

Glossary

A list of words or terms used on this website that have specific meanings in the area of intellectual property.

[A](https://www.iponz.govt.nz#a) | [B](https://www.iponz.govt.nz#b) | [C](https://www.iponz.govt.nz#c) | [D](https://www.iponz.govt.nz#d) | [E](https://www.iponz.govt.nz#e) | [F](https://www.iponz.govt.nz#f) | [G](https://www.iponz.govt.nz#g) | [H](https://www.iponz.govt.nz#h) | [I](https://www.iponz.govt.nz#i) | [J](https://www.iponz.govt.nz#j) | [K](https://www.iponz.govt.nz#k) | [L](https://www.iponz.govt.nz#l) | [M](https://www.iponz.govt.nz#m) | [N](https://www.iponz.govt.nz#n) | [O](https://www.iponz.govt.nz#o) | [P](https://www.iponz.govt.nz#p) | [Q](https://www.iponz.govt.nz#q) | [R](https://www.iponz.govt.nz#r) | [S](https://www.iponz.govt.nz#s) | [T](https://www.iponz.govt.nz#t) | [U](https://www.iponz.govt.nz#u) | [V](https://www.iponz.govt.nz#v) | [W](https://www.iponz.govt.nz#w) | [X](https://www.iponz.govt.nz#x) | [Y](https://www.iponz.govt.nz#y) | [Z](https://www.iponz.govt.nz#z)

A

Abandoned

Status given to a patent, trade mark or design application that is abandoned as the applicant did not overcome or address the objections within the prescribed time limits.

Abeyance

Status given to an application that will not proceed until an issue concerning the application has been resolved.

Accepted

Status given to a patent or trade mark that has either been published or will be advertised in the next Journal. Once published the application remains in this status for a period during which the IP may be opposed.

Agent

Party who is authorised to act on behalf of the applicant (ie not another party from the same firm).

Assignee

The person/s or corporate body to whom all or limited rights under an IP right are legally transferred.

Assignment

Process by which ownership of intellectual property passes from one party to another. When this occurs, the change should be recorded with IPONZ to maintain a clear record of ownership.

Awaiting registration

Status given to design applications when the design is registerable and is waiting to become registered.

This status is also given to patent and trade mark applications in the IPONZ registers where the 3-month period (after publication of the trade mark or complete specification) is over and the intellectual property is awaiting sealing or registration.

B

Basic application

The first patent application made in a Paris Convention country or region. The list of Paris Convention contracting parties are published on the [WIPO website](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=2) (http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=2).

Budapest Treaty

The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure, signed at Budapest on 28 April 1997.

Regulations 59 and 60 of the Patents Regulations 2014 require applicants to deposit microorganisms with a prescribed international depository institution. Information about these depository institutions including contact details can be found on the [WIPO website](http://www.wipo.int/export/sites/www/treaties/en/registration/budapest/pdf/ida.pdf) (<http://www.wipo.int/export/sites/www/treaties/en/registration/budapest/pdf/ida.pdf>).

C

Cancelled

Status given to applications in the IPONZ register where the proprietor has requested that the registration be cancelled, or the registration was cancelled due to a challenge.

Case management facility (CMS)

The platform that allows users to manage information pertaining to IP applications, registrations, ownership and proceedings, including public registers. The IPONZ case management facility is entirely online.

Case portfolio

A set of IP cases that are associated with a single user of the IPONZ online case management facility, whether that user is the designated agent or proprietor of those cases.

Certification mark

A mark used to identify goods or services that achieve a particular level of quality, accuracy or some other characteristic. Other characteristics include origin, material or mode of manufacture. When an innovation patent or registered design has been examined and found to meet the requirements of the relevant Act it will be certified and become legally enforceable.

Change of name

Sometimes, owners of applications and registrations change their names, even though the actual ownership of the application or registration has not been transferred. When this occurs, the owners should record the name change with IPONZ to maintain a clear record of ownership. Name changes are recorded in the same manner as assignments.

Classes

Trade marks are granted in categories (classes) of the goods or services they promote.

Combined Marks

A Combined Mark Type indicates that the mark is a combination of signs such as word, image, and/or shape for example. Combined marks will often be images containing words (previously referred to as Device marks), but the term also describes other combinations of signs such as 3D shapes containing words and/or images. The examination and subsequent protection afforded a registered Combined Mark relates to the combination of the signs that make up the mark, not each individual sign in the mark.

