

# CANADIAN INTELLECTUAL PROPERTY OFFICE

AS  
DESIGNATED (OR ELECTED) OFFICE

## CONTENTS

THE ENTRY INTO THE NATIONAL PHASE — SUMMARY

THE PROCEDURE IN THE NATIONAL PHASE

ANNEXES

Fees .....	Annex CA.I
National processing form .....	Annex CA.II
Definition of “small entity” .....	Annex CA.III

**List of abbreviations:**

Office: Canadian Intellectual Property Office

CPA: Canadian Patent Act

CPR: Canadian Patent Rules

**SUMMARY****Designated  
(or elected) Office****SUMMARY****CA****CANADIAN INTELLECTUAL PROPERTY  
OFFICE****CA****Summary of requirements for entry into the national phase**

Time limits applicable for entry into the national phase:	Under PCT Article 22(1): 30 months from the priority date <sup>1</sup> Under PCT Article 39(1)(a): 30 months from the priority date <sup>1</sup>
Translation of international application required into: <sup>2</sup>	English or French
Required contents of the translation for entry into the national phase: <sup>2</sup>	Under PCT Article 22: Description, claims (if amended, as amended only, together with any statement under PCT Article 19), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts has been amended, only as amended by the annexes to the international preliminary examination report) Under PCT Article 22 or 39(1): A translation of the request is only required if the application enters the national phase prior to the publication of the international application. This may be the case where the applicant expressly requests an earlier start of the national phase under PCT Article 23(2)
Is a copy of the international application required?	The applicant is only required to send a copy of the international application if the application enters the national phase prior to the publication of the international application. This may be the case where the applicant expressly requests an earlier start of the national phase under PCT Article 23(2).
National fee:	Currency: Canadian dollar (CAD) Basic national fee: <sup>2</sup> CAD 408 (204) <sup>3</sup> Fee for reinstatement of rights (late entry into the national phase): CAD 204 Additional fee for late payment under subsection 154(4) of the Canadian Patent Rules: CAD 150

*[Continued on next page]*

<sup>1</sup> 12 months after the 30-month deadline (30 months from the priority date) provided the applicant pays the fee for reinstatement of rights and meets the other requirements outlined in subsection 154(3) of the Canadian Patent Rules for the reinstatement of rights (late entry into the national phase).

<sup>2</sup> Must be furnished or paid within the time limit applicable under PCT Article 22 or 39(1).

<sup>3</sup> The amount in parentheses is applicable only if the applicant is entitled to pay certain fees at the "small entity" level. In order to be entitled to pay the reduced fee, a signed "small entity" declaration compliant with subsection 44(3) of the Canadian Patent Rules must, within the applicable time limit set out in subsection 154(1)(c)(i), 154(2)(a), 154(3)(a)(iii)(A), 154(3)(b)(i)(A) and 154(3)(b)(ii)(A) of the Canadian Patent Rules, be made by the applicant or the agent on the applicant's behalf (the declaration shall preferably follow the form of the declaration set out in the *PCT Applicant's Guide*, National Phase, Annex CA.II).

**SUMMARY****Designated  
(or elected) Office****SUMMARY****CA****CANADIAN INTELLECTUAL PROPERTY  
OFFICE****CA***[Continued]*

National fee ( <i>cont'd</i> ):	Maintenance fee in respect of each one-year period due at the time of entry into the national phase where that entry is effected on or after the 2 <sup>nd</sup> or possibly 3 <sup>rd</sup> anniversary of the international filing date: <sup>4</sup>	CAD 100 (50) <sup>5</sup>
Exemptions, reductions or refunds of the national fee:	Some fees in the national phase are reduced for applicants who qualify as small entities.	
Special requirements of the Office (PCT Rule 51 <i>bis</i> ):	<p>The name and postal address of each inventor.</p> <p>A statement that either (i) the applicant/applicants is/are entitled to apply for a patent, or (ii) the applicant is the sole inventor or, if there are joint applicants, the applicants are all inventors and the sole inventors.</p> <p>If the Commissioner reasonably doubts that the person who entered the national phase is the applicant of the international application or his/her legal representative, the Commissioner will require evidence to establish ownership rights in the international application.<sup>6</sup></p> <p>Appointment of an agent if the applicant is not the inventor.</p> <p>Evidence of the consent of the appointment of the patent agent is required when the document appointing that agent is submitted by someone other than the patent agent being appointed.</p> <p>If the appointed agent does not reside in Canada, the appointment by the agent of an agent who resides in Canada to be the associate agent.</p>	
Who can act as agent?	Any person or firm whose name is entered on the Canadian register of patent agents.	
Does the Office accept requests for restoration of the right of priority (PCT Rule 49 <i>ter.2</i> )?	No <sup>7</sup>	

