

# Filing a Treaty application from New Zealand

The Patent Cooperation Treaty (the “Treaty”) allows you to file a single application in over 140 participating countries.

If you're interested in seeking protection in New Zealand using an overseas-filed Treaty application, see [application types](http://mbie8.cwp.govt.nz/about-ip/patents/apply/#ChooseAppType) (<http://mbie8.cwp.govt.nz/about-ip/patents/apply/#ChooseAppType>).

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## Benefits

Find out some of the benefits of a Patent Cooperation Treaty (“Treaty”) application to help you decide if it is the best option for you.

### Increased time for making commercial decisions

When you file a Treaty application, over 140 contracting states are automatically designated at the time of filing. The choice of which of these countries you apply for protection in (ie enter National Phase) is made later.

You can use this delay to assess the patentability of your invention. To assist with this assessment you receive an International Search Report and International Search Opinion. If you file a Demand, you will also receive an International Preliminary Report on patentability.

### Building market awareness

Treaty applications are published by WIPO and available to the public. During the additional time you have, as discussed above, you can explore the commercial potential of the invention, including negotiating licences or selling territorial patent application rights before entering National Phase.

Products can be marked with the assigned International Application number (eg PCT/NZ [four digits for the filing year]/[number]) or International publication number (eg WO [four digits for the year of publication]/[number]).

### Deferral and possible reduction of national prosecution costs

Because a Treaty application is a centralised application, it gives you the chance to record changes in your application information across all countries selected for protection with one process.

Similarly, translations and national or regional patent office fees are not required until the Treaty application enters the individual countries you have selected for protection (i, National Phase entry).

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## Who can apply?

You can start a Treaty application in New Zealand if you are:

- a New Zealand citizen, company or resident, and
  - the owner or part-owner of the invention.
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## How to apply

You can file a new Treaty application or base it on an existing New Zealand patent application.

## Treaty applications based on an existing New Zealand patent application

If you have an existing New Zealand patent application you may be able to use this as the basis for your Treaty application. In such cases you must file your Treaty application within 12 months of your original New Zealand application date to claim priority.

## New applications

You can start your patent application process with a Treaty application. This can be filed either with IPONZ (which is a receiving office for WIPO) or WIPO.

If you file with IPONZ, we'll certify your Treaty application and, once certified, we'll forward it to WIPO. WIPO will then send your application onto your chosen International Searching Authority.

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## Requirements

You can file a Treaty application with IPONZ or WIPO. Your Treaty application must include:

- a PCT Request,
- a complete specification, and
- payment of the appropriate fee.

See [what is a patent specification?](http://mbie8.cwp.govt.nz/about-ip/patents/apply/#jumpto-write-a-patent-specification0) (<http://mbie8.cwp.govt.nz/about-ip/patents/apply/#jumpto-write-a-patent-specification0>)

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## Costs

The cost of a Treaty application varies based on:

- The transmittal fee to cover work completed by the Office that receives the application (IPONZ or WIPO).
- The search fee for work completed by the chosen International Searching Authority.
- The international fee for work completed by WIPO.

When you file online, the total fee will automatically be calculated based on the information you supply.

The search fee varies according to which International Searching Authority is chosen. You must choose between IP Australia, the United States Patent and Trade Mark Office, the European Patent Office or the Korean Intellectual Property Office. In the US, the search fee varies according to the size of the applicant organisation.

For a breakdown of costs, see the [PCT International fee schedule](http://mbie8.cwp.govt.nz/about-ip/patents/fees/#jumpto-international-fees7) (<http://mbie8.cwp.govt.nz/about-ip/patents/fees/#jumpto-international-fees7>)

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## Application process

To file a Treaty application, you need to go to the [ePCT section of the WIPO website](http://www.wipo.int/pct/en) (<http://www.wipo.int/pct/en>) and become a registered user. An application can then be filed using WIPO's online application generator, requesting either New Zealand or the International Bureau of WIPO as the receiving office.

If the application is filed with WIPO, payment is required at filing in order to complete the application. Your payment must be in Swiss francs and paid by credit card.

If you file your Treaty application with IPONZ, we will calculate the fees and advise the amount to be paid. Your payment will be in New Zealand dollars and is required within one month.

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## Information available to the public

Treaty applications are published by WIPO soon after 18 months from the earliest priority date. This will either be your international filing date or Paris Convention priority date (filing date of your original New Zealand patent application).

Applications can be withdrawn before the 18 month deadline to avoid publication.

The publication is often called a "PCT pamphlet" or referenced by its "WO" International publication number. The PCT pamphlet includes a summary page of filing details, the abstract - which may include a drawing or graph taken from the specification, and the specification itself. The International Search Report can be attached or published separately.

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## WIPO resources

WIPO has a number of resources on their website that may also help you with your application:

- [The main PCT page](http://www.wipo.int/pct/en/) (<http://www.wipo.int/pct/en/>)

- [The PCT Applicant's Guide](http://www.wipo.int/pct/en/appguide/index.jsp) (<http://www.wipo.int/pct/en/appguide/index.jsp>)
  - [Direct filing with WIPO](http://www.wipo.int/pct/en/filing/filing.html) (<http://www.wipo.int/pct/en/filing/filing.html>)
  - [Regional patent applications via the PCT](http://www.wipo.int/pct/en/texts/reg_des.html) ([http://www.wipo.int/pct/en/texts/reg\\_des.html](http://www.wipo.int/pct/en/texts/reg_des.html))
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