

4. National phase entry

IPONZ will accept applications for entry into National Phase in New Zealand using our online system where a PCT application number can be validated with WIPO.

Note: If a PCT application number cannot be validated with WIPO using our online system see: Early Entry into National Phase.

Applicants must provide the following:

- A Certified English Translation of the Original Specification if the original WIPO specification was not in English or Maori.
- The specification which they wish to have examined, in English or Maori. This should incorporate all amendments made during the international phase which they wish to have examined.
- A description – i.e. marked up pages - of any voluntary amendments requested in the entry into National Phase. A fee is payable for these amendments.
- A documentary description of the applicants entitlement to file (how they derived the rights to the Patent), where the applicants are not the same as the applicants in the International phase.
- Payment of the filing fee(s).
- An address for service in New Zealand.

For Biotechnology applications a separate Sequence Listing document may be uploaded via a Voluntary Amendment.

An application to enter National Phase in New Zealand will have a National Phase entry date on the day of filing, or the next working day if filed when the office is closed. The filing date of the complete specification will be deemed to be the International Filing Date.

Any application to Enter National Phase in New Zealand made to IPONZ will automatically imply that a request for sealing has been submitted. There is no requirement for an applicant to submit a separate request for sealing.³

Where an applicant wishes to have the examination of their application expedited they may request this at the time of entering National Phase, or subsequently. Applicants must submit evidence of good and substantial reasons to support this request.⁴

Late entry into National Phase

A request to enter National Phase in New Zealand must be made within 31 months of the priority date of the application. Where the applicant fails to meet this deadline, a request to enter National Phase should be made as soon as possible and should be accompanied by supporting evidence in the form of a statutory declaration or affidavit. The declaration or

affidavit should provide a full explanation of the events which led to the failure to meet the prescribed time limits.

Requests for late entry must establish that failure to enter the national phase within the prescribed time was unintentional and that no undue delay has occurred in making the late entry application. Where IPONZ judges that a late entry into National Phase should be allowed it will be published in the next journal and will be subject to a two month opposition period.

English language translation

A Certified English Translation of the Original Specification must be filed with IPONZ if the original WIPO specification was not in English or Maori.⁵ All Complete Specifications for examination in New Zealand must also be submitted in English or Maori.

The deadline for submission of the Certified Translation is within three months of entering National Phase. A further two month extension to this deadline is available and will be given on all submissions made within that extended period.

Failure to provide a Certified English Translation of the Original Specification within the three month period, or within the two month extension period (i.e. a total of five months) will result in the abandonment of the application.

Declaration of inventorship

For PCT entry applications that claim convention priority, the applicant must make a declaration that the inventors are the first and true inventors of the invention. This can be done at the time of application by checking the declaration on the online form, or subsequently by submitting a Declaration of Inventorship document via the Amendment facility. Where the list of Inventors provided at the time of application is not complete the applicant must amend the inventors listed on the application prior to grant. If the application does not include a convention priority, the applicant must supply a declaration describing the right of the applicant to make the application in New Zealand in lieu of the declaration of inventorship.

Footnotes

3Sealing - Section 27(1) Patents Act 1953. Under Regulation 9, the commissioner deems that an application for a Patent via IPONZ online systems incorporates a request for sealing – as a modification of Patents form 24.

4Regulation 38(b)

5Regulation 3 of the Patents (Patents Cooperation Treaty) Regulations 1992.