Australia has made good progress in building a customer service environment.

4.66 Customer-focused organisations recognise that customers expect staff to have a sound knowledge of products, services and skills. IP Australia has developed a range of courses tailored to the customer service needs of business units in accordance with its Customer Service Charter. More than half of IP Australia staff have attended at least one of these courses. There is also an induction course for all recruits to IP Australia which contains segments on customer service, and state offices have a New Starter Program which emphasises customer service.

4.67 In customer-focused organisations, managers have the competencies to create and sustain a customer service environment by motivating staff, communicating across the organisation, and by leading their work units. IP Australia has assessed staff perceptions of their leaders in a staff survey and has sought to address concerns expressed by developing an IP Australia Leadership Model identifying the attributes required of its leaders. IP Australia intends to monitor the development of its management and leadership skills through future staff surveys.

4.68 The selection of personnel is critical in securing good customer service staff. The ANAO found that criteria relating to customer service had been included in the selection criteria of a sample of relevant positions in IP Australia.

5. Financial targets—productivity and cost recovery

This chapter considers IP Australia’s financial targets and the extent to which these have been achieved. The ANAO has noted that IP Australia has accumulated a significant surplus in recent years. Two recommendations are made for the enhancement of corporate governance and financial management arrangements.

Introduction

5.1 IP Australia is the sole provider of IP rights in Australia. It operates under a financial framework agreed with the Department of Finance and Administration. This includes:

... Financial targets will include the recovery of full costs both (sic) on an accrual basis, taking one year with another, and real term reductions in unit costs.¹³

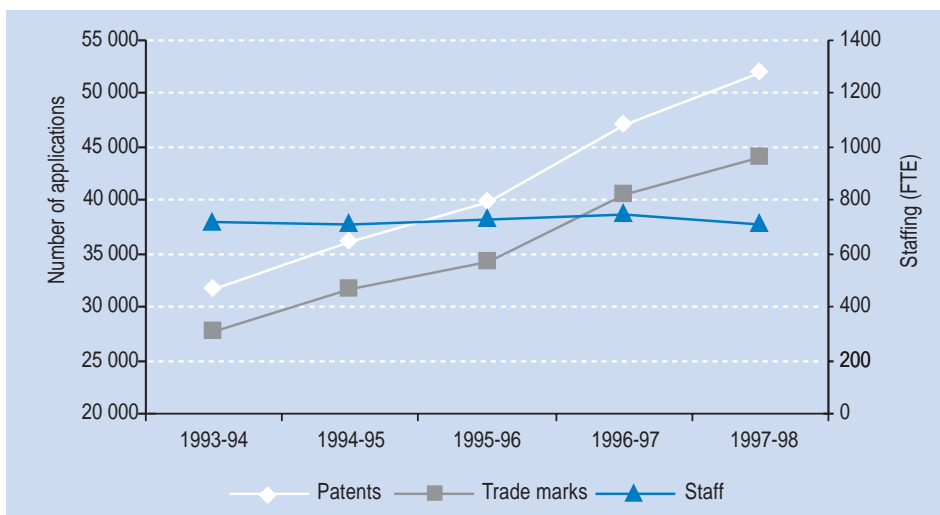
5.2 The ANAO reviewed whether IP Australia is operating in accordance with these targets.

Marked reductions in unit costs

5.3 IP Australia has made significant efficiency improvements, processing a large increase in applications, with relatively constant staff numbers. This is described in Figure 5.1.

Figure 5.1

IP Australia—patent and trade marks applications and staffing—1993–94 to 1997–98



¹³ Australian Industrial Property Organisation, *Financial Framework*, 6 September 1995.

5.4 The efficiency gains have been reflected in the fee reductions of some 22 per cent in 1998. Further efficiency gains are likely, with IP Australia’s business process reengineering initiatives continuing to enhance internal practices and systems (see Chapter 6).

5.5 However, IP Australia’s financial system does not measure unit costs of production conclusively. The establishment of such measures would enable IP Australia to assess the extent to which it has achieved its unit cost reduction objective, and would contribute to the development of a more appropriate measure of productivity for use in future Certified Agreements, the need for which was discussed at 3.29. It would also contribute to sound business management, particularly having regard to the increasingly competitive environment in which IP Australia is operating.

Recommendation No.7

5.6 The ANAO recommends that IP Australia introduce systems to establish accountability for unit costs of production.

IP Australia response

5.7 Agree. IP Australia will examine its financial systems to determine how to effectively establish accountability for unit costs of production.

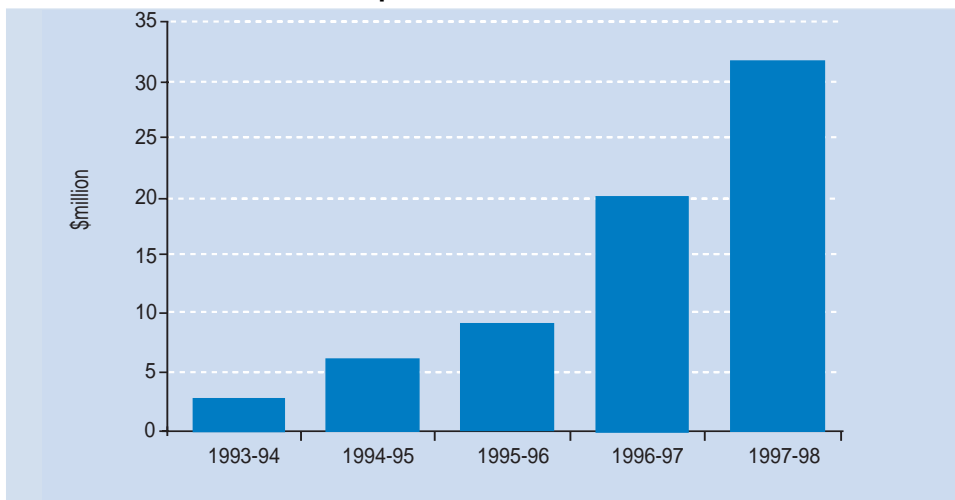
Cost recovery

Surpluses have been accumulating

5.8 IP Australia’s revenue has exceeded costs for each of the past five years, and it had accumulated a surplus of \$31.5 million at 30 June 1998 (Figure 5.2).

