

GRIFFITH HACK
REGISTERED DESIGNS

working with clever people

frequently asked questions

Q: What is a design?

A: A design is the overall appearance of a product resulting from one or more of its visual features. The visual features include the product's shape, configuration, pattern and/or ornamentation.

Q: What is a design registration?

A: A design registration is a Government monopoly that provides the exclusive right to make and sell a product (among other activities), in relation to which the design is registered, that incorporates the new and distinctive features of the design during the term of the registration. A design registration cannot protect how a product works, or properties of materials used in the product (such as feel and texture), or the material itself.

Q: What are the validity requirements of a design registration?

A: To be validly registered, a design (or particular features thereof) must be both new and distinctive.

To be 'new' the design (or features thereof), at its filing date (or priority date), must not be identical to a design that has been publicly used in Australia, or published anywhere in the world.

To be 'distinctive' the design (or features thereof), at its filing date (or priority date), must not be substantially similar in overall impression to a design that has been publicly used in Australia, or published anywhere in the world.

Q: Can a single application be filed in Australia for multiple designs?

A: Multiple designs can be filed in a single application. However, the Designs Office treats each design in an application separately, such that fees are payable separately on each design. In addition, each design is given an individual application number and then registration number, and is examined separately. Thus, there is no material advantage in filing a single design application for multiple designs over filing a separate application for each design.

Q: What is the effect of a Statement of Newness and Distinctiveness?

A: A Statement of Newness and Distinctiveness identifies particular visual features of a design which are to be given particular regard when the registered design is assessed for distinctiveness and infringement. The Statement does not necessarily limit the scope of protection to the features identified in the Statement.

Q: What are the requirements for filing a design application?

- A: – The applicant's details: the applicant may be an individual, company, partnership or an incorporated association, who has gained entitlement to ownership of the design from each designer.
- Representations of the design: preferably drawings, although clear photographs are acceptable.
 - The design details, including the name of the product(s) and the number of designs in the application.
 - Identification of any specific visual features of the design that are considered to be new and distinctive (for inclusion in a Statement of Newness and Distinctiveness).
 - The name of each designer.
 - Convention priority details: to claim convention priority, the Australian application must be filed within six months of filing of the convention priority application.
 - Whether a request for registration or merely a request for publication is to be filed. A request for either registration or publication of the design must be filed within six months of the priority date (the default is to file a request for registration).

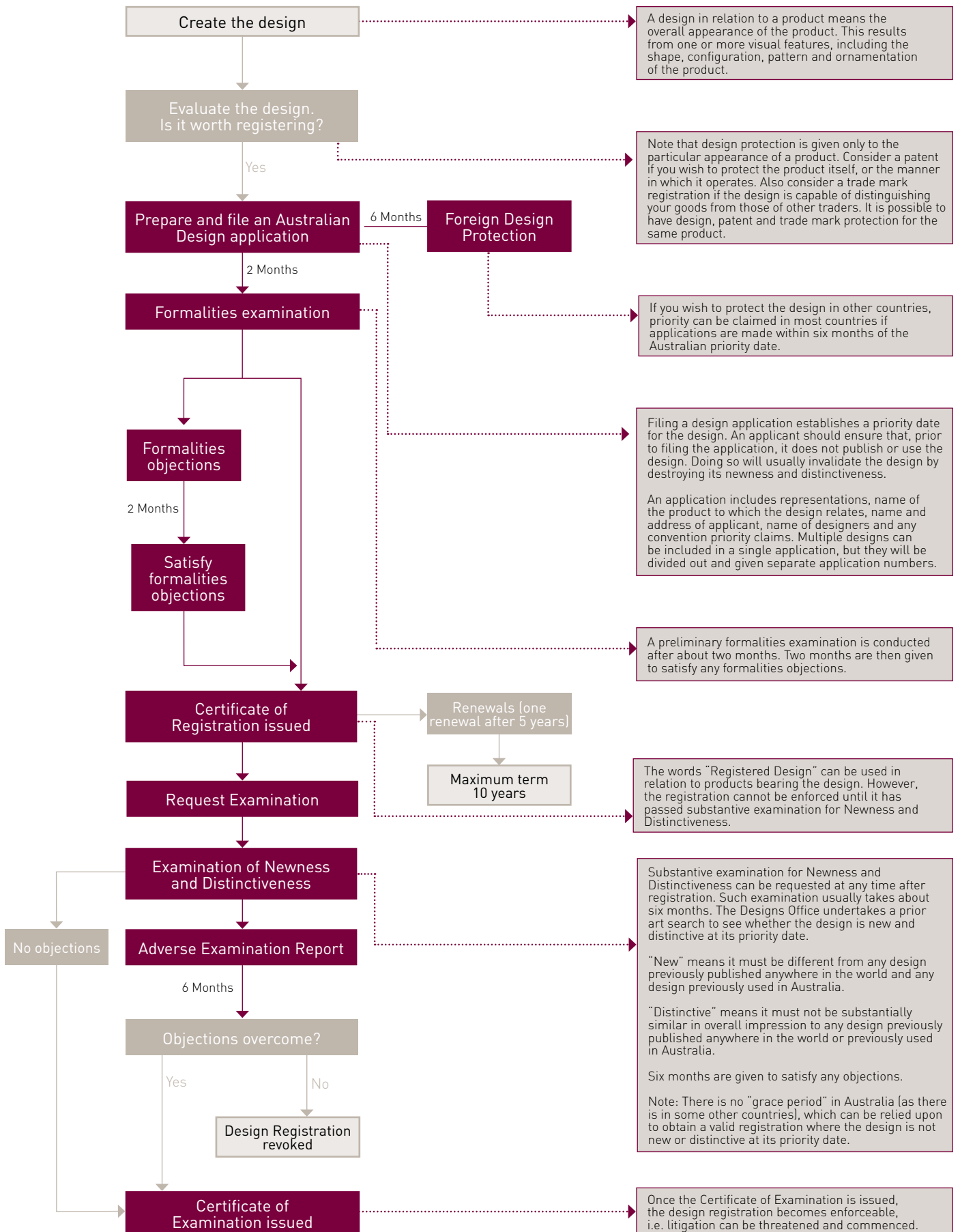
Q: How long does a design registration last?

A: A maximum of 10 years. The initial period of registration is five years from the filing date and this period may be renewed for a further five years.

Q: What is examination?

A: Providing formalities are met, a design application will automatically proceed to registration. However, a registered design is not enforceable until it has been examined by the Australian Designs Office and a Certificate of Examination has been issued. The examination is substantive in that it includes a search and assessment to determine whether the design is new and distinctive over prior designs.

For more information please visit our website
www.griffithhack.com.au



Costs: At most stages of this flow chart, costs are incurred. Cost estimates are available on request.

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