<sup>4</sup> Where PCT Article 22 or 39(1) applies, this fee is due within 24 months from the international filing date or within 30 months from the priority date if that time limit expires later or, provided the applicant pays the fee [for reinstatement of rights](#) for late entry into the national phase, within 12 months after the 30-month deadline.

<sup>5</sup> See footnote 3.

<sup>6</sup> An applicant may provide documentation with the request to enter the national phase establishing how the person who entered the national phase is the applicant of the international application or the legal representative. Such documentation may include: Form PCT/IB/306, a document effecting the transfer of rights, or a change of name document.

<sup>7</sup> For further information, see also paragraph CA.21 of the CA national chapter.

## THE PROCEDURE IN THE NATIONAL PHASE

**CA.01 FORM FOR ENTERING THE NATIONAL PHASE.** The Office has available a form for entering the national phase (see Annex CA.II). This form should preferably (but need not) be used.

**CA.02 TRANSLATION (CORRECTION).** Errors in the translation of the international application may be corrected by way of amendment of the PCT national phase application (see paragraph CA.13). Where a PCT national phase application contains errors in the translation that cannot be corrected by way of amendment it may be possible, time permitting, to withdraw the PCT national phase application and enter the national phase with a new PCT national phase application containing the correct translation.

CPR 15(1) **CA.03 LANGUAGE OF PROCEEDINGS.** The language of correspondence is either English or French at the choice of the applicant, irrespective of the language of the international application or its translation.

CPR 44(2) **CA.04 FEE REDUCTION FOR “SMALL ENTITY.”** Applicants that qualify as a “small entity” under subsection 44(2) of the Canadian Patent Rules (see definition in Annex CA.III) are entitled to pay certain fees at a reduced rate. In order to be entitled to benefit from the “small entity” fee schedule, a signed “small entity” declaration must be submitted in accordance with subsection 44(3) of the Canadian Patent Rules within the applicable time limit. Paragraph 7 of the special form referred to in paragraph CA.01 (see Annex CA.II) indicates the kind of statement to be made in order to pay certain fees at the “small entity” level.

**CA.05 FEES (MANNER OF PAYMENT).** The manner of payment of the fees indicated in the Summary and in this Chapter is outlined in Annex CA.I.

CPR 65, 27(2) **CA.06 COMPLIANCE REQUIREMENTS AFTER NATIONAL PHASE ENTRY.** Upon entry into the national phase in Canada, an applicant may be required by notice to submit any of the following: a part of the application that may be missing, information relating to inventorship and entitlement, an appointment of a patent agent or an appointment of an associate patent agent.

CPA 15.1  
CPR 27, 28 **CA.07 APPOINTMENT OF AGENT.** An agent may be appointed by submitting to the Commissioner a notice in accordance with subsection 27(3) of the Canadian Patent Rules. Where the appointed agent does not reside in Canada, the agent must appoint, as associate agent, a patent agent who resides in Canada by submitting to the Commissioner a notice in accordance with subsection 28(3) of the Canadian Patent Rules.

If a person, other than a patent agent, submits to the Commissioner a document appointing a patent agent, other than an associate patent agent, the appointment is not effective until evidence of the consent to that appointment by the patent agent who is being appointed is submitted to the Office.

CPA 27.1  
73(1)(c)  
73(3)  
CPR 68(1)  
69, 154(1)  
154(2)  
154(3) **CA.08 MAINTENANCE FEES.** Maintenance fee payments are due on or before each anniversary of the international filing date, starting with the second anniversary. Where the applicant fails to pay by the due date a late payment fee will also be due. A notice will be sent to the applicant indicating that the maintenance fee and the late fee must be paid before the later of six months from the maintenance fee due date or two months from the date of the notice. If the maintenance fee and the late fee are not paid within the late fee period the application will be deemed abandoned or, in the case of a patent, the term limited for the duration of the patent will be deemed to have expired.