The Commissioner

The New Zealand Patents, Trade Marks, Designs and Plant Variety Rights legislation provides that a person is to be appointed Commissioner. The Commissioner has the powers, and is responsible, for ensuring that all the duties and functions of the Commissioner noted in the legislation are fulfilled.

Common law trade mark

An unregistered trade mark, often identified by the TM symbol. The owner of the mark is claiming it as a trade mark under common law.

Complete specification

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.

Confusingly similar

A trade mark that is so similar to an existing trade mark that it is likely to confuse or deceive the public.

Convention priority

New Zealand is a signatory to the Paris Convention for the Protection of Industrial Property. The Paris Convention provides that any person who has filed an application in a signatory country has the right to file further applications in any of the other signatory countries, and receive the priority date of the original application, provided that the further applications are filed within specific timeframes of the original application. See the [World Intellectual Property Office \(http://www.wipo.int/treaties/en/ip/paris/summary_paris.html\)](http://www.wipo.int/treaties/en/ip/paris/summary_paris.html) for more information.

Copyright

Under copyright law, an original artistic or literary work is protected to prevent one party from copying the work of another. In New Zealand, copyright is administered by the Regulatory and Competition Policy Branch of the Economic Development Group of the Ministry of Business, Innovation and Employment (MBIE).

D

Deceptively similar

A trade mark that is so similar to an existing trade mark that it is likely to confuse or deceive the public.

Design

A registered design protects the appearance of an article of manufacture produced by any industrial process or means. Design protection does not include the materials from which a product is made or its purpose, but its shape and any decorative ornament that appears on it.

Discussions

Text-based notifications concerning a single IP case or case-related transaction within the IPONZ online case management facility. These are often system notifications, but can also include messages from advisors or examiners.

Divisional application

An application that has been divided into two or more applications. A divisional application is filed when a complete application for an invention has already been filed and you wish to have some of the claims covered by a separate application. Divisional applications may retain the priority date of the original application.

E

Examination

Examination is the process completed by IPONZ to determine whether applications comply with the legislative requirements and can be accepted or registered. As well as ensuring that an application meets the legal filing requirements, IPONZ examiners must be satisfied that there are no other grounds that would prevent registration of the intellectual property.

Examination request

A patent application is not examined until a Request for Examination is filed. The Request must be filed within 5 years from the date of filing the complete specification, or within 2 months of IPONZ issuing a Direction to Request Examination.

Typically, IPONZ will issue a first examination report within 3 months of the Request being filed.

Expired

Status given to patents, designs and plant variety rights in the IPONZ registers where the term has expired.

This status is also given to trade marks in the IPONZ register that have ceased due to non-payment of renewal fees, and may no longer be restored.

Expired but restorable

Status given to trade marks in the IPONZ register where the renewal fees have not been paid and the due date for the renewal 12 months ago or less. The trade mark is still restorable and citable, but only within this period of time.

F

Filed

Status given to patent, trade mark or design applications in the IPONZ registers when an application, appropriate fees and documentation have been received by IPONZ.

This status is also given to plant variety right applications in the IPONZ register where an application, appropriate fees and documentation have been received by IPONZ, and the Commissioner is satisfied that the application meets the requirements of the Plant Variety Rights Act 1987.

Filing date

The date when the application reaches IPONZ in complete form.

G

Geographical indications

A geographical indication is a sign used on products from a specific geographical location which possess a quality, reputation or other characteristic linked to that location (eg Champagne). In New Zealand geographical indications can be registered for local and international wines and spirits.

Goods and Services Tax (GST)

GST – Goods and Services Tax is a tax on most goods and services in New Zealand. GST is required on fees paid by NZ residents or NZ based companies. Overseas residents or companies based overseas are not required to pay GST on fees.

H

Homonymous

Homonymous geographical indications (GIs) are those that are spelled or pronounced alike, but which identify products originating in different places, usually in different countries.

I

Inbox

A dashboard for users of the IPONZ online case management facility. The Inbox contains menu items as well as the active tasks and discussions specific to that user.

Infringement

Use of another person's IP without their consent. IPONZ does not assist with infringement of a trade mark, and recommends that you seek legal advice from a Patent Attorney or a lawyer familiar with intellectual property issues.

