

CANADIAN INTELLECTUAL PROPERTY OFFICE

AS DESIGNATED (OR ELECTED) OFFICE

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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 ¹ Under PCT Article 39(1)(a): 30 months from the priority date ¹
Translation of international application required into: ²	English or French
Required contents of the translation for entry into the national phase: ²	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: ² CAD 400 (200) ³ Additional fee for late entry into the national phase : CAD 200 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 nd or possibly 3 rd anniversary of the international filing date: ⁴ CAD 100 (50) ³ Examination fee: ⁵ CAD 800 (400) ³

[Continued on next page]

¹ 42 months from the priority date provided the applicant pays the additional fee for late entry into the national phase.

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

³ 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 section 3.01 of the Canadian Patent Rules must, within the applicable time limit set out in subsection 3(9), (5) or (7) 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 section 7 of Form 3 of the Canadian Patent Rules and the *PCT Applicant's Guide*, National Phase, Annex CA.II).

⁴ 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 additional fee for late entry into the national phase, within 42 months from the priority date.

⁵ The examination fee is reduced by 75% if the international search report has been established by the Canadian Intellectual Property Office (see Annex CA.I).

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

Exemptions, reductions or refunds of the national fee:

The examination fee is reduced by 75% where the international search report has been established by the Canadian Intellectual Property Office.

Some fees in the national phase are reduced for applicants who qualify as small entities.

Special requirements of the Office (PCT Rule 51*bis*):

If the applicant is not the inventor, either a declaration that the applicant is the legal representative of the inventor or a declaration as to the applicant's entitlement to apply for and be granted a patent in accordance with PCT Rule 4.17.

If the applicant is not the applicant originally identified in the international application, evidence that the applicant is the legal representative of the originally identified applicant. If the evidence has not already been submitted the Office will invite the applicant to provide it.⁶

Appointment of an agent if the applicant is not the inventor.

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.

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*ter.2*)?

No

⁶ Acceptable forms of evidence include Form PCT/IB/306, an assignment, or a change of name document.

THE PROCEDURE IN THE NATIONAL PHASE

- CPR 61 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.
- CPR 58 CA.02 **TRANSLATION (CORRECTION).** Errors in the translation of the international application can be corrected with reference to the text of the international application as filed (see National Phase, paragraphs 6.002 and 6.003).
- 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 3
3.01 CA.04 **FEE REDUCTION FOR “SMALL ENTITY.”** PCT applicants that qualify as a “small entity” under section 3.01 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 section 3.01 of the Canadian Patent Rules within the applicable time limit set out in section 3. Paragraph 5 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.
- CA.06 **COMPLETION OF REQUIREMENTS AFTER NATIONAL PHASE ENTRY.** The applicant must, within three months of entering the national phase in Canada, provide the following (if applicable) in order to have a complete application: a sequence listing complying with 111(1) CPR, an appointment of a patent agent and an appointment of an associate patent agent.
- CPA 15
CPR 20, 21, 61,
62(1), 77 CA.07 **APPOINTMENT OF AGENT.** An agent may be appointed by submitting to the Commissioner a notice in accordance with subsection 20(2) of the CPR. Where the appointed agent does not reside in Canada, the agent shall appoint, as associate agent, a patent agent who resides in Canada by submitting to the Commissioner a notice in accordance with subsection 21(3) of the CPR.
- CPA 27.1
73(1)(c)
73(3)
CPR 58(2)
58(3)
99 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, payment may still be made, together with a request for reinstatement and reinstatement fee (for an application) or an additional fee for late payment (for a patent), within 12 months following the due date. It is to be noted that, where the 30-month time limit under PCT Article 22 or 39(1) and Section 58(3)(a) of the Canadian Patent Rules applies, or where the 42-month time limit under PCT Article 22 or 39(1) and Section 58(3)(b) 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 42-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 35(1)
CPR 95, 96 CA.09 **REQUEST FOR EXAMINATION.** A patent will be granted only after examination as to patentability which may be requested by the applicant or by a third party. There is no special form for the request.