An application that is deemed abandoned can be reinstated within 12 months of the date of abandonment upon payment of the maintenance fee and the late payment fee together with a request for reinstatement and the reinstatement fee. The deemed expiry of a patent can be reversed within 12 months after the end of the six months after the original maintenance fee due date upon payment of the maintenance fee and the late payment fee, together with a request to reverse the deemed expired and payment of the additional prescribed fee. In order to reinstate an abandoned application or reverse the deemed expiry of the patent (for a patent) the applicant or patentee must also demonstrate that the failure occurred in spite of due care required by the circumstances having been taken.

It is to be noted that, where the 30-month time limit under PCT Article 22 or 39(1) and subsections 154(1) and (2) of the Canadian Patent Rules applies, or where the 30 plus 12-month time limit under PCT Article 22 or 39(1) and subsection 154(3) applies, a maintenance fee which is or maintenance fees which are due at an earlier date can be paid without a surcharge up to the expiry of the 30-month time limit or the 30 plus 12-month time limit, respectively. The maintenance fees can be paid yearly or for any number of years in advance. The amount of the maintenance fees is indicated in Annex CA.I.

- |                        |                                  |   |
|------------------------|----------------------------------|---|
| CPA<br>CPR             | 35(1)<br>79, 81(1)               | <b>CA.09 REQUEST FOR EXAMINATION.</b> A patent will be granted only after examination as to patentability. A formal request to for examination must be submitted to the office. Examination may be requested by the applicant or by a third party. There is no special form for the request.  |
| CPA<br>CPR             | 73(1)(d)<br>73(3)<br>81(1)       | <b>CA.10 TIME LIMIT FOR REQUESTING EXAMINATION.</b> Examination must be requested within four years from the international filing date where the filing date of the application is on or after 30 October 2019, or within five years of the international filing date where the filing date of the application is before 30 October 2019. If the request for examination is not received within that period, the applicant will be notified. The applicant has to make a request for examination and pay the late fee before two months from the date of the notice to avoid abandonment. If the application is deemed abandoned, it may be reinstated within 12 months of abandonment on payment of the fee for requesting examination together with the late fee, the request for reinstatement and the reinstatement fee. If the request for reinstatement is made after six months from the due date for requesting examination, the applicant must also demonstrate that the failure occurred in spite of due care required by the circumstances having been taken. The amounts of the fees are indicated in Annex CA.I. |
| CPR                    | 80(1)                            | <b>CA.11 FEE FOR REQUESTING EXAMINATION.</b> The request for examination is effective only if the fee for requesting examination has been paid. The amount of the fee is indicated in Annex CA.I. The examination fee is reduced by 75% where the international search report has been established by the Canadian Intellectual Property Office.  |
| CPR                    | 86(1), 86(6)<br>86(10)<br>86(12) | <b>CA.12 FEE FOR GRANT.</b> A “final fee” and a fee for each page of specification and drawings in excess of 100 pages, other than pages of a sequence listing submitted in electronic form, must be paid within four months after the date of the notice of allowance of patent. The amounts of the fees are indicated in Annex CA.I.  |
| CPA<br>CPR<br>PCT Art. | 38.2<br>99-102<br>28<br>41       | <p><b>CA.13 AMENDMENT OF THE APPLICATION; TIME LIMITS.</b> Amendments may be made in the national phase:</p> <p style="margin-left: 40px;">(i) up to allowance of the application either on the applicant's own volition or in response to an action by the examiner, provided that no new matter is introduced into the disclosure of the invention;</p> <p style="margin-left: 40px;">(ii) after allowance, but before payment of the final fee, amendments may be made if, from the specification and the drawings contained in the application for a patent on the day on which the notice of allowance was sent, it is obvious that something other than what appears in the specification and the drawings was intended and that nothing other than the proposed amendment could have been intended.</p>  |

