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Intellectual Property Office of New Zealand  
Te Pou Rāhui Hanga Hou

Report of the

# COMMISSIONER OF PATENTS, TRADE MARKS AND DESIGNS

TO THE MINISTER OF COMMERCE

for the year ended  
30 June 2004

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*Presented pursuant to s.116 of the Patents Act 1953*

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*The Intellectual Property Office of New Zealand (the "Office") is a business unit of the Ministry of Economic Development and its activities are further described in the Report of the Ministry of Economic Development for the year ended 30 June 2004.*

## COMMISSIONER'S COMMENTARY

This year has been a momentous one in relation to intellectual property in New Zealand with the coming into force of the Trade Marks Act 2002 on 20 August 2003. This Act provides the first comprehensive update of trade mark law in 50 years and is intended to ensure that New Zealand has a system of trade mark protection that is modern, efficient and cost effective by:

- More clearly defining the scope of rights protected by trade mark;
- Simplifying and streamlining processes for registering a trade mark (thereby reducing compliance costs for clients);
- Introducing some measures to address concerns of Māori over inappropriate registration of Māori text and imagery as trade marks;
- Introducing new measures to deter pirating of copyright works and counterfeiting trade marks; and
- Strengthening protection for well-known trade marks.

One of the significant measures introduced by the 2002 Act was the establishment of the Māori Trade Marks Advisory Committee. The principal function of this Committee is to advise the Commissioner of Trade Marks as to whether the registration of a trade mark that is, or appears to be, a derivative of Māori text and imagery, is likely to be offensive to Māori. The establishment of such an Advisory Committee is a world first and there is extensive interest in its work from both within New Zealand and overseas. We have been extremely fortunate to have been able to secure five extremely able individuals to sit on the Committee, each of whom bring a wealth of experience and knowledge of matauranga Māori (Māori knowledge), an understanding of Māori imagery and iconography, te reo Māori (Māori language), strong iwi networks and extensive business expertise. The Committee has advised on 417 trade marks containing derivatives of Māori text or imagery to date and is also assisting the Intellectual Property Office of New Zealand in the development of guidelines on the use of Māori text and imagery in trade marks which will be made available to our clients.

Although a primary focus this year has been ensuring the successful implementation of the new trade marks legislation, there have also been many other significant activities that the Office has been involved in.

The Office has continued to develop its client service delivery channels, particularly in relation to the e-business services offered. On-line filing of trade marks now accounts for 71% of total trade mark applications filed, which is an excellent result given that the on-line service has only been offered for just under two years. We are continually looking to other services that would benefit our clients if offered on-line and in the past year have introduced a pilot of an on-line Journal, as well as extending our collection of patent specifications and more recently design representations which are searchable on-line.

The registration of intellectual property is very much a global activity and it is therefore important for the Office to develop and maintain close links with our counterparts overseas. During the past year we have had a number of international delegations visit the Office including representatives from the United States Patent and Trademark Office, the European Patent Office, the World Intellectual Property Organisation and the Malaysian Ministry of Domestic Trade and Consumer Affairs, Intellectual Property Division. We have also held discussions with IP Australia, Intellectual Property Office of Singapore and the State Intellectual Property Office of the People's Republic of China. All discussions with our

counterparts have been very much focused on how we might co-operate further, with a view to making it more efficient for those clients that we have in common to gain intellectual property protection in our respective economies.

Raising awareness amongst New Zealanders of the importance of intellectual property and its effective protection continues to be a significant focus for the Office. In the past year we have had a presence at a wide range of public events where we have had opportunities to make contact with New Zealand innovators, including the Mystery Creek Field days, the Ministry of Economic Development's Small Business Day series, Chamber of Commerce expos, and university and school visits.

Whereas this year, there has been a significant focus by the Office on trade marks with the coming into force of the 2002 Act and the associated changes that this has brought about, the coming years will also see a focus on patents and the proposed new legislation that will be introduced in relation to this IP over the coming years. We intend to continue improving our service delivery and develop information systems in order to facilitate on-line access to our services by clients. We will be particularly focusing on raising awareness of intellectual property rights amongst innovators to ensure that New Zealand business is well placed to exploit the commercial opportunities that its IP presents on the global stage, as well as exploring ways in which connections with Australia can be deepened with respect to co-operation between our Office and our counterparts at IP Australia.

Neville Harris  
Commissioner of Patents, Trade Marks and Designs

## **PRINCIPAL FUNCTIONS OF THE INTELLECTUAL PROPERTY OFFICE**

The Intellectual Property Office of New Zealand is a business unit of the Business Services Branch, of the Ministry of Economic Development (the “Ministry”).