CPA	73(1)(d)	CA.10 TIME LIMIT FOR REQUESTING EXAMINATION. Examination must be requested within five years from the international filing date. If the request for examination is not received within that period, the application becomes abandoned. It may be reinstated within 12 months of abandonment on payment of the fee for requesting examination together with the request for reinstatement and the reinstatement fee. The amounts of both fees are indicated in Annex CA.I.
CPR	73(3) 96	
CPR	96(1)	CA.11 FEE FOR REQUESTING EXAMINATION. 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.
CPR	30(1) 30(5)	CA.12 FEE FOR GRANT. A “final fee” and a fee for each page of specification and drawings in excess of 100 pages must be paid within six months after the date of the notice of allowance of patent. The amounts of the fees are indicated in Annex CA.I.
CPA CPR PCT Art.	38.2 31-35 28 41	CA.13 AMENDMENT OF THE APPLICATION; TIME LIMITS. Amendments may be made in the national phase: <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 at no cost to correct a clerical error that is obvious on the face of the application and, upon payment of a fee, amendments may be made only if the changes would not require further search by the examiner and if they would not make the application not compliant with the CPA and the CPR.</p>
PCT Art. PCT Rule	25 51	CA.14 REVIEW UNDER ARTICLE 25 OF THE PCT. 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. PCT Rule	48(2) 58(8) 82 <i>bis</i>	CA.15 EXCUSE OF DELAYS IN MEETING TIME LIMITS. Reference is made to paragraphs 6.022 to 6.027 of the National Phase.
CPA CPR	73(3) 98	CA.16 Reinstatement may be requested where the applicant failed to comply with a time limit before the Office. A request for reinstatement must be made within 12 months of the expiry of the time limit (see the following paragraphs) and the applicant must complete the omitted act and pay the reinstatement fee (indicated in Annex CA.I).
CPR	58(3)	CA.17 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 paying the additional fee for late payment within 12 months of the time limit.
CPA CPR	73(1) 73(3) 98	CA.18 In the case of failure to comply with the time limits before the Office, other than the time limit applicable under PCT Article 22 or 39(1) for entering the national phase (see paragraph CA.16, above), reinstatement may be requested before the expiry of 12 months after the time limit.
CPA CPR	78 26(1)	CA.19 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.

FEES

(Currency: Canadian dollar)

Basic national fee:	
(a) small entity fee	200
(b) standard fee	400
Reinstatement fee	200
Additional fee for late payment	200
On applying for an extension of time under Section 26 or 27 of the Patent Rules	200
Maintenance fees:	
on or before each of the 2 nd , 3 rd , and 4 th anniversary of the international filing date:	
(a) small entity fee	50
(b) standard fee	100
on or before each of the 5 th , 6 th , 7 th , 8 th and 9 th anniversary of the international filing date:	
(a) small entity fee	100
(b) standard fee	200
on or before each of the 10 th , 11 th , 12 th , 13 th and 14 th anniversary of the international filing date:	
(a) small entity fee	125
(b) standard fee	250
on or before each of the 15 th , 16 th , 17 th , 18 th and 19 th anniversary of the international filing date:	
(a) small entity fee	225
(b) standard fee	450
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	200
(b) in any other case:	
(i) small entity fee	400
(ii) standard fee	800
Final fee:	
(a) small entity fee	150
(b) standard fee	300
plus for each page of specification and drawings in excess of 100 pages	6

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 th floor Montréal, Quebec Canada, H5B 1B3
SWIFT:	CCDQCAMM
Institution number:	815
Transit number:	98000
Beneficiary name:	033-25638 - ISED
Beneficiary account number:	MFIO9704000815CAD0
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 6 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 7 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 applicant¹ 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. Appointment of a Patent Agent

The applicant appoints _____, whose complete address is _____, as the applicant's patent agent.

3. Appointment of an Associate Patent Agent

If the patent agent appointed in (2) does not reside in Canada:

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

4. Entitlement

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

¹ If the applicant is not the applicant originally identified in the international application, evidence that the applicant is the legal representative of the originally identified applicant should be submitted to the Office. If the evidence has not already been provided the office will requisition the applicant to provide it. Acceptable forms of evidence provided in response to a requisition under subsection 58(5) of the Patent Rules include a PCT/IB/306 form, an assignment, or a change of name document.

- (a) The applicant declares that they are the sole inventor.
- (b) The applicant declares that they are the legal representative of the inventor.

The declaration in (a) or (b) may be substituted with a declaration filed in accordance with Rule 4.17(ii) of the regulations under the PCT.

5. 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]

6. 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.

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

If small entity entitlement is sought:

- (a) The applicant declares 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 – It is required to appoint a patent agent to prosecute the application for the applicant when the applicant is not the inventor.

Section 4 – This section may be omitted if a declaration, in accordance with Rule 4.17(ii) of the regulations under the PCT, relating to the applicant's entitlement, as of the international filing date, to apply for and be granted a patent was contained in the Request Form (PCT/RO/101).

Section 5 - 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 6 – 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.

DEFINITION OF “SMALL ENTITY”

The definition in respect of a PCT national phase application or a patent issued on the basis of such an application is as follows:

“small entity”, in respect of an invention, means, on the date when the requirements of subsection 58(1) CPR and, if applicable, subsection 58(2) CPR are complied with, an entity that employs 50 or fewer employees or that is a university, but does not include an entity that

- (a) is controlled directly or indirectly by an entity, other than a university, that employs more than 50 employees; or
- (b) has transferred or licensed or has an obligation, other than a contingent obligation, to transfer or license any right in the invention to an entity, other than a university, that employs more than 50 employees.