PCT Art. 25 PCT Rule 51	CA.14	<b>REVIEW UNDER ARTICLE 25 OF THE PCT.</b> The applicable procedure is outlined in paragraphs 6.018 to 6.021 of the National Phase. If, upon review under PCT Article 25, the Office denies an error or omission on the part of the receiving Office or the International Bureau, an appeal against this decision may be lodged with the Federal Court.
PCT Art. 24(1) CPR 142	CA.15	<b>LOSS OF EFFECT IN DESIGNATED STATE.</b> The international application will cease to have effect in Canada in the circumstances listed under PCT Article 24(1).
PCT Art. 48(2) 58(8) PCT Rule 82bis	CA.16	<b>EXCUSE OF DELAYS IN MEETING TIME LIMITS.</b> Reference is made to paragraphs 6.022 to 6.027 of the National Phase.
CPA 73 CPR 132-135	CA.17	<b>REINSTATEMENT FOLLOWING ABANDONMENT.</b> Reinstatement may be requested where the applicant failed to comply with requirements set out in a notice within a prescribed time. A request for reinstatement must be made within 12 months of the date of abandonment and the applicant must complete the omitted act (including payment of a late fee in some cases) and pay the reinstatement fee (indicated in Annex CA.I). In addition, reinstatement following failure to pay a maintenance fee and late fee, or request examination and pay the late fee may require the applicant to demonstrate that the failure occurred in spite of due care required by the circumstances having been taken as described in paragraphs CA.08 and CA.10 above.
CPR 154(3)	CA.18	<b>REINSTATEMENT FOLLOWING FAILURE TO MEET PCT ARTICLE 22 or 39(1) TIME LIMIT.</b> In the case of failure to comply with the time limit applicable under PCT Article 22 or 39(1) for entering the national phase, the applicant may comply by: <ul style="list-style-type: none"> <li>– meeting with the regular requirements to enter national phase (including paying the appropriate basic national entry fee and outstanding maintenance fees),</li> <li>– submitting to the Commissioner a request that the rights of the applicant be reinstated with respect to that international application and a statement that the failure was unintentional (applicable only if the filing date of the application is on or after 30 October 2019),</li> <li>– paying the fee for reinstatement of rights (indicated in Annex CA.I) within 12 months of the time limit.</li> </ul>
CPA 78 CPR 3	CA.19	<b>EXTENSION OF TIME.</b> Subject to certain exceptions, including time limits for payment of application and patent maintenance fees and for requests for examination, extension of a time limit may be requested provided the time limit is prescribed by the Patent Rules or fixed by the Commissioner. An extension of time may be requested before the expiry of the time limit and on payment of a fee (the amount of which is indicated in Annex CA.I). The request must satisfy the Commissioner that the circumstances justify the extension.
CPR 154(4)	CA.20	<b>ATTEMPT TO PAY FEES.</b> Where an applicant attempts to enter the national phase within 12 month after 30 months from the priority date but does not pay all of the required fees, the fees will be deemed paid before the deadline (30 plus 12 months) under the following conditions: <p>Where an applicant attempts to enter the national phase late (i.e. any time between 30-42 months), and does not pay all of the required fees (i.e. basic entry fee, any required maintenance fees, fee for reinstatement of rights), but the applicant communicated the intention to pay some or all of the required fees, the fees will be deemed paid on the day the communication was received, if those fees are paid, together with the additional fee for late payment, after the deadline to enter national phase late (i.e. after 42 months) and not later than two months after the date the communication indicating the applicant's intention to pay the fees was received.</p>
CPA 28.4(6) CPR 77	CA.21	<b>RESTORATION OF THE RIGHT OF PRIORITY.</b> Requests for restoration of the right of priority can be made under subsection 28.4(6) of the Canadian Patent Act and section 77 of the Canadian Patent Rules, provided that the filing date of the pending application is on or after 30 October 2019.