Figure 5.2

IP Australia—accumulated surpluses—1993–94 to 1997–98



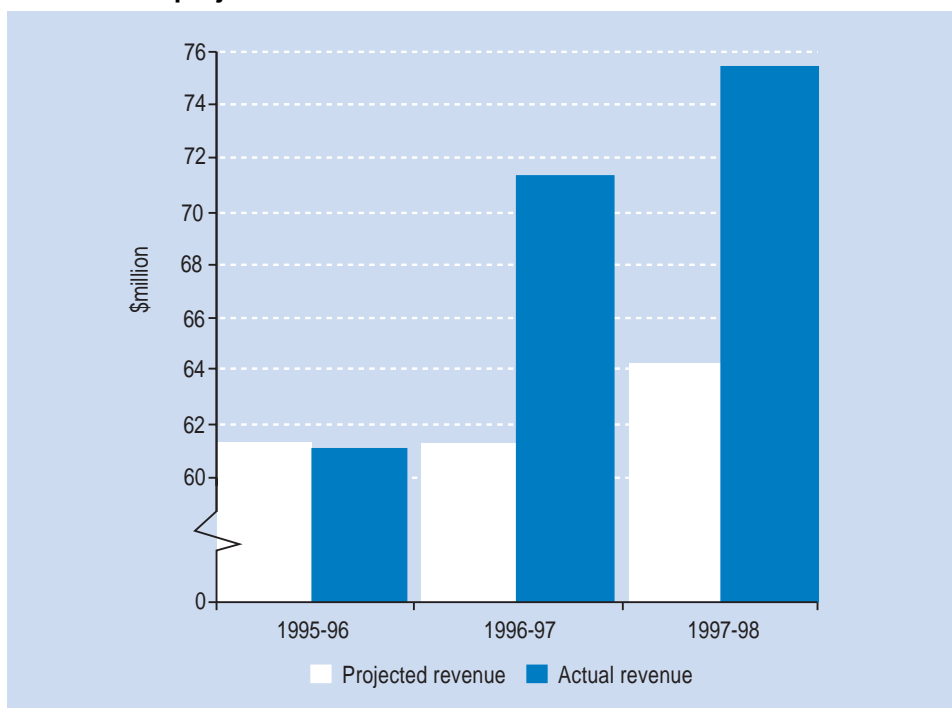
5.9 Recent surpluses have been large. The 1997–98 operating surplus was some 16 per cent of turnover, and the accumulated surplus at 30 June 1998 is equivalent to about six months expenditure by IP Australia. IP Australia has therefore exceeded its cost recovery target as set out in the financial framework. It also suggests, having regard to IP Australia’s broad role in supporting industry development, that costs to industry of protecting intellectual property could possibly have been lower for some of the period.

Growth in revenue has not been predicted well

5.10 The accumulated surpluses are due in large part to a surge in demand, and hence revenue, which was not predicted by IP Australia’s financial forecasting models, as is demonstrated in Figure 5.3.

Figure 5.3

IP Australia—projected and actual revenues—1995–96 to 1997–98



5.11 A sound capacity to predict its financial position is important for IP Australia in order to meet its cost recovery target, as well as for the purposes of sound financial management. The ANAO recognises that the determinants of IP activity and the impacts on demand for IP Australia’s services are difficult to define and predict. However, IP Australia’s predictive and forecasting models, and their application, have failed to predict the growing surplus (eg patent renewals have been underestimated by around seven per cent in each of the last three years).

The ANAO considers that IP Australia should investigate models with greater levels of accuracy than those currently used.

Early consideration of unexpected financial outcomes is necessary

5.12 A sound management structure should seek to respond appropriately, and in a timely manner, to unexpected financial outcomes. The ANAO notes the Executive Committee of IP Australia receives monthly reports on the financial position of the organisation, with variations from prediction identified, as well as the possible impact on future cash holdings.

5.13 However, IP Australia has advised that the option of an increase or decrease in official fees in the short term to meet any unpredicted change in cash holdings is not an easy one for several reasons, including:

- the wish of the Government to have stability in fee levels;
- major patent attorney and law firm customers require considerable notice of fee changes. This minimises confusion amongst their customers; enables notice to be given of forthcoming changes; and allows time for computer system changes;
- the time required to draft regulation changes and obtain Executive Council approval; and
- IP Australia may require notice for computer changes.

5.14 The ANAO recognises the above factors, but considers that the lead times involved also suggest early consideration of unexpected financial outcomes. The ANAO considers that timely organisational responses to fluctuations in demand could be supported, for example, by guidelines for management action based on variations from forecasts and on considerations such as the desire for price stability over time.

Future surpluses are predicted

5.15 The most recent financial outlook, which incorporates the 1998 fee reductions and revised projections, suggests even higher accumulated surpluses in the forthcoming years (Table 5.1).

Table 5.1
Projected surpluses

	<i>Annual Operating Surplus (Deficit) \$'000</i>	<i>Accumulated Surplus \$'000</i>
1998–99	948	32 450
1999–00	1 581	34 031
2000–01	(137)	33 894
2001–02	1 021	34 916

5.16 Table 5.1 indicates that, for the foreseeable future, IP Australia does not anticipate redressing the situation where it is exceeding its cost recovery target. IP Australia should therefore devise a financial plan for dealing with the actual and predicted revenue surpluses—this may require a review of the financial framework under which it operates.

Recommendation No.8

5.17 The ANAO recommends that IP Australia review the financial framework under which it operates and establish financial management arrangements which:

- facilitate prompt business responses to unexpected financial outcomes;
- investigate predictive and forecasting models with levels of accuracy sufficient to support its cost recovery target; and
- include a financial plan for dealing with the actual and predicted revenue surpluses.

IP Australia response

5.18 Agree. IP Australia's financial framework is scheduled for review with the Department of Finance and Administration in 1999–2000. The review will take account of the issues raised. IP Australia is currently reviewing its demand forecasting models.

6. Management of process improvement

This chapter reviews IP Australia's implementation of its Business Improvement Framework through the examination of improvement projects in IP Australia's core business units and its use of information technology. The chapter also examines the implications for IP Australia's state offices. The ANAO makes recommendations for review and refinement of the Business Improvement Framework and a review of service delivery arrangements including the role of state offices.

