

## History of intellectual property in New Zealand

Only 20 years after the signing of the Treaty of Waitangi the first system of patent grant was established in New Zealand. In the following 140 years the Intellectual Property Office and its predecessors has granted Patents and registered Trade Marks and Designs, to encourage and reward innovation. The following timeline provides a brief history of the evolution of intellectual property rights and their administration in New Zealand.

1860: The first Patents Act was passed in New Zealand, which enabled the Governor to issue patents, which were then administered by the Colonial Secretary.

1861: New Zealand's first Patent was granted under the 1860 Act. "An Invention for the preparation of the Fibre of the Phormium tenax (flax) and other Plants for Manufacturing Purposes", invented by A G Purchas and J Ninnis. 21 Patent applications were received during that year.

1866: The Trade Marks Act was enacted, largely based on the United Kingdom Merchandise Marks Act of 1862.

1870: A decade later, the Patents Act of 1870 provided for a Patent officer to be appointed attached to the Colonial Secretary's Office. This amounted to the first Patent office in New Zealand.

1882: The court offices became filing facilities for the Patent office, enabling "same-day" filing throughout the entire country, and a year later the Office came under the auspices of the Department of Justice.



1906: Pearse Plane NZ Patent 21476<sup>1</sup>

1883: Prior to 1883 Patent administration was limited to the registration of applications, and any issues beyond this were decided by the Courts. From 1883 onwards, an examination of specifications prior to registration was instituted.

1889: A comprehensive Patents Act based on the 1883 English Act was enacted, and an administrative body was established under the charge of a Registrar. The same Act also brought the administration of Trade Marks and Designs under the control of the Patent Office.

1890: The first Patent agents were registered in New Zealand, however Henry Hughes had commenced practice as New Zealand's first Patent attorney in 1882. The firm he founded, Henry Hughes Ltd, is the oldest surviving firm of Patent and Trade Mark attorneys in New Zealand.

The first Annual Report for the Office was published. It published the 160 Trade Mark, 616 Patent and 5 Design applications received in that year.

1890: 160 Trade Mark applications, 616 Patent applications and 5 Design applications were received.

1891: An addition was made of a fortnightly supplement to the Gazette, entirely given over to the business of the Patent Office. This was the precursor to the Patent Office Journal which was first issued in July 1912.

1902: Patent examinations were widened in 1902, to include consideration of prior UK publications in addition to those in New Zealand. The scope of the examinations was further widened in 1911, to consider both novelty and subject matter.

1906: NZ Patent number 21476, entitled "An improved aerial or flying machine", was granted to Richard Pearse for this invention of the aileron. He later went on to invent and patent an aeroplane-helicopter in 1943 (NZ Patent number 87637)



1912: Edmonds Baking Powder Trade Mark

1912: The “Edmonds Baking Powder” Trade Mark (NZ Trade Mark number 10823) was applied for and registered. This Trade Mark has become a household name in New Zealand and is still registered today.

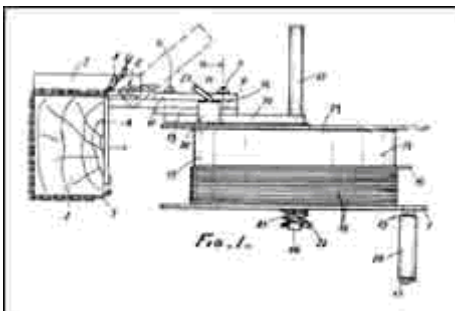
During the 1st World War and similarly during World War 2: Special legislation was passed to enable the Governor in Council to avoid or suspend registering Patents, Trade Marks and Designs from subjects of states at war with New Zealand. The time periods in which to pay fees and for filing documents were extended, where a person had been prevented from doing so due to circumstances arising from the war.

1921: The Patent term of fourteen years was extended to sixteen years.

1921-22: The Patent, Designs and Trade Marks Act was enacted.

1929: The Registrar of Patents became known as the Commissioner of Patents, Trade Marks and Designs.

1936: 924 Trade Mark applications, 1837 Patent applications and 124 Design applications were received.



1953: Electric Fence Winding Reel

1946: The first technical examiners were appointed to the Office in 1946, reflecting the Office’s increasing emphasis on providing more qualitative examinations.

1948: By 1948, a considerable amount of public pressure calling for changes in Patent administration led to a Commission of Inquiry headed by the Solicitor General.

1953: The British Patents Act of 1949 was very influential on the Commission. The resulting influence produced the New Zealand Patent Act of 1953, which was virtually identical to the 1949 British legislation. The Trade Marks Act and the Designs Act were also enacted, and from that point forward the Office administered intellectual property under three separate Acts.

1953: H J Gallagher invents a “wire-winding reel for electric fences (NZ Patent number 104134). Gallagher went on to export his electric fencing technology to the world.

1961: Bill Hamilton patented a craft fitted with a jet propulsion unit (NZ Patent number 125495), and the modern day “jetboat” was born.

1977: The Patent Office was relocated to Lower Hutt from Wellington city.

1987: An amendment to the Trade Marks Act enabled Trade Marks to be applied for in relation to services

1989: The Poetry computer database was created for intellectual property records. This was the first time intellectual property records had been computerised.

1992: New Zealand becomes a member of the Patent Co-Operation Treaty, enabling the filing of international applications in New Zealand.

1994: The introduction of the AREV computer database for Patent, Trade Mark and Design searching at the Office.

There have been surprisingly few amendments to the 1953 Patents Act, the most significant in 1994, when the Patent term was extended from sixteen to twenty years' duration, in accordance with a World Trade Organisation (of which New Zealand is a member) requirement.

The Trade Marks Act was amended to include features like sound, smell and shape in the definition for what may constitute a Trade Mark.

1994: John Britten patents structural features on his "super bike" (NZ Patent number 255607).



1994: Britten "super bike"

1995: The Patent Office came under the control of the Ministry of Commerce (now known as the Ministry of Economic Development).

1997: The Patent Office became known as the Intellectual Property Office of New Zealand (IPONZ), and the 5 working day examination timeframe was introduced as an IPONZ processing standard.

1998: The IPONZ establishes a website [www.iponz.govt.nz](http://www.iponz.govt.nz) for online Trade Mark searching.

1999: The Trade Marks Act was amended to provide for the registration and protection of "collective trade marks".

2000: The IPONZ website is upgraded to enable online Patent and Design searching. In the year ending June 30, 2000 the Office received 22,771 Trade Mark applications, 4,027 Patent applications and 976 Design applications.

2001: The IPONZ establishes a toll-free information service (0508-4-IPONZ) for intellectual property queries, and Decisions of the Commissioner became available on the IPONZ website.

2002: The introduction of the online renewals facility for patents, trade mark and designs online, and the introduction of online trade mark applications. The majority of all trade mark applications are now filed online.

2003: The Trade Marks Act 2002 came into force in August 2003. This Act provided 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.

2005: The introduction of the online correspondence filing facility.

2006: Record levels of Intellectual Property applications were recorded in New Zealand and by WIPO.

The records of the Intellectual Property Office are a valuable source of historical, technical and genealogical information. The Office has New Zealand Patent specifications dating back to 1889, and other valuable information on intellectual property from New Zealand and around the world. Some older original files and specifications can be viewed through National Archives:

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#### Footnote

<sup>1</sup> Photo courtesy of MOTAT

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