The Office is the agency responsible for the granting and registration of patent, trade mark and design rights. Innovation and creativity are important elements in gaining a competitive edge in the marketplace and for many business ventures intellectual property is one of their most important assets. Through the provision of these services, the Office helps people to realise the full economic potential of their intellectual property.

We have a long history of assisting innovative New Zealanders to benefit from their creativity; the New Zealand Patent Office was established in 1870. Today, the Intellectual Property Office of New Zealand administers the Patents Act 1953, the Trade Marks Act 2002, and the Designs Act 1953. These Acts place statutory obligations on the Office and the Commissioner of Patents, Trade Marks and Designs in relation to the examination and registration or grant of intellectual property rights. The Office also maintains registers of these rights and interests.

### **Operational Functions**

In addition to administering the relevant legislation and registers, the Office performs a number of operational functions including:

- Examination services for patent, trade mark and design applications;
- Implementing international agreements;
- Providing assistance and information to clients;
- Conducting hearings on oppositions to intellectual property (IP) registrations and eligibility matters;
- Maintaining a register of patent attorneys;
- Contributing to policy development on IP rights;
- Acting as a receiving office for the World Intellectual Property Organisation (WIPO).

### **Examination Services Group**

Consisting of four teams of IP advisors (two trade marks and two patents), the primary role of the Examination Services Group is to examine intellectual property applications to determine whether they comply with the requirements of the relevant legislation and international treaties. The efficiency and accuracy of the examination service the Office provides is a vital factor in establishing a sound reputation in both a national context and abroad.

In addition to examination services, the group contributes to the development of intellectual property policy and legislative reforms, and liaises with key client groups to ensure the Office continues to provide high quality examination services.

## **Business Support Group**

The Business Support group consists of four teams brought together under one group in recognition of the common role they all play in providing information to clients and the Office.

- Examination Support manages the inwards mail, the receipt and lodgment of applications, entry of relevant data into the database, and provides support to the Examination Services Group by preparing files for examination. They also carry out all actions after an application has been registered e.g. registration certificates, renewals, and assignments;
- Client Services manages the Information Centre, which provides access to paper and other records, as well as responding to public enquiries, and also manages client relationships, co-ordinates promotional activities for the Office, and manages the patent attorney register and client database;
- Records process outwards mail and provide a file storage and retrieval service;
- The IPOL/e-service team works with the Business Services Branch IT team on the development of the Office's database and online facilities.

## **Hearings Office**

The Hearings Office is the arena in which the majority of the quasi-judicial responsibilities of the Commissioner are exercised. The Hearings Office becomes involved in proceedings when an opposition is filed, when a revocation, rectification or invalidity application is made, or when a hearing is requested.