IP Australia's business improvement framework

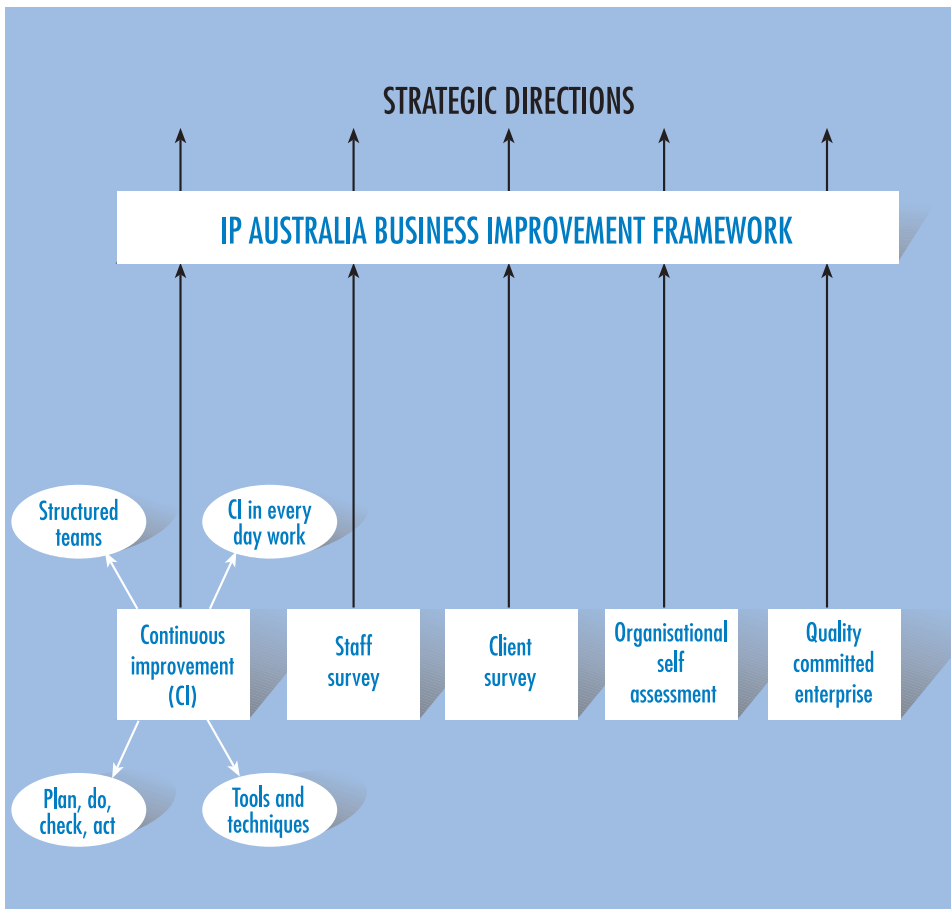
6.1 Improvement of business processes has been a focus of management attention for a number of years and has delivered significant benefits to IP Australia and its customers in terms of improved cost and timeliness of services, as described in the previous chapters. The former AIPO commenced a broad-ranging continuous improvement initiative in 1994. However, a 1997 staff survey showed that, while staff believed IP Australia was performing well in some areas, it was rated relatively poorly in respect of the following Australian Quality Council criteria:

- senior leadership;
- employee development;
- wellbeing and morale;
- customer focus; and
- quality of processes, product and service.

6.2 IP Australia's response included the development of a leadership strategy for IP Australia managers (see 4.67), and work on a process to implement continuous improvement throughout IP Australia. Five key business improvement elements (Figure 6.1) supporting and informing the organisation's Strategic Plan were defined.

Figure 6.1

IP Australia—business improvement framework



Source: IP Australia

6.3 Within this framework, implementation strategies have been:

- Patents and Designs—various continuous improvement projects;
- Trade Marks—large scale business process reengineering, now moving into the detailed redesign and implementation phase; and
- Patent Operations—large scale business process reengineering is about to commence.

6.4 Other business improvement processes include developing corporate and business plans and associated documentation and the Customer Service Charter, (considered in earlier chapters). IP Australia also has a fortnightly staff newsletter containing improvement and performance feedback.

6.5 The ANAO examined the effectiveness of IP Australia's management of the business improvement processes in the core business units, including the use of new technologies.

Priority setting—a continuing process

6.6 The Patents and Designs Business Unit mechanism for process improvement focuses on continuous improvement projects driven by staff teams. The ANAO found that the outcomes from the teams have been documented and acted on. Managers also report a positive cultural change as a result of the continuous improvement initiative.

6.7 A comprehensive decision making approach was applied when the continuous improvement initiative began in 1994, to identify the priority areas for process improvement. The criteria applied included the likelihood of:

- producing productivity improvements/savings;
- quick implementation; and
- improved quality of services.

6.8 This decision making approach has not been repeated formally since 1994, although IP Australia advised the ANAO that priority setting is a part of ongoing management and planning processes. The ANAO considers that IP Australia would benefit from regular formal reprioritisation of improvement initiatives to improve accountability, support better resource allocation and provide assurance that process improvement efforts are appropriately focused.

Analysis of customer needs and benchmarking are important in a business process reengineering project

6.9 In contrast to the Patents and Designs approach of undertaking a number of independent improvement projects, the Trade Marks Business Unit has conducted a single, major business process reengineering project covering all processes of the Business Unit. This is known as the TM2000 Project.

6.10 IP Australia has reported that a key outcome of TM2000 is staff and management's acceptance of the need for change and a model of new business processes on which to base that change. The identification of non-value added process has been significant throughout TM2000, although the dollar value of these has not been quantified.

6.11 In reviewing the methodology used in the TM2000 Project, comparison with better practice was undertaken.¹⁴ This assessment

¹⁴ United States General Accounting Office *Business Process Reengineering Assessment Guide, Version 3, 1997.*

revealed that the TM2000 Project had a strong internal focus in its use of detailed mapping and examination of current processes as the basis for identification of new process design options. There was no direct consideration of external factors to generate redesign ideas, particularly in the areas of:

- performance and process benchmarking; and
- analysis of customer/stakeholder needs, and gaps in meeting these needs, that could be filled by alternative business processes.

