

Timeframe for examination of a national phase patent application in New Zealand

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**CHAMPIONS
OF INNOVATION.**

Request for examination

After a PCT application has entered the national phase in New Zealand, the application will only be examined once a request for examination has been filed.

The deadline to file a request for examination is:

- Five years from the PCT International Filing Date; or
- Within two months of the date a direction to request examination is issued by the Intellectual Property Office of New Zealand (IPONZ), whichever is sooner.

Examination backlog

The current examination backlog differs for each of the different technology groups (biotech, chemical, electrical and mechanical). IPONZ publishes the [expected timeframes for applications in each technology group to be examined](#).

This webpage indicates the national phase filing date of the applications currently being examined. For example, if the date shown on the website is September 2013 and it is currently September 2014, the examination delay is approximately one year.

Please note this timeframe only applies if all the formalities are complete. These formalities include payment of application fees and submitting the correct application forms along with providing a translation of the application

into English if required. Your patent attorney will manage this on your behalf.

Accelerated examination

There is a provision under the New Zealand Patents Act for advancement of examination. Advancement of examination might be desirable when there is a commercial need to have the patent granted as soon as possible, for example so it can be enforced against an infringing party. Let us know if this is something you are interested in and we can provide you with further advice tailored to your situation.

Deadline to respond to examination reports

When an examination report has issued, a deadline for responding to that examination report will be set. This deadline may be extended by one month.

Time to put the application in order

As well as a response deadline to each examination report that issues, a deadline for putting the application in order for acceptance also applies.

Once the first examination report has issued, a period of 12 months is given within which time the application needs to be placed in order for allowance. All objections need to be overcome within this timeframe, including any objections raised in subsequent examination reports.

The 12 month period for putting the application in order for acceptance cannot be extended.

We recommend responding to the first examination report well in advance of the response deadline in case the examiner raises further objections which also need time to be addressed before the acceptance deadline.

Notice of Entitlement

A document (called a Notice of Entitlement) setting out the grounds on which the applicant is entitled to be granted a patent must be filed before the acceptance deadline. We can usually prepare this document on behalf of the applicant given the necessary information.

Postponement of acceptance

When filing the application it is our usual practice to request postponement of acceptance in order to maintain the ability to file divisional applications and make amendments to the specification. Divisional applications cannot be filed after the application has been accepted.

The request for postponement for acceptance will expire 12 months after receipt of the first examination report, which is also the deadline for putting the application in order for acceptance. Therefore, please advise us before acceptance of this application if the applicant is interested in filing divisional applications.

Disclaimer

The above is provided for general information purposes only and does not take the place of specific legal advice. For more specific advice on all aspects of intellectual property law please contact us.