Intellectual property

Intellectual property (IP) refers to such things as ideas, technology, products and processes. Like 'real' or 'tangible' property, IP can be bought, sold or licensed. Patents, trade marks, registered designs and copyright are all examples of intellectual property.

Intellectual property rights

The right to own and to exploit ideas or inventions, or literary or other works. Sometimes intellectual property rights are given a monetary value in financial statements (eg ownership of a patent to manufacture battery lawn mowers, or ownership of the score and text of a musical).

International Bureau (IB)

The International Bureau of the World Intellectual Property Organization (WIPO).

J

Journal

The IPONZ Journal, published under section 206 of the Patents Act 2013.

K

L

Lapsed

Status given to patents or designs in the IPONZ registers where the registration has ceased due to non-payment of a renewal fee.

This status is also given to plant variety right applications in the IPONZ register that have lapsed due to information or material not being supplied as requested.

Letters patent

An instrument granted by the government to convey a right to the patentee for a new invention or discovery.

M

Madrid Protocol

The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid on 27 June 1989, as amended from time to time. The protocol provides a simplified process of applying for trade marks overseas. You can file one application, in one language, and pay one set of fees to protect your mark in the territories of over 100 members internationally. It is administered by the World Intellectual Property Organization (WIPO).

Māori Advisory Committee

The function of the Advisory Committee under section 178 of the Act is to advise the Commissioner whether the proposed use or registration of a trade mark that is, or appears to be, derivative of a Māori sign (including text and imagery) is, or is likely to be, offensive to Māori.

The members of the Māori Trade Marks Advisory Committee are appointed by the Commissioner of Trade Marks under section 177 of the Trade Marks Act 2002.

The Patents Māori Advisory Committee will be established to advise the Commissioner (on request) whether an invention described in a patent application was derived from Māori traditional knowledge or from indigenous plants and animals. The advisory committee will provide advice to the Commissioner on whether commercial exploitation of such inventions could be contrary to Māori values.

The Commissioner is required to consider the advice of these two committees, but is not bound by it.

Maintenance fee

You must pay a maintenance fee to keep a patent application alive. Failure to pay within the regulatory timeframe causes the application to become abandoned. For more information, see our [patent fee schedule](http://mbie8.cwp.govt.nz/about-ip/patents/fees/) (<http://mbie8.cwp.govt.nz/about-ip/patents/fees/>).

Merged

Status given to trade mark applications or registrations in the IPONZ register that have been merged with other applications or registrations.

Merger

A merger is where a trade mark applicant applies to merge two or more trade mark applications into one application, or a trade mark registration owner applies to merge two or more trade mark registrations into one registration. For example, an applicant may wish to merge separate applications that were divided at an earlier date in order to overcome a concern raised in a Compliance Report or an opposition proceeding.

N

National phase

The national phase is the second of the two main phases of the Patent Cooperation Treaty procedure. It follows the international phase, and consists of the processing of the international application in each country or region designated in the application.

Nice Agreement

The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks adopted at Nice on 15 June 1957, as amended from time to time.

Nice Classification

An international system of classifying goods and services for the purposes of registering trade marks and service marks, which is published under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of Registration of Trade Marks.

Notice of opposition

A notice that a third party has lodged an opposition to your IP right being granted.

O

Opposition

A challenge from a third party about a particular registration of IP.

Opposition period

Patents, trade marks and designs all have a period of opposition, in which third parties may challenge the registration of IP.

P

Patent

A patent is granted for a new product or manufacturing process, or an improvement to an existing product or process. The granting of a patent gives the patentee the exclusive right to make, use or sell the invention for up to 20 years.

Patent specification

A patent specification is a document that describes the characteristics of the invention. When filing an application, applicants have the option of filing a provisional specification or a complete specification in the first instance:

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

Patent Cooperation Treaty ('PCT' or 'the Treaty')

An international agreement used to file an international patent application. In your application, you need to select the countries in which you want a patent granted. Refer to [International Patents](http://mbie8.cwp.govt.nz/about-ip/patents/international/) (<http://mbie8.cwp.govt.nz/about-ip/patents/international/>).

Patent pending

The condition that occurs between the time a patent application was filed and the finalisation of that application.

Prior art base (or 'prior art')

The prior art base is all information that has been disclosed to the public in any form about an invention before a given date. IPONZ Examiners or the court will decide whether or not an invention is novel and inventive against the prior art base.