6.12 These are widely recognised as essential ingredients of successful business process reengineering projects, for example:

*Benchmarking is used to quantify existing performance factors, and where possible, compare them against competitors' practices. Benchmarking's most important role here, however, comes in producing new, fresh, creative ideas for optimising a process.*¹⁵

and:

*One of the most frequently committed errors in reengineering is that ... reengineering teams try to analyse a process in agonising detail rather than attempt to understand it ... Traditional process analysis takes the process inputs and outputs as given and looks purely inside the process to measure and examine what goes on ... The best place for the reengineering team to begin to understand the process is on the customer end. What are the customers' real requirements? What problems do they have? What processes do they perform with the output? Since the eventual goal of redesigning a process is to create one that better meets customer needs, it is critical that the team truly understands these needs.*¹⁶

6.13 The Patent Operations Business Unit has also adopted a large scale business process reengineering approach to process improvement, which is planned to be conducted throughout 1999. Like the Trade Marks review, a distinct internal focus is evident. The proposed project approach does not incorporate benchmarking/better practice modules that would enable Patent Operations to integrate lessons from other organisations in its process redesign. Nor is there any planned investigation of the needs of customers and stakeholders, the extent to which these are being met, or the implications of this analysis for the way business processes should operate in the future.

¹⁵ Manganelli R L and Klein M M, 1994, *The Reengineering Handbook*, Amacom, p 35.

¹⁶ Hammer M and Champy J, 1983, *Reengineering the Corporation*, Allen & Unwin, pp 129–130.

The need for business cases

6.14 It is sound management practice to require and approve a business case for substantial redesign of processes since it provides:

- accountability for the commitment of resources;
- comparison of baseline benefits and costs with proposed alternative processes;
- a basis for the selection of an alternative process that meets performance goals; and
- a basis for measuring the achievement of project objectives.

6.15 However, the implementation and trials of 'early wins'¹⁷ from the Trade Marks TM2000 Project commenced in September 1998. It was not until 11 December 1998 that IP Australia's Executive decided that it would consider at a future meeting the proposed implementation strategy, including a business case.

6.16 The ANAO also notes that business cases may be refined progressively during the course of a project as more detailed investigations are completed. The United States General Accounting Office, for example, notes that the initial business case in a reengineering project:

*is essentially a high-level document aimed at convincing customers and stakeholders that reengineering the selected process is the appropriate means for achieving performance and cost-savings goals.*¹⁸

and that:

*once the agency selects the process alternative that it wishes to implement, it should revise and enlarge its initial business case for the reengineering project. The updated business case becomes a key document for justifying the funds and other resources needed to implement the new process.*¹⁹

6.17 The ANAO believes that IP Australia's accountability for project resources and for the delivery of outcomes would have been strengthened if a business case had been developed earlier to demonstrate the projected costs, benefits and risks of the implementation strategy for the TM2000 Project.

6.18 It was also apparent that business cases have not been developed in respect of most of IP Australia's information technology development projects, which detracts from accountability for outcomes and business decisions.

¹⁷ Aspects of the redesigned process that IP Australia considers could be progressed quickly without requiring changes in other areas.

¹⁸ United States General Accounting Office, *Business Process Reengineering Assessment Guide*, version 3, 1997, p 29.

¹⁹ *ibid.*, p 48.

Planned information technology infrastructure matches best practice—but project plans are required

6.19 The ANAO reviewed information technology developments in IP Australia and compared this with information on IT practices of overseas offices. Activity is planned or underway to upgrade IP Australia's information technology infrastructure to put it on a par, in terms of functionality, with the best practices of overseas IP offices in key areas.

6.20 The ANAO noted, however, that most information technology development projects are not supported with project plans. The ANAO considers that this is not consistent with the requirements of good corporate governance. The absence of adequate project management jeopardises the achievement of the project outcomes.

Feedback and review could be enhanced

6.21 Changes to procedures and systems as a result of implementing the Business Improvement Framework are supposed to be reviewed through IP Australia's ongoing management processes and through the self-checking features of the Framework—notably through staff and client surveys (see Figure 6.1).

6.22 These mechanisms appear to be thorough in providing broad feedback on organisational effectiveness. There are, however, no mechanisms to review the implementation of specific improvement initiatives to ensure that they are achieving the anticipated outcomes.

Conclusion—management of process improvement

6.23 IP Australia has a broad Business Improvement Framework under which major continuous improvement projects have been conducted. IP Australia's management of process improvement could be strengthened by broadening the Business Improvement Framework to provide a more external focus and greater scope for the identification of improvement opportunities; and to provide accountability for outcomes and business decisions.

Recommendation No.9

6.24 The ANAO recommends that IP Australia redefine its Business Improvement Framework to ensure decision making:

- identifies priority areas for process improvement;
- benchmarks performance and processes with relevant organisations, where cost-effective;
- addresses gaps between current performance and customer/stakeholder needs;

- requires business cases for proposals;
- requires project plans which address the implementation timetable, resources, responsibilities and project dependencies for all major projects; and
- includes mechanisms to review progress and outcomes of major improvement initiatives.

IP Australia response

6.25 Agree.

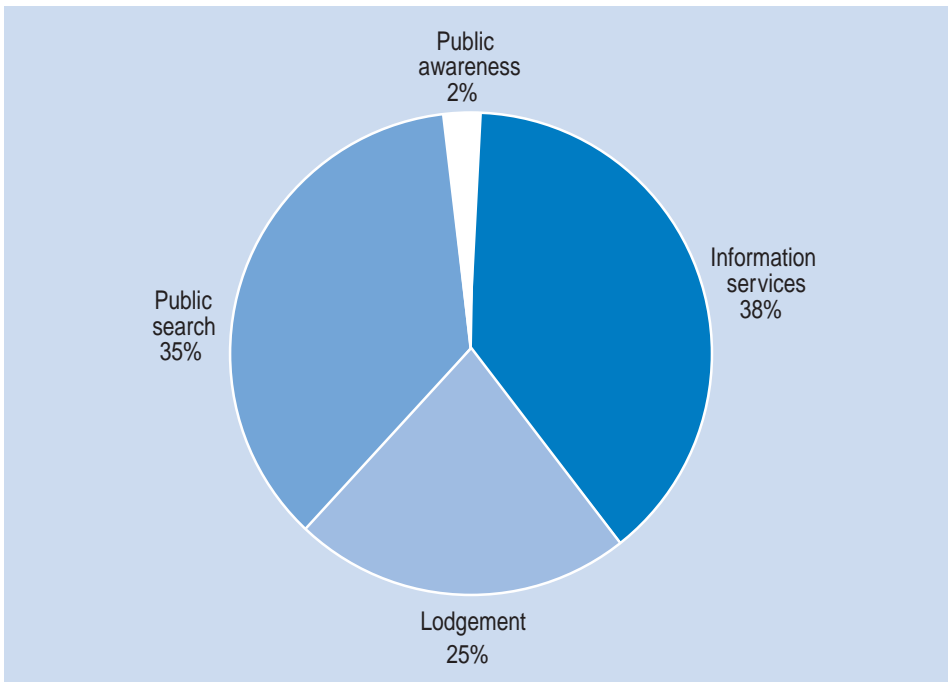
The impact of process redesign and technology on state offices

6.26 The Patents Act requires IP Australia to have offices in each state capital; these offices are in the central business districts. They provide ‘front-end’ processing support to both Trade Marks and Patents and Designs Business Units as well as public awareness, search and information services. The cost of the state offices is some \$2.7 million per year.