## FEES

(Currency: Canadian dollar)

Basic national fee:	
(a) small entity fee .....	204
(b) standard fee .....	408
Fee for reinstatement of rights (late entry into the national phase) .....	204
Additional fee for late payment under subsection 154(4) of the Patent Rules .....	150
On applying for an extension of time under Section 3 of the Patent Rules .....	204
Maintenance fees:	
on or before each of the 2 <sup>nd</sup> , 3 <sup>rd</sup> , and 4 <sup>th</sup> anniversary of the international filing date:	
(a) small entity fee .....	50
(b) standard fee .....	100
on or before each of the 5 <sup>th</sup> , 6 <sup>th</sup> , 7 <sup>th</sup> , 8 <sup>th</sup> and 9 <sup>th</sup> anniversary of the international filing date:	
(a) small entity fee .....	100
(b) standard fee .....	204
on or before each of the 10 <sup>th</sup> , 11 <sup>th</sup> , 12 <sup>th</sup> , 13 <sup>th</sup> and 14 <sup>th</sup> anniversary of the international filing date:	
(a) small entity fee .....	125
(b) standard fee .....	255
on or before each of the 15 <sup>th</sup> , 16 <sup>th</sup> , 17 <sup>th</sup> , 18 <sup>th</sup> and 19 <sup>th</sup> anniversary of the international filing date:	
(a) small entity fee .....	229.50
(b) standard fee .....	459
Late fee under subsection 27.1(2) of the Act .....	150
Fee for requesting examination of an application:	
(a) if the application has been the subject of international search by the Commissioner:	
(i) small entity fee .....	100
(ii) standard fee .....	204
(b) in any other case:	
(i) small entity fee .....	408
(ii) standard fee .....	816
Final fee:	
(a) small entity fee .....	153
(b) standard fee .....	306
plus for each page of specification and drawings other than pages of a sequence listing submitted in electronic form, in excess of 100 pages .....	6.12

A full list of fees, including other prescribed fees not mentioned above is available at <http://www.ic.gc.ca/eic/site/cipointernet-internetopic.nsf/eng/wr00142.html>.

**How can payment of fees be effected?**

The payment of fees must be effected in Canadian dollars. All payments must indicate the national application number if it is known (otherwise the international application number may be used), the name of the applicant and the category of fee being paid.

Fees may be paid by any of the following means: by credit card; by cheque/money order; by debit to a client deposit account held by the Office; by bank or wire transfer or by debit card (in person CIPO headquarters only). All fees, including those for bank or wire transfers, must be made payable to the Receiver General of Canada.

For bank or wire transfers, the following information is required to transfer funds to the Canadian Intellectual Property Office's account:

Banking institution:	Fédération des caisses Desjardins du Québec 1 Complexe Desjardins, South tower, 15 <sup>th</sup> floor Montréal, Quebec Canada, H5B 1B3
SWIFT:	CCDQCAMM
Institution number:	815
Transit number:	98000
Beneficiary name:	033-25638 - ISED
Beneficiary account number:	MFI09704000815CAD0
Charges Field:	"OUR"
Field description:	Authorization number: 033-25638

Please note that in order to avoid processing delays, it is suggested that the following information be included with any bank transfer:

Contact information:	name and telephone number of contact person
Identification number:	deposit account number / your file number
Request:	replenishment / type of service

In order to help identify the services required, it is suggested that applicants e-mail (ic.cipofinance-opicfinance.ic@canada.ca) or fax (819-953-CIPO (2476), 819-953-OPIC (6742)) the Office with the date of the bank transfer and a copy of the receipt.

Please note that applicants are responsible for any transaction fees charged by their banking institution. If an applicant fails to take this into account, and transaction fees are deducted from the amount sent, the Office will need to contact the applicant in order to obtain the difference and obtain the exact amount required for the requested service. Fees are only considered to be paid when the full amount of the fee has been received by the Office. The deduction of transaction fees from the amount sent could result in the required fee not having been paid by the due date.



## **Recommended Form for request of Entry into National Phase under Article 22/Article 39 of the Patent Cooperation Treaty**

The information in section 1 should be provided for entry into the national phase.

The information in sections 2 to 7 may be required for the completion of the PCT national phase application (after national entry in Canada). While providing this information at the time of national entry is optional, doing so may reduce the possibility of delays caused by notices being required to be sent by the office to obtain the information:

The declaration in section 8 is required at national entry if paying fees at the small entity level when entering the national phase.

### IN THE MATTER OF PCT International Application

#### **1. Contact Information and Identification of PCT Application**

The applicant is \_\_\_\_\_ (name or firm) whose complete address is \_\_\_\_\_.