Priority date

The date established for your invention when you first file a patent application. The priority date is used to determine if your invention is new. If the public knows your invention before this date, you are not entitled to patent it.

Provisional patent application

A patent application with a provisional specification. A provisional patent application establishes a priority date for disclosure of the details of an invention and allows a period of up to 12 months for development and refinement of the invention. A complete application must then be filed, and forms the basis of the grant of a patent.

Provisional specification

A specification that broadly describes an invention and how to perform it.

PVR (Plant Variety Rights)

A plant variety right is granted for a new, distinct, homogeneous and stable plant variety. Once granted, it provides the breeder with the exclusive right to produce for sale any reproductive material of that variety, sell any reproductive material, and propagate the variety for commercial production of produce.

Q

R

Ready for examination

Applies to applications entering into National Phase only. The application is examinable under the National Phase under sections 52, 64 and 65 of the Patents Act 2013.

Receiving Office

The National or Regional Office or the intergovernmental organisation with which the Treaty application has been filed. IPONZ is a receiving office.

Renewal

The application to avoid the expiration of a registration. An owner of a patent, trade mark, design or plant variety right may apply to renew the registration providing the application meets the requirements set out in the relevant legislation.

Revoked

Status given to patent or trade mark applications in the IPONZ register/s that have been annulled (in full or in part) through a decision of an assistant commissioner, commissioner or court, or after a successful non-use challenge.

Royalty

A royalty is compensation paid to the owner of an IP right for the use of that right. A royalty is usually payable as a portion of proceeds from sales.

S

Specification

A written description of an invention. Applicants have the option of filing a provisional specification or a complete specification in the first instance:

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

For more information see [Apply for a patent](http://mbie8.cwp.govt.nz/about-ip/patents/apply/) (<http://mbie8.cwp.govt.nz/about-ip/patents/apply/>) .
(<http://mbie8.cwp.govt.nz/about-ip/patents/apply/>)

T

Task

An item in the IPONZ online case management facility where the user's action is needed. If an IP case or transaction has an open task, this indicates that the user has to complete this task for the case or transaction to proceed. Tasks must be completed by a given deadline, or else their corresponding case or transaction will become invalid.

Trade mark

A trade mark is any sign that can be represented graphically in relation to goods or services. A sign can include a device or artistic design, logo, brand, heading, label, ticket, name, signature, word, letter, numeral, colour, sounds, smells, or any combination of these.

Trade secret

A strategy for protecting your IP. It includes proprietary knowledge (know how) and other confidential information. It is protected under common law (not administered by IPONZ).

Treaty application

An application made under the Patent Cooperation Treaty for the protection of an invention. Also called a PCT International application.

TRIPS Agreement - Trade-Related Aspects of Intellectual Property Rights

The Agreement on Trade-Related Aspects of Intellectual Property Rights (the [TRIPS Agreement](http://www.wipo.int/treaties/en/text.jsp?file_id=305907) (http://www.wipo.int/treaties/en/text.jsp?file_id=305907)) was concluded in 1994. TRIPS sets minimum standards on the protection of intellectual property rights to which Members of the WTO are required to adhere.

U

V

Variety

Means a cultivar or cultivated variety of a plant, and includes any clone, hybrid, stock, or line, of a plant, but does not include a botanical variety of a plant.

Vienna Classification system

The Vienna Classification provides symbols for marks which consist of or contain figurative elements. The Classification is based on a multilateral treaty administered by WIPO. This treaty is called the Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks, which was

concluded in 1973 and entered into force in 1985. The Vienna Agreement is open to States party to the Paris Convention for the Protection of Industrial Property.

W

Withdrawn

Status given to patent, trade mark, design or plant variety right applications in the IPONZ registers where the applicant has requested that the application be abandoned prior to grant or registration.

Working day

A 'working day' means a day of the week other than:

- Saturday, Sunday, Good Friday, Easter Monday, ANZAC Day, the Sovereign's Birthday, Labour Day and Waitangi Day.
- A day in the period commencing with the 25th day of December in any year and ending with the 2nd day of January in the following year.
- If the 1st day of January in any year falls on a Friday, the following Monday.
- If the 1st day of January in any year falls on a Saturday or a Sunday, the following Monday and Tuesday.
- If Waitangi Day or ANZAC Day falls on a Saturday or a Sunday, the following Monday.

X

Y

Z

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