6.27 Figure 6.2 shows the four core services provided by the state offices, with broad estimates of time dedicated to each service (estimated by the ANAO based on information from the Sydney and Melbourne Offices).

Figure 6.2

Application of state office resources to services



6.28 With major reengineering of IP Australia's processes, and the advent of electronic systems to support customer service, the role of state offices in delivering each of the above services is changing and likely to change further, as discussed below.

Public search facilities

6.29 The public search service entails:

- maintaining, for public use, records of patents, trade marks and designs. This includes microfiche of all Australian patent specifications, as well as of some US, UK and Patent Cooperation Treaty records;
- making available computerised search facilities for patents, trade marks and designs and the Patents CD-ROM based abstracts search facility;
- managing a library of historical paper materials—some, but not all, of these have been superseded by computerised records; and
- providing guidance to the public on conducting searches.

6.30 The most valuable search facilities in the state offices are the provision of the Patents abstracts system and microfiche, which are not otherwise available to searchers. However, IT developments and process redesign will lead to changes, with the Patent abstracts system scheduled to be available through the Internet in mid-1999.

Information services and lodgement facilities

6.31 Information services include providing patent, trade mark and design status information, hardcopy patent specifications and general information. State office lodgement facilities accept and forward correspondence.

6.32 These are important core services for IP Australia, but, in considering alternatives for service delivery, it is doubtful whether they require full 'shopfront' access. It is feasible that they could—at least in large part—be delivered from a central location which could be a cheaper alternative if economies of scale can be obtained.

Public awareness

6.33 The public awareness service entails liaison and presentations to various individuals and groups about intellectual property, IP Australia and IP Australia's services. However, this role does not consume significant state office resources.

Conclusion—resources available for reallocation

6.34 IT developments and process redesign have, and will continue to, replace services currently provided by state offices. The ANAO

considers that a review of the way that these services are delivered, and whether more cost effective alternatives are available, is likely to allow IP Australia to reallocate some of the \$2.7 million currently devoted to state offices.

Recommendation No.10

6.35 The ANAO recommends that IP Australia review the role of state offices and associated service delivery arrangements, with a view to maximising the efficient use of resources consistent with client service objectives.

IP Australia response

6.36 Agree. IP Australia is currently undertaking a strategic review on how we can best deliver services.

A handwritten signature in black ink, appearing to read 'P. J. Barrett', written in a cursive style.

Canberra ACT
9 August 1999

P. J. Barrett
Auditor-General

Appendices

Appendix 1

Audit criteria

Issue 1: Provide search, examination and supporting services that are competitive in cost, quality and service delivery with those offered by other industrial property organisations and businesses with similar functions. To do so requires:

- 1.1 appropriate use of benchmarking against other industrial property offices and businesses with similar functions.
- 1.2 testing of competitive position with other industrial property offices.
- 1.3 developing and implementing business strategies to deliver competitive services.

Issue 2: Understand and respond to clients needs, and be successful in making Australian business more aware of how to use the industrial property system effectively. To do so requires:

- 2.1 effective processes for identifying client needs and requirements, and communicating regularly with clients regarding services (eg, regular client research and opportunities for feedback from staff and clients).
- 2.2 performance indicators and standards which focus on aspects of performance most valued by clients and are comprehensive.
- 2.3 identifying opportunities to improve client service (through research, continuous improvement plans, and internal and external quality assessments).
- 2.4 creating a customer service environment throughout the organisation.

Issue 3: Significantly improve business performance. To do so requires:

- 3.1 identifying and eliminating internal procedures and systems that do not add value to service delivery.
- 3.2 business improvement processes which consider business on an end-to-end basis (that is, there is a holistic approach to business improvement).
- 3.3 applying better practice to obtain and use feedback.

3.4 where there are cost-benefits and/or service level improvements, business units consolidating common business processes and utilising common technologies.

3.5 business units having regard to improvements being made in other business units within IP Australia.

3.6 utilising cost effective new technologies.

3.7 operating in accordance with cost-recovery objectives.

3.8 key performance indicators which are linked to organisational objectives, are measurable, contain targets or standards where necessary and contain a balance of measures.

3.9 performance information which is:

- valid, reliable and accurate;
- produced in a consistent manner over time; and
- designed and used to improve performance.

Appendix 2

IP Australia's performance

The following information is taken from IP Australia's Annual Reports.

Table 1

IP Australia performance information—1993–94 to 1997–98

<i>Indicator</i>	<i>Current target</i>	<i>1993–94</i>	<i>1994–95</i>	<i>1995–96</i>	<i>1996–97</i>	<i>1997–98</i>
Financial effectiveness						
Cost recovery on an accrual basis	100 per cent recovery	Achieved	Achieved	Achieved	Achieved	Achieved
International comparisons of fee items with selected countries	Remain competitive with selected offices	Fees kept comparable	Fees kept comparable	Fees kept comparable	Fees kept comparable	Fees kept comparable
Fee level changes	Price changes less than inflation related cost changes	Within cumulative CPI increase since 1984	Within cumulative CPI increase since 1984	Within cumulative CPI increase since 1984	Within cumulative CPI increase since 1984	Within cumulative CPI increase since 1984
Output per total cost dollar	1.25% average increase per annum, over three years	3.3%	1.9%	0.7%	13.4%	9.3%