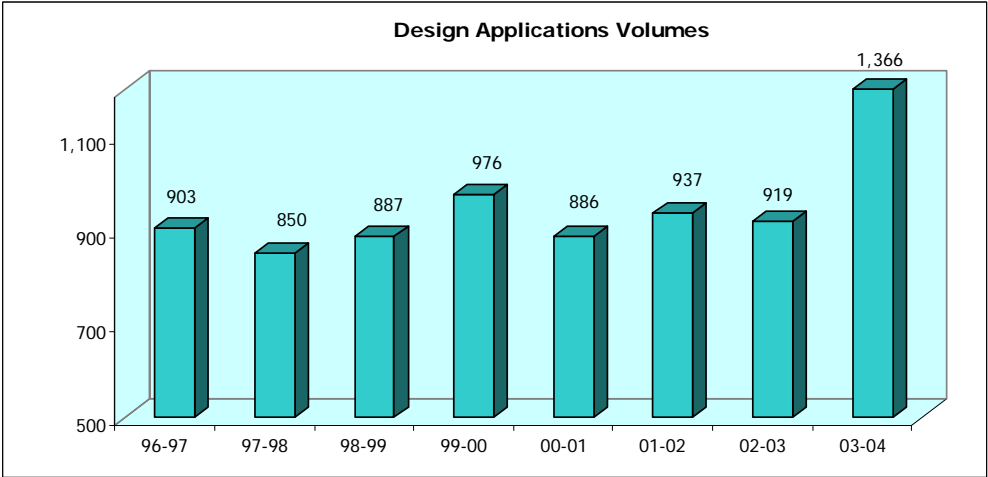
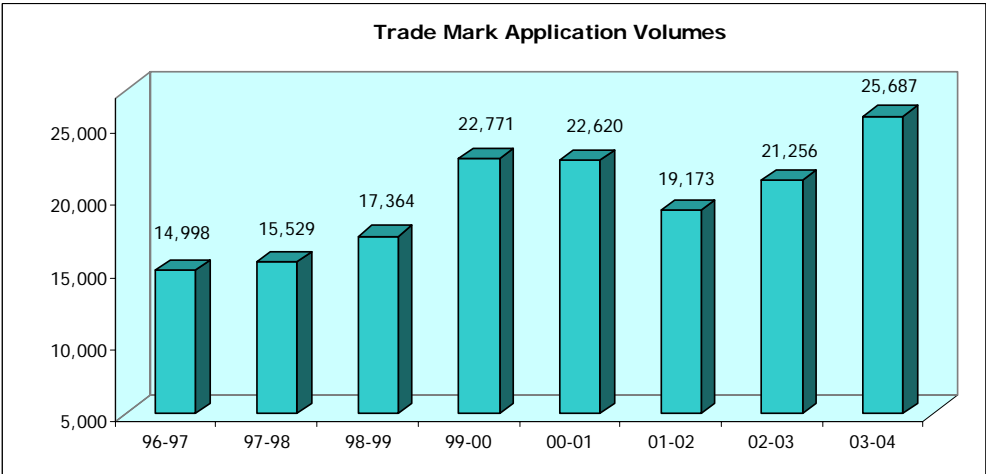
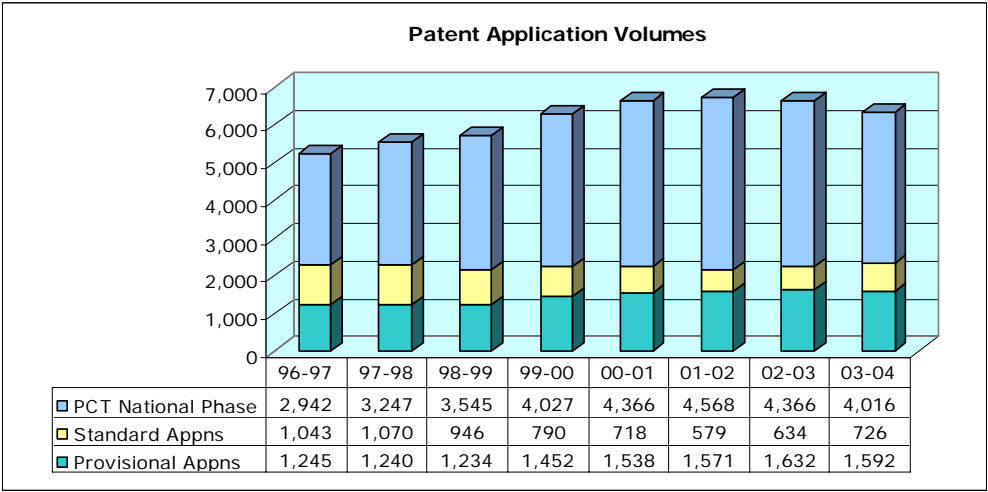
A panel of Assistant Commissioners (Hearings Officers) with a wide range of experience give decisions on matters referred to the Commissioner for hearing.

## **Operational Policy and International Liaison**

This group is responsible for:

- Co-ordinating the development and implementation of IP operational policy and practice;
- Ensuring compliance with intellectual property law, policy and international treaties;
- Liaison with policy advisors from other branches of the Ministry;
- Co-ordinating the collation and dissemination of information relating to intellectual property, policy, practice, technical issues and legislative developments;
- Keeping abreast of international developments and ensuring appropriate input is given in respect of international discussions.

# BUSINESS VOLUMES



## OTHER BUSINESS STATISTICS

<b>PATENTS</b>	<b>03-04</b>	<b>02-03</b>	<b>01-02</b>	<b>00-01</b>	<b>99-00</b>
Provisional Applications	1,592	1,632	1,571	1,538	1,452
National Phase Applications	4,016	4,366	4,568	4,366	4,027
Standard Applications	726	634	579	718	790
PCT International Applications	294	308	290	286	229
Acceptances in Journal	6,096	4,416	2,742	3,898	4,321
Sealings	5,873	3,248	3,158	3,799	4,054
Assignments	1,236	1,418	2,736	2,953	1,458
Renewals	9,283	8,206	8,510	8,886	7,538
<b>DESIGNS</b>					
Applications	1,366	919	937	886	976
Registrations	1,043	912	699	813	731
Renewals	634	613	600	571	630
<b>TRADE MARKS</b>					
Search or Preliminary Advice	1,071	1,165	1,251	1,024	756
Applications	25,687	21,256	19,173	22,620	22,771
Immediate Advertisements	8,874	7,650	6,974	7,782	8,516
Acceptances in Journal	19,530	18,721	19,466	19,639	14,700
Registrations	17,494	17,407	19,305	17,738	14,071
Assignments	21,832	19,965	20,067	19,298	18,420
Renewals	9,430	8,619	7,441	6,751	6,284
<b>HEARINGS</b>					
Oppositions	360	562	301	325	315
Hearings Held	37	50	72	62	66
Decisions Issued	62	91	68	63	53