[Repeat the line above and complete for each applicant]

The applicant requests commencement of national phase procedures consequent to the designation of Canada, and requests the grant of a patent for an invention, which is described and claimed in the accompanying international application no. \_\_\_\_\_ filed \_\_\_\_\_ (date).

#### **2. Common Representative**

The joint applicants appoint \_\_\_\_\_ as their common representative.

#### **3. Appointment of a Patent Agent \_\_\_\_\_,**

whose complete address is \_\_\_\_\_, is appointed as patent agent in respect of this application.

#### **4. Appointment of an Associate Patent Agent**

The patent agent appoints \_\_\_\_\_, whose complete address in Canada is \_\_\_\_\_, as the associate patent agent.

\_\_\_\_\_

**5. Entitlement**

Statement of entitlement to apply for a patent (include (a) or (b) as applicable).

- (a) The applicant is the sole inventor of the subject matter of the invention for which an exclusive privilege or property is claimed or, if there are joint applicants, the applicants are all inventors and the sole inventors of that subject-matter.
- (b) The applicant is or, if there are joint applicants, the applicants are entitled to apply for a patent.

**6. Identification of Inventor(s)**

The inventor is:

\_\_\_\_\_ (last name, first name, initials), whose complete address  
is \_\_\_\_\_.

[Repeat the line above and complete for each inventor]

**7. Sequence Listings in Electronic Form**

The applicant is providing a replacement sequence listing in electronic form to replace a sequence listing initially filed in respect of the PCT application in the international phase in paper form only.

The applicant declares the replacement listing does not go beyond the disclosure in the application as filed.

**8. Small Entity Declaration – For Payment of Fees at the Small Entity Level**

If small entity entitlement is sought:

- (a) The applicant(s) (*list applicant(s)*) declare(s) that they believe that in accordance with the Canadian Patent Rules, they are entitled to pay fees at the small entity level in respect of this application and in respect of any patent issued on the basis of this application.

\_\_\_\_\_  
(signature)

**Notes:**

Section 1 – It is recommended that the names and addresses be presented in the following order with a clearly visible separation between the various elements: family name (in capital letters), given name(s), initials, or firm name, street name and number, city, province or state, postal code, telephone number, fax number and country.

Section 2 - Where there are joint applicants, a common representative may be appointed in this form. If a common representative is not appointed, one applicant will be deemed to be appointed as the common representative under paragraph 26(4)(b) of the Canadian Patent Rules.

Section 3 – The applicant is required to appoint a patent agent to prosecute the application for the applicant if the application is filed by a person other than the inventor, if there is more than one inventor and the application is not filed jointly by all of the inventors or if a transfer, in whole or in part, of the application has been recorded by the Commissioner under section 49 of the Canadian Patent Act.

Section 3 - If a person, other than a patent agent, submits to the Commissioner a document appointing a patent agent, other than an associate patent agent, the appointment is not effective until evidence of the consent to that appointment by the patent agent who is being appointed is submitted to the Commissioner.

Section 4 - If the patent agent appointed in section 3 does not reside in Canada, that agent must appoint an associate patent agent

Section 6 - This section may be omitted where i) the applicant is the inventor; ii) indications concerning the inventor, in accordance with Rule 4.6 of the regulations under the PCT, are contained in the Request Form (PCT/RO/101); (iii) a declaration as to the identity of the inventor, in accordance with Rule 4.17(i) of the regulations under the PCT, is contained in the Request Form or is submitted directly to the Office.

Section 7 – This section is not required if at the time of national entry the PCT application contains a sequence listing in electronic form forming part of the international application.

Section 8 - The request form must be signed for a small entity declaration to be valid under subsection 44(3) of the Patent Rules.

**“SMALL ENTITY” CONDITION**

The small entity condition is that

in respect of an international application, the applicant of the application on the national phase entry date is, on that date, an entity that has 50 employees or less or is a university, other than

(i) an entity that is controlled directly or indirectly by an entity, other than a university, that has more than 50 employees, or

(ii) an entity that has transferred or licensed, or has an obligation other than a contingent obligation to transfer or license, any right or interest in a claimed invention to an entity, other than a university, that has more than 50 employees.