<i>Indicator</i>	<i>Current target</i>	<i>1993–94</i>	<i>1994–95</i>	<i>1995–96</i>	<i>1996–97</i>	<i>1997–98</i>
Labour productivity						
Output per direct salary dollar	1.25% average increase per annum, over three years	6.7% in 1993–94	4.2% per annum over last two years (1.7% in 1994–95)	4.2% per annum over last three years (3.3% in 1995–96)	6.3% per annum over last three years (14.0% in 1996–97)	12.0% per annum over last three years (18.6% in 1997–98)
Output per total salary dollar	1.25% average increase per annum, over three years	3.9% in 1993–94	2.3% per annum over last two years (0.6% in 1994–95)	1.9% per annum over last three years (1.3% in 1995–96)	5.1% per annum over last three years (13.3% in 1996–97)	10.1% per annum over last three years (15.7% in 1997–98)
Output per direct staff unit	1.25% average increase per annum, over three years	5.0% in 1993–94	5.9% per annum over last two years (6.8% in 1994–95)	4.5% per annum over last three years (1.8% in 1995–96)	7.8% per annum over last three years (14.9% in 1996–97)	11.9% per annum over last three years (18.9% in 1997–98)
Output per total staff unit	1.25% average increase per annum, over three years	3.6% in 1993–94	4.3% per annum over last two years (5.0% in 1994–95)	3.1% per annum over last three years (0.8% in 1995–96)	6.9% per annum over last three years (14.9% in 1996–97)	10.8% per annum over last three years (16.7% in 1997–98)
Timeliness						
Patents—issue of direction to request examination	95% of directions to request examination issued within 32 months from the priority date (excluding divisional applications)	Not reported	Not reported	91.3%	96.2%	98.9%

Indicator	Current target	1993–94	1994–95	1995–96	1996–97	1997–98
Timeliness (cont.)						
Patents: issue of first report	Within three months from the request for examination	Not reported	5.4 months	7.6 months	3.3 months	2.7 months
Trade marks: issue of first report	Within the range from eight to nine months after filing	8 months	8.8 months	10.4 months	4.5 months	2.5 months
Designs: issue of first report	Within the range from five and a half to six and a half months after filing	5.9 months	6.5 months	6.4 months	7.1 months	5.5 months
Quality						
Patents: number of reports per acceptance	Three or fewer reports	2.15 reports	2.2 reports	2.2 reports	2.2 reports	2.1 reports
Patents: number of oppositions to grant of patent filed	Less than 2% of all applications accepted	Not reported	1.6%	1.6%	1.1%	1.4%
Trade marks: indexing of marks	Within six weeks from filing	Not reported	3.6 weeks	3.9 weeks	1.6 weeks	1.6 weeks
Trade marks: number of reports per acceptance	80% of applications accepted required three or fewer reports	Not reported	88.6%	90.3%	87.8%	90%

Appendix 3

IP Australia's customer service standards

The following standards define the minimum level of service we (IP Australia) aim to achieve with our customers.

Many of our customers use patent attorneys or solicitors to act for them. The standards in this charter reflect our relationship with people who contact us directly. For example, response times relate to the time it will take us to respond to the address we have for service. If this is an intermediary, you will need to take into account the time taken by your adviser to process your work.

We will be accessible

If you phone us we will:

- *Answer promptly during normal office hours (9.00am to 5.00pm local time);*
- *Identify ourselves;*
- *Have our voicemail answering system activated during business hours only when we are on another call or out of the office, and promptly respond to messages on return;*
- *Have our voicemail answering system activated outside working hours, and promptly respond to messages recorded;*
- *Provide accurate and helpful information; and*
- *Act on the issue; or*
- *Ensure a relevant responsible person will contact you within two working days.*

We will staff our public enquiry counters in each of the state offices from 10.00am to 4.00pm, workdays.

Our publicly available electronic databases will be available to registered users from 7.30am to 8.00pm weekdays (EST). They are generally available outside these hours except on Wednesdays from 8.00pm to midnight (EST) and 9.00pm Friday to 9.00am Saturday (EST), when off-line maintenance is carried out.

We will notify users of other planned downtime at least a day in advance.

Our IT Help Desk can respond to technical support problems relating to access to our databases from 8.00am to 6.00pm (EST) on working days.

We will respond promptly

We will respond to simple requests, such as those for information packs, on the day we receive them.

We will provide full paper copies of patent specifications within one working day if they are available at the office at which you have asked for them.

We will respond to all written general inquiries about industrial property or our services within one week of receiving them. If the response is going to take more than one week, we will let you know why, and how long you might have to wait for a detailed response.

We will respond to correspondence relating to your application within four weeks of receiving the correspondence.

We will respond to requests under the Freedom of Information legislation within twenty-one days of receiving the request.

We will provide accurate, easy to understand information

We will provide timely, easy to understand, accurate information.

We will maintain accurate and up-to-date files and records in our state offices, and will indicate the latest date of the documents filed for all collections.

We will index new trade mark applications within five working days of receiving the applications so they can be identified in the searches carried out in our state office libraries.

We will provide intellectual property seminar programs.

We will process efficiently the applications we receive

We will acknowledge receipt of correctly made patent, trade mark and designs applications within five working days of receiving the application.

We will issue certified copies of patent, trade mark or design applications within seven working days of receiving the request.

We will examine and issue reports on applications, as follows:

- For standard patents, within five months of receiving the request for examination;*
- For trade marks, within six to eight weeks²⁰ of receiving the application; and*
- For designs, within six and a half months of receiving the application.*

We will issue international search reports for patents within nine weeks of receiving the request for the search unless the application is for more than one invention.

We will conduct searches of the trade marks register for business names' applicants and will dispatch the search results within one working day of receiving the request.

We will issue decisions within three months of holding hearings.

We will process requests to record assignments and licences within four weeks of receiving them.

²⁰ We are working to achieve this target in 1998–99. At present, we issue the first report within 4 months of receiving the application.

We will advertise trade marks accepted for registration in the Official Journal within two weeks of the applications being accepted except where international priority rights need to be recognised.

We will register trade marks and seal patents within two weeks after the opposition period has expired if the required fee has been paid and no one has opposed the application.²¹

We will advertise correctly made applications for removal of trade marks for non-use within two weeks of receiving the application.

We will keep our charges down

We aim to keep our charges internationally comparable and will continue to hold total price changes below inflation.

– IP Australia, Customer Service Charter, February, 1998

²¹ The fee for sealing a standard patent was abolished on 1 November 1998.

Appendix 4

IP Australia—business unit responsibilities

IP Australia administers its responsibilities through six business units.

Patents and Designs Office

The Patents and Designs Office receives, processes and examines patent and design applications. It grants and registers patents and designs and maintains the Register of Patents and the Register of Designs. It conducts international searches and international preliminary examinations, conducts hearings and issues decisions on disputed matters relating to the granting or refusal of patent and design rights and provides support for these activities, including the maintenance and development of search material.

Patent Operations

The Patent Operations Business Unit provides administrative support for the processing and examination of applications for national patents, as well as for international patent applications and search and preliminary examination requests filed under the Patents Cooperation Treaty. The Business Unit also provides IP Australia's publication and document sales service, and user support for the patents administration computer system.

