

Upcoming Patent and Design Fee Changes, Including Important Excess Claim Fee Modifications: Australia

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IP Australia has updated its practice for the calculation and processing of excess claim fees. Currently, excess claim fees are charged at acceptance, on the basis of the final claim set as accepted, regardless of the number of claims examined during examination. Therefore, the applicant can often have a large claim set examined but avoid excess claim fees by amending to reduce the claim set prior to acceptance.

Under the new practice, excess claim fees are payable on the largest number of claims on file, between issuance of the first examination report and acceptance. This will be facilitated by two payment windows: one within a month of the first examination report being issued; and one within three months after acceptance to capture any claim increase during examination. Failure to pay excess claim fees within the first window will cause the application to lapse, although it will be revivable as long as payment is made prior to the acceptance deadline.

To facilitate this change, IP Australia has made some changes to its communication schedule, and will now issue a notification six months prior to the expected commencement of examination. This gives the applicant an opportunity to reduce the claim set before examination commences, and thereby reduce or avoid excess claim fees. The process aims to reduce strain on examiners, but still provide applicant with an opportunity to avoid excess claim fees.

IP Australia has also adjusted their official fees for various patent and design steps. These are publicly available [here](#). These changes also come into effect 1 October 2024.

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