



Information for Associates

PCT National Phase Entry - Australia

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1. FILING REQUIREMENTS

The following information is required in order to file a national phase entry request in Australia:

- 1) **PCT Application Number**
- 2) **If not in English - a Verified English Translation**

Using the PCT application number we are generally able to access the WIPO database and obtain a copy of the PCT pamphlet. With the information on the front page of the PCT pamphlet we are then generally able to complete a national phase entry request. An example of a national phase entry request is attached for ready reference.

Given that the filing requirements are relatively strict, we recommend filing a national phase entry request at least 1- 2 weeks before the national phase entry deadline.

2. NATIONAL PHASE ENTRY DEADLINE

The national phase entry deadline in Australia is:

31 months from the earliest priority date

3. POWER OF ATTORNEY / INVENTOR'S DECLARATION

There is no requirement for a power of attorney or an inventor's declaration in Australia.

4. VERIFIED ENGLISH TRANSLATION

If the PCT specification is not in English, a verified English translation must be provided **at the time of filing**. The verified English translation must comprise one of:

- 1) *A verified English translation provided by the applicant*

The Australian Patent Office will accept either: (i) a verified translation of the PCT specification as filed (if there are no amendments); (ii) a verified translation of the PCT specification as amended; or (iii) a verified translation of the original specification together with a verified translation of the amendments.

In the third case, if a verified translation of the amendments is not filed at the same time as the verified translation of the original specification, the amendments will be deemed not to have been made.

The verified English translation will replace the foreign language specification.

Several verification forms are attached for ready reference.

2) *A PCT pamphlet that is identified on its front page as an English translation*

The Australian Patent Office will accept a pamphlet translated by a PCT Authority. The pamphlet must be identified on its front page as an 'English translation'. Such a pamphlet will be deemed to have been verified and will take precedence over any verified translation supplied by the applicant. The pamphlet of a translated PCT specification should include INID language publication code 26.

Notes

Under the PCT rules where the language of the original filing was German, French, Spanish, Japanese or Russian the file should include a copy of the specification in that foreign language (usually in the form of the pamphlet). Similarly the foreign language pamphlet should also be supplied where the language of filing was Swedish, Norwegian, Finnish, Icelandic, Dutch or Danish and the applicant enters the national phase before international publication. To avoid all uncertainty we always include a copy of the foreign language pamphlet.

While it is preferred that the actual translator verify the translation, any person may verify to the accuracy of the translation provided that they have sufficient basis such as being fluent in English as well as the foreign language of the PCT pamphlet.

5. PRIORITY DOCUMENTS – FIRST FILED APPLICATIONS

The priority documents must be the first filed applications in a convention country in respect of the invention. If this is not the case then a request to disregard the earlier applications **must** be filed.

6. PRIORITY DOCUMENTS – TRANSLATIONS

The Australian Patent Office will only request a translation of a priority document where there is a validity issue in which the determination of the correct priority date is important.

7. ENTITLEMENT

A notice of detailing the applicant's devolution in title to the invention from the inventors will be required at examination. The notice must also detail the Applicant's right to claim priority from the priority documents.

If we are instructed to enter the national phase in **New Zealand** as well as Australia then details of the Applicant's entitlement **must be provided at the time of filing.**

8. EXAMINATION

In Australia examination must be requested within five years of the international filing date.

Notably, the Australian Patent Office will generally direct the Applicant to request examination one to two years before the five year deadline. After receiving a direction to request examination, the Applicant must request examination within six months.

9. DUTY OF DISCLOSURE

In Australia there is no longer a duty to disclose material relevant to the patentability of the invention.

10. EXEMPLARY REQUEST

When entering the national phase we generally prepare a request of the following form. The request is provided as a guide for ready reference.

National Phase Entry Request Standard Patent Application

Request

We, **XXXX Pty Ltd** being the person identified below as the applicant, request national phase entry of International Application **PCT/USXXXX/XXXXXX** and grant of a standard patent for an invention described in the complete specification accompanying the International Application.

We attach a copy of the PCT pamphlet. The PCT pamphlet forms part of this request.

Details

Application Number: **PCT/USXXXX/XXXXXX**
Publication Number: **WO/2XXX/XXXXXX**
Application Title: **TITLE**
Filing Date: **1 January 2XXX**
Earliest Priority Date: **1 January 2XXX**
National Phase Deadline: **1 August 2XXX (31 Months)**

Applicants

XXXX Pty Ltd; XX XXX Street, Suburb, State XXXX, Country

Inventors

Inventor First Name, Inventor Last Name; XX XXXX Street, Suburb, State XXXX, Country

Priority Claims

<u>Number</u>	<u>Date</u>
USXXXXXX	1 January 2XXX

Amendments

The following amendments were made under the PCT:

- (i) Article 34 amendments made on 1 January 2XXX.

Certified Translations (Verified English Translations are Required at Filing)

- The specification and amendments are in English. No verified English translations are required.
- A verification and English translation of the specification are attached. No amendments were made under the PCT.
- A verification and English translation of the specification are attached. The translation includes all amendments made under the PCT.
- Verifications and English translations of the specification and amendments made under the PCT are attached.

Agent Details

Agent: **Adam Law Patent & Trade Mark Attorney**

Street Address for Service: 26 Glengariff Drive Floreat, WA 6014, Australia

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Mobile Number: 0422914152

Email address: adam.law@adamlaw.com.au

Customer ID: 4010300049

By our Patent Attorney:

Signature:

Name: Adam Law

Date: 1 September 2XXX

Attachments: PCT pamphlet
Verified Translation
Payment form

11. VERIFICATION OF TRANSLATION

Several verification forms are attached for ready of reference. Each of the verification forms meets with the Australian requirements.

Verification of Translation International Application

I, _____ of

have translated the specification of International Application PCT/_____, the translation being in English ('the translation').

I state that the translation as attached is a true and complete translation. I understand that the translation is a full translation including all amendments under the PCT, if any amendments were made.

The translation comprises a full translation of the description, claims, drawings and abstract of the International Application.

This verification is made to the best of my knowledge and belief.

Signature

Name: _____

Dated: _____

Verification of Translation International Application As Amended

I, _____ of

have translated the specification of International Application PCT/_____, the translation being in English ('the translation').

1) In terms of amendments made to the International Application, I understand that

1.1) No amendments were made.

1.2) A number of amendments were made under the PCT as detailed below:

(i) Article ___ amendments made on ____

1.2.2) Where amendments were made:

(ii) The English translation includes all the amendments referred to above.

(iii) The English translation includes none of the amendments referred to above.

I state that the translation as attached is a true and complete translation. The translation comprises a full translation of the description, claims, drawings and abstract of the International Application.

This verification is made to the best of my knowledge and belief.

Signature

Name: _____

Dated: _____

Verification of Translation Amendments to International Application

I, _____ of

have performed a translation of amendments made to International Application PCT/_____, the translation being in English ('the translation').

I understand that the amendments were made under the following Articles of the PCT on the following dates.

(i) Article ___ amendments made on ____

(ii)

I state that the translation as attached is a true and complete translation. The translation comprises a full translation of the amendments detailed above.

This verification is made to the best of my knowledge and belief.

Signature

Name: _____

Dated: _____