## FINANCIAL INFORMATION

### INTELLECTUAL PROPERTY OFFICE OF NEW ZEALAND STATEMENT OF FINANCIAL PERFORMANCE <sup>1</sup> FOR THE YEAR ENDED 30 JUNE 2004

	Actual 03-04 \$000	Estimates 03-04 \$000	Actual 02-03 \$000
<i>Revenue</i>			
Patents	4,974	4,663	4,862
Trade Marks	5,092	4,840	4,824
Designs	214	169	170
Miscellaneous	253	247	245
<b>Total Revenue</b>	<b>10,533</b>	<b>9,919</b>	<b>10,101</b>
<i>Expenditure</i>			
Personnel Costs	4,076	4,445	4,164
Direct Operating Costs	2,240	2,282	1,868
Other Operating Costs	2,062	1,914	2,032
Depreciation	230	262	700
Capital Charge	35	35	41
<b>Total Expenditure</b>	<b>8,643</b>	<b>8,938</b>	<b>8,805</b>
<b>Surplus</b>	<b>1,890</b>	<b>981</b>	<b>1,296</b>

#### Notes:

1. The Intellectual Property Office of New Zealand is a business unit of the Ministry of Economic Development. The Statement of Financial Performance above has been extracted from the full Statement of Financial Performance of the Ministry for the year ended 30 June 2004 and is unaudited.

## LEGISLATION ADMINISTERED

Patents Act 1953  
Trade Marks Act 2002  
Designs Act 1953

## PUBLICATIONS

A number of fact sheets are produced and available either in hard copy, by e-mail (info@iponz.govt.nz), from the website (www.iponz.govt.nz), or by calling the Contact Centre on 0508 4 IPONZ (0508 447 669).

### Fact Sheets

- Intellectual Property General Introduction
- Patent Protection
- Trade Mark Protection
- Registered Design Protection

### The Journal

The Journal is published on CD-ROM 12 times a year and is also available on the website (www.iponz.govt.nz). It contains a searchable index, along with information on actions relating to patents, trade marks and designs, for example, the abridgement and drawing(s) of every accepted patent and the details of every accepted trade mark are advertised in the Journal, commencing the period during which oppositions to grant/registration can be filed.

The Journal also contains other information relevant to clients, such as fees and new developments under the Patent Co-operation Treaty, any exhibitions recognised for the purposes of the Patents Act, and IPONZ opening hours.

### The Information for Clients Newsletter

The Information for Clients Newsletter is free and produced quarterly to keep clients informed of the latest developments at IPONZ. It includes changes and proposed changes to IPONZ practice and procedures, as well as Hearing Office decisions.

### Available on our Web Site

- Forms and information on fees
- Publications including the Information for Clients Newsletter and Annual Report
- Decisions of the Commissioner
- Practice guidelines
- Links to other related business and IP sites
- Helpful hints including frequently asked questions and search tips
- Information on becoming a registered patent attorney including the examination syllabus, registration in New Zealand, and registration in Australia under the Trans Tasman Mutual Recognition Agreement.

## CONTACT DETAILS

### **Business Address:**

Intellectual Property Office of New Zealand  
Ministry of Economic Development  
330 High Street  
PO Box 30 687  
LOWER HUTT

**Office hours** 8.30 a.m. to 5.00 p.m. Monday to Friday  
**After hours box** Closes at midnight

**Information Line** 0508 4 IPONZ (0508 447 669)

**Facsimile** 04 560 1691

**Email** [info@iponz.govt.nz](mailto:info@iponz.govt.nz)

**Internet site** [www.iponz.govt.nz](http://www.iponz.govt.nz)

## ALTERNATIVE FILING LOCATIONS

The following Companies Offices accept filings for patent, trade mark and design applications and associated documentation during office hours.

### **Auckland**

Level 5  
District Court Building  
3 Kingston Street  
Auckland

### **Hamilton**

Level 2  
Bayleys Building  
678 Victoria Street  
Hamilton

### **Wellington**

Ground floor  
Ministry of Economic Development  
33 Bowen Street  
Wellington

### **Christchurch**

Southern Business Centre  
55 Wordsworth Street  
Sydenham  
Christchurch