

Patent FAQs

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If you haven't found your answer then [send us your question](#) and we'll get back to you.

What is a patent?

A patent is an exclusive right granted to the registered proprietor of an invention which prevents others from making, using, or selling the invention without permission during the term of the patent. In general terms, in order to qualify for patent protection, an invention must be a new or novel, inventive (not obvious), and capable of being made and used. There are further criteria and limitations on what will be a patentable invention under the Patents Act and regulations.

For more information, see [What is a patent?](#)

What can be patented?

The scope of inventions that can be patented is large and the following list is by no means exhaustive:

- a new product
- a new process of manufacturing
- an improvement to an existing product or process
- a new method or process relating to the testing or control of an existing manufacturing process
- new chemical compounds or compositions
- biotechnological matter
- electrical devices and circuits
- a second pharmaceutical use for a known chemical compound or composition
- improvements in computer technology

For more information, see [What is a patent?](#)

Filing a Patent Application

Your patent application must include:

- a completed application form
- a patent specification (either provisional or complete - see below)
- the relevant [fee](#).

For more information, see [How to apply for a patent](#).

Patent fees

Fees relating to patents are set out in the [New Zealand Patents Regulations 1954](#).

For more information, see our [Forms and fees](#) section.

Requirements for the grant of a patent

To be patentable, an invention must meet certain criteria relating to novelty, inventiveness and utility.

It must:

- be new or novel. If the invention has already been used, displayed or otherwise made available in New Zealand, been described in any public document (e.g. an overseas patent document available in New Zealand, a scientific journal or similar) it will not normally be patentable

- contain an inventive step that is, “non-obvious”. The invention cannot be already known, or be two or more products or processes put together with no new or improved effect
- be industrially applicable, i.e. be able to be made or used in some kind of industry

Warning: It is crucial that an invention is kept confidential prior to a patent application being filed. Certain confidential disclosures or other exceptional circumstances, such as display or demonstration of the invention at certified exhibitions, for example, at the annual Mystery Creek® Fieldays®, allow the invention to be disclosed so long as the patent is applied for within six months of the opening date of such an exhibition. [Special conditions apply.](#)

How can I search for a patent?

See [How to check for existing](#) patents.

How do I file a New Zealand patent application?

To file a patent application you must send us the following:

- a completed application form
- a patent specification (either provisional or complete)
- the relevant fee

Read more about [how to apply](#) and the [patent application process](#).

What is a provisional specification?

A provisional specification broadly describes the invention and how to perform it.

An application filed with a provisional specification is not examined, so IPONZ does not conduct a search for similar inventions or give an opinion on the content of the application.

However, filing an application with a provisional specification gives you 12 months (extendable to 15 months) before you need to file a complete specification. This is usually considered to be the best way to start the application process.

For more information see [How to apply for a patent](#).

What are the benefits of a provisional specification?

Most people decide to delay examination and file a provisional specification first. A provisional specification is not examined, so IPONZ does not conduct a search for similar inventions or give an opinion on the content of the application.

This option gives you a further 12 months (extendable to 15 months upon request) before you need to file a complete specification. Your provisional specification will not be available to the public until a complete specification is accepted. There are benefits to starting the application process in this way because you:

- gain up to a maximum of 15 months to work on the development, financing and marketing of your invention
- do not need to publicly disclose the full or specific details of your invention
- establish a priority date that can help protect the invention from being patented by others
- gain an application number that you can use on the products you manufacture along with the words “patent pending”
- can reveal your invention to interested parties to gauge how successful it may be before proceeding further.
- avoid the larger cost of continuing your application until you can decide if you will proceed to file a complete specification.

For more information see [How to apply for a patent.](#)

How do I file an application with a provisional specification?

To file a patent application with a provisional specification, you must complete a Patent form 1 and form 4. Form 4 is the form used for filing a "[provisional specification](#)" describing your invention in as much detail as possible, revealing all the essential features. Considerable care is required when producing a provisional specification to ensure that the relevant detail and statements are consistent with the claims of the yet-to-be-filed complete specification. Should IPONZ require further details to clarify matters, another provisional specification may be required. Any modified provisional patent applications will have a later priority date than the original application..

For more information, see [How to apply for a patent.](#)

Do I have to file a provisional specification?

No. If you are ready you can file a complete specification in the first instance.

How much time do I get to file a complete application after a provisional application?

You have 12 months from the filing date of the provisional application. This period may be extended to 15 months by filing a [Patents Form 7](#) as long as the request is received by IPONZ before the 15 months is up. (The complete specification must also be received by IPONZ before the 15 months time is up).

Can I apply for an extension of the time required for filing a complete specification after the provisional application/specification?

As long as the request for extension of time is received BEFORE the 15 month date it will be OK.

Note also, that post-dating of an application and the accompanying provisional for up to 6 months is also possible to provide "more time" to file a complete (after provisional) specification but will mean a loss of priority date. This can be requested by filing a [Patent form 8](#) within the 15 month period (this form must be received by the IPONZ office within 15 months).

What is a complete specification?

The patent specification is a document that describes the characteristics of your invention. A complete specification accurately describes the invention and the best known method of carrying it out, and ends with one or more "claims" which define the scope of the invention.

You can choose between filing a complete specification of your invention that is ready for examination by IPONZ, or a provisional specification that contains a broad description of the invention.

For more information, see [How to apply for a patent.](#)

What happens after my application is received?

When an application is made with a complete specification, the complete specification will be examined to ensure that it meets all the criteria for registration as a patent. After the application has been examined you will be sent either an Examination Report or a Notice of Acceptance.