Trade Marks Office

The Trade Marks Office receives, processes and examines trade mark applications. It also registers trade marks and maintains the Register of Trade Marks. It conducts hearing and issues decisions on disputed matters relating to the granting or refusal of trade mark rights and provides support for these activities, including maintaining and developing search material.

Corporate Strategy

The Corporate Strategy Unit coordinates strategic and business planning, audit and fraud control. The unit is responsible for: development of policy and legislation in relation to intellectual property; marketing; research; international relations; strategic planning; and the provision of secretariat services.

Information Technology Services

The Information Technology Services Unit provides computing and information technology systems and services.

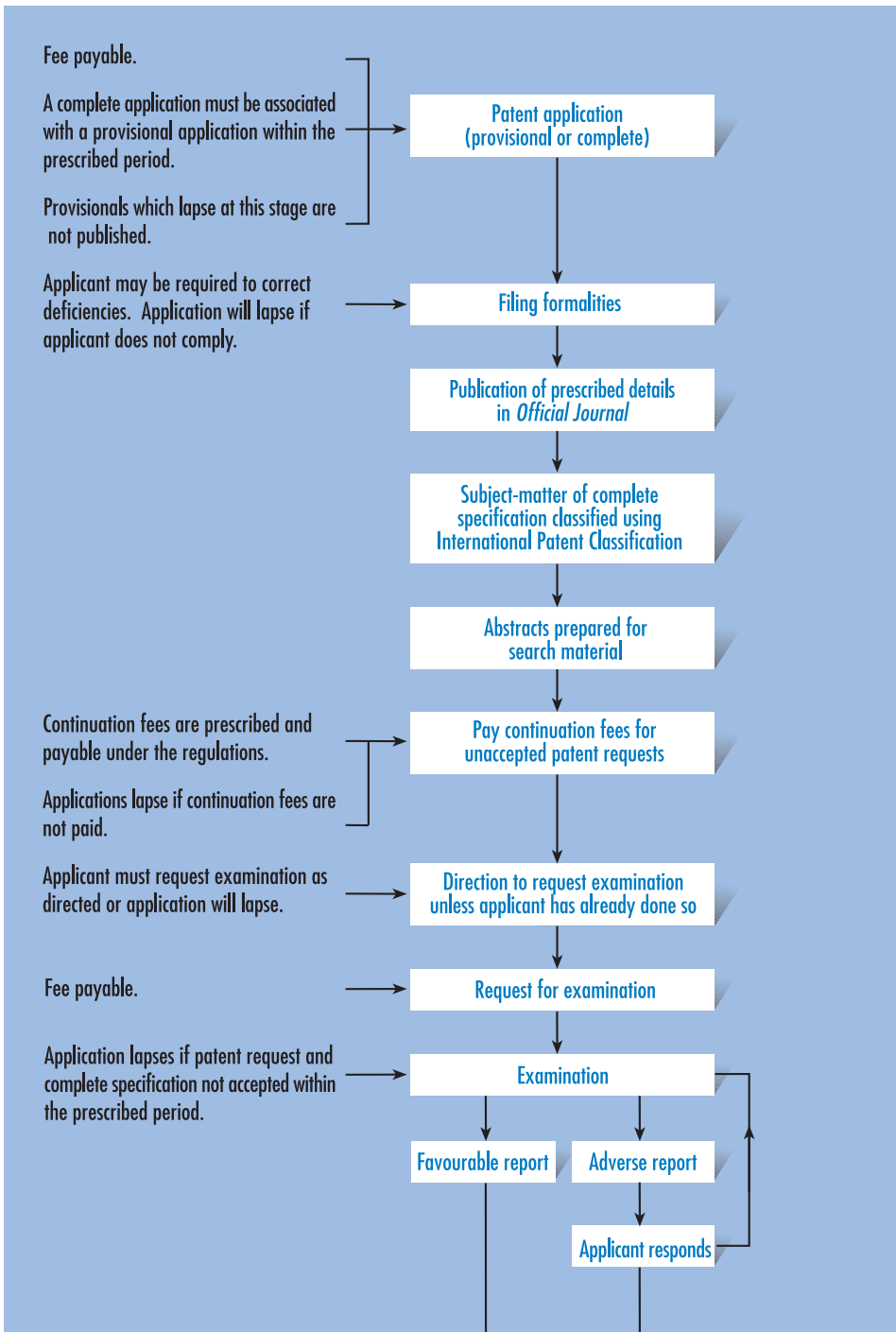
Business Services

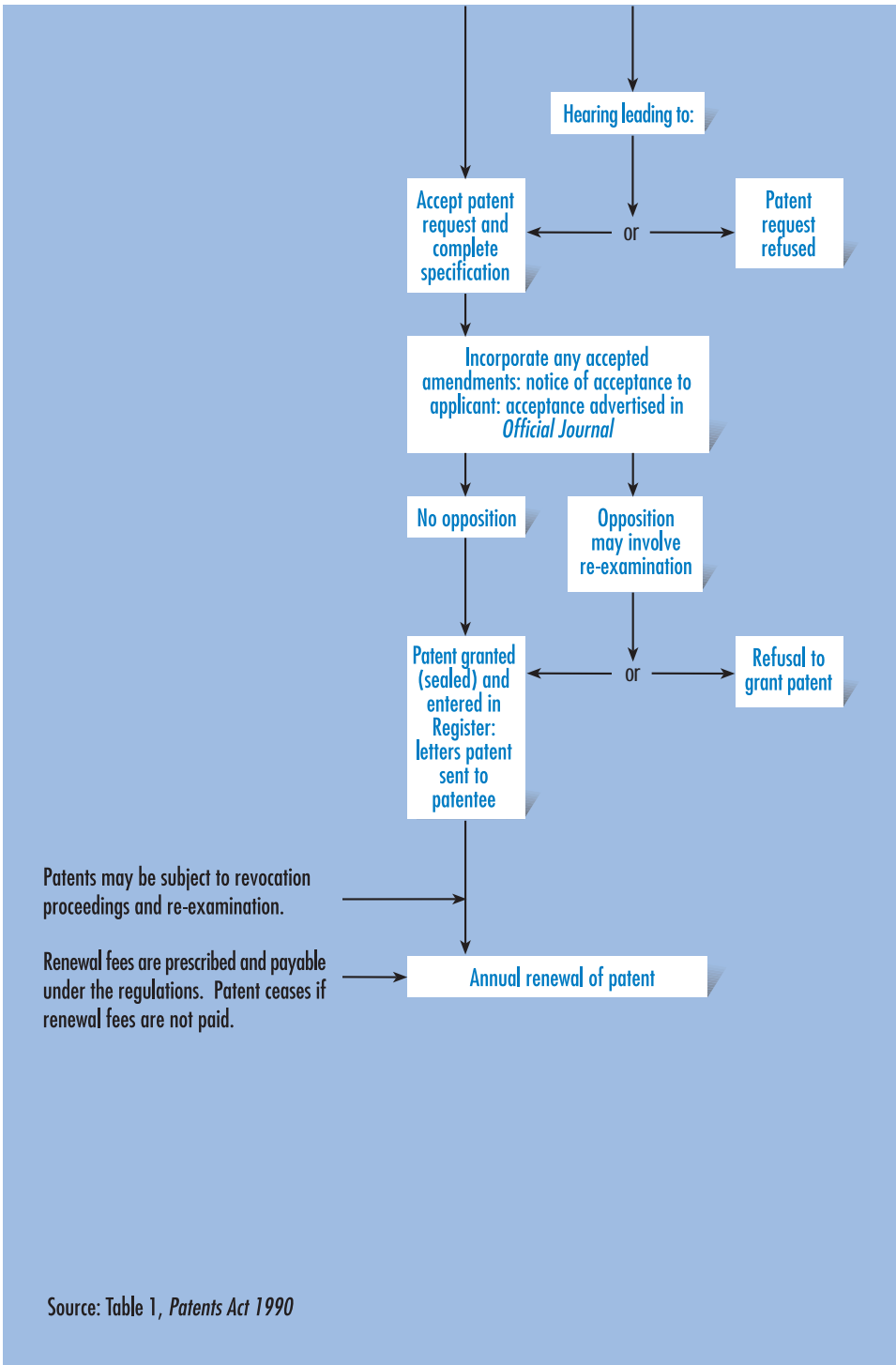
The Business Services Unit comprises support services such as personnel management and organisational development and the state office network. The state office network provides a range of services to IP Australia's clients by providing information to the public on the benefits and operation of the industrial property system, providing lodgement facilities for patents, trade marks and designs applications, and providing IP rights search facilities and assistance.

Appendix 5

IP Australia—processing of applications

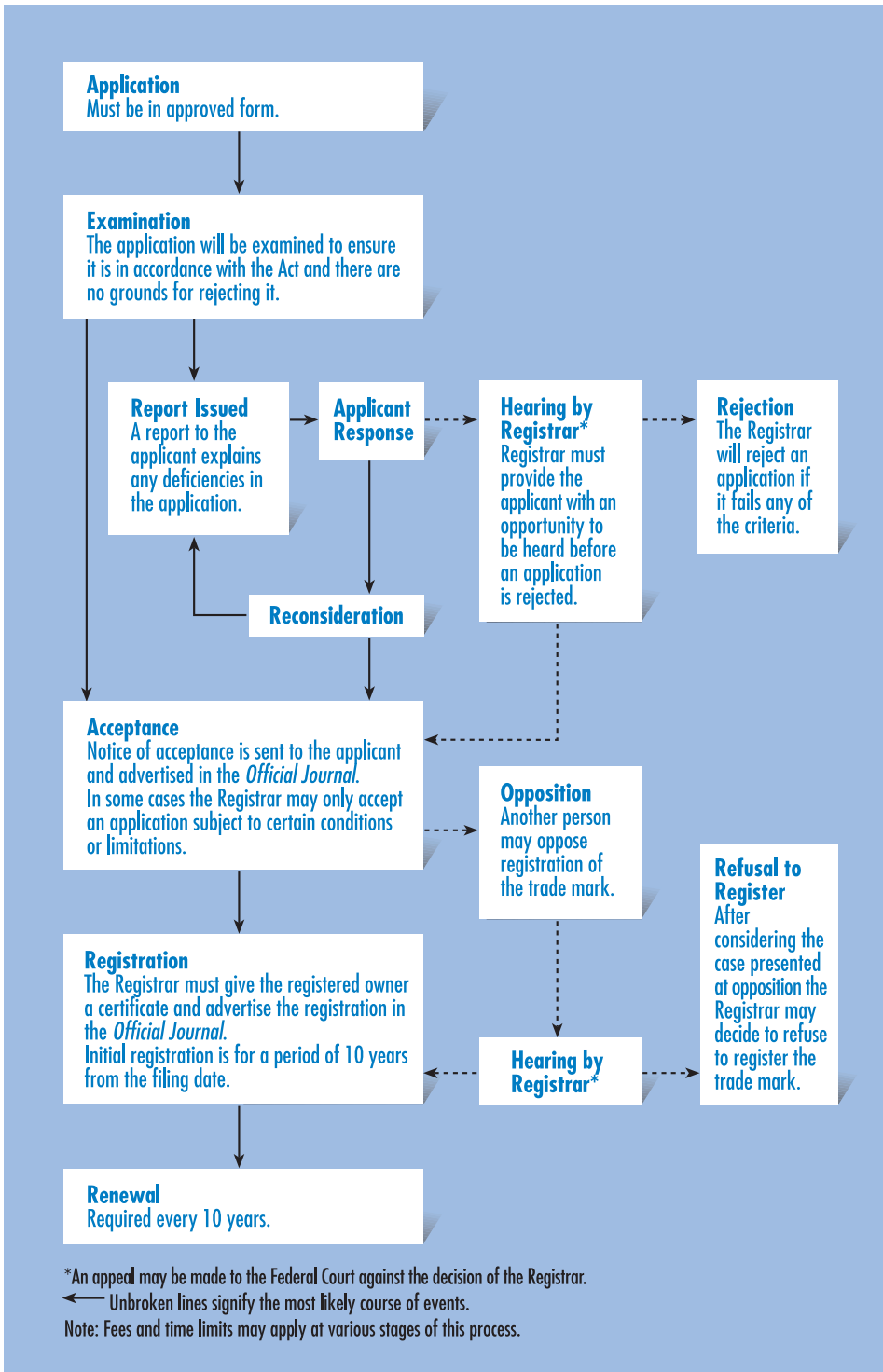
Patents





Source: Table 1, *Patents Act 1990*

Trade Marks



Source: Appendix to the Readers Guide to the *Trade Marks Act 1995*.

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