If the application is not acceptable the Examination Report will outline the reasons why. There may be certain conditions to meet before your application can be accepted. You will have a period of 15 months (extendable by up to three months) to meet these conditions or to convince IPONZ

that the application is acceptable. If any matters cannot be resolved in this way you have the right to request a hearing with a Hearings Officer. A fee is required for a hearing.

If the application is acceptable you will receive a Notice of Acceptance. This will include information as to when a summary of your patent details is to be published.

All patents are made available to the public after they have been accepted and summary details are published in the IPONZ journal and on the IPONZ website. The details of a patent are published so that any person may oppose the granting of a patent if they believe they have reason for doing so. IPONZ will let you know if anyone opposes the application. A patent will be granted if no one opposes within three months of publication and a Letters Patent (the official notice of registration) will be issued.

If IPONZ raise any objections in respect of my complete specification, how long do I have to put my application in order for acceptance?

Where the Office raises an objection to your complete specification, the patent application will go void 15 months after the date on which the complete specification was filed unless you resolve the objection. This period may, however, be extended to 18 months if an application for extension is made by filing a Patents Form 13.

How do I maintain my patent?

Once your patent has been granted, it is your responsibility to ensure that it does not lapse.

Remember to advise IPONZ of:

- any change of address, and
- any change of address for service.

The relevant notification forms are available [online](#). Once complete, the forms can be filed through the online correspondence facility. For further information, see [Maintaining a patent](#).

How do I protect my invention in other countries?

There are two ways that you can protect your invention overseas. You can:

- apply directly to each overseas country of interest after obtaining a foreign filing permit from the Commissioner under section 25(5). Please see our guide on obtaining a [foreign filing permit](#) and our [Connections section](#) for useful links to other IP Offices around the world.
- make one application covering a number of countries using the Patent Co-operation Treaty. Read more on [International patent protection](#).

How do I sell or license my patent?

Patents can be bought, sold and licensed by way of a contract that defines the terms and conditions upon which you change the ownership. You are advised to seek professional legal advice when drafting your contract.

IPONZ does not assist in the drafting of contracts between parties, nor does it provide forms for the licensing of patents.

Should IPONZ be notified of changes in ownership?

Yes. The new owner of a patent should make an application for a change of ownership. The appropriate forms may be obtained [here](#) or by [calling us](#).

What documents are required to register a change in ownership?

An application form (may be obtained [here](#), also available by [calling us](#)), and evidence of the change of ownership (e.g. the deed of assignment or a verified copy)

What can I do if my invention is copied?

This is potentially an infringement of your patent rights. It is important to be certain that there has been an infringement. If action is taken against a third party without certainty the third party may be entitled to damages and other remedies if the allegation is unsubstantiated. IPONZ recommends that you seek professional legal advice on this matter.

Can IPONZ help me to market my patent?

No. IPONZ does not assist in this area.

How do I request a refund?

You may be eligible to a refund if the fees attached to your application, renewal, document or request for service, here after referred to as application, were overpaid.

For example:

- the fees paid were greater than fee required
- the fee was not required

All requests for refunds will be considered on a case by case basis depending on the nature of the overpayment. You need to write to us and request the refund. Written requests can take the form of a letter, fax or e-mail but must include the following information:

- receipt date
- receipt number
- how you paid the fees i.e. manual or online payment system
- amount you are requesting be refunded
- why you think a refund is payable
- name of person/organisation the refund is to be paid to

If you have paid the fees using our direct debit system, the refund will show as an adjustment on your next direct debit statement.

If you paid the fees by any other payment method your refund will be direct credited into your bank account unless you specify you would prefer a cheque. You will need to complete a Vendor Direct Credit form and attach it to your refund request so we have your bank account details.

Your refund request and [Vendor Direct Credit form \[116 kB PDF\]](#) (if applicable) should be forward to our Corporate Services team.

Please note that refunds will not be processed in the following circumstances:

- a) Where the applicant has chosen to pay GST with their application. If the fees attached to an application include GST, the office will assume GST is payable by the applicant and receipt that GST.
- b) Refunds will not be processed once an application has been receipted and work has commenced on, or been completed on processing the application.

You can choose to pay for all IPONZ fee-bearing services by direct debit account or credit card giving you more certainty that fees will not be overpaid or underpaid. Credit card authorisation forms are attached to all forms for fee bearing transactions.

You can set up a direct debit account online. For more information please see [How do I manage my login?](#)

Can my patent be revoked after it is granted?

Yes. The Commissioner and the High Court can revoke a patent for a number of reasons, for example if it is established in legal proceedings that:

- The invention is not new, or
- The patent was granted to a person who was not entitled to apply for it, or
- The patent was obtained falsely, or
- The invention is obvious and does not involve an inventive step

This list is not exhaustive. When a patent is revoked, you lose the right to prevent others from using your invention.

How do I show that my invention is patented?

After your patent has been granted, you can use the patent number and the words “New Zealand” or the letters “NZ”.

Note: It is an offence for anyone to falsely claim that they have either applied for a patent or have been granted a patent.

What happens to a patent when the applicant or owner dies?

Prior to a patent being granted, the personal representative or the assignee of the personal representative of any deceased person may proceed with the patent application.

After a patent is granted, the patent will be transferred to the personal representative or the assignee of the personal representative of any deceased person, provided the Commissioner is satisfied that the existing owner is deceased and that title has been appropriately transferred.

When will your application be processed?

You can find the latest processing timeframes for Patent applications and correspondence [here](#).

To track the progress of a particular application or correspondence you have submitted please see our View IP History service.

[VIEW NOW](#)