

APPRAISAL REPORT

*IPONZ Administration & Library
files appraisal plus Design files
schedule*



JOB NO: OP 99/32

CONTRACT: # 72

AGENCY: Intellectual Property
Office of New Zealand
Ministry of Commerce
PO Box 30 687
LOWER HUTT
Ph: (04) 560-1600
Fax: (04) 568-0747

ARCHIVISTS: [name removed] &
[name removed]
Appraisal Section
National Archives
WELLINGTON
Ph: (04) 499-5595

CONTACT: [name removed]
Records Project Manager

1.0 EXECUTIVE SUMMARY

This appraisal was undertaken for the Intellectual Property Office of New Zealand (IPONZ). The following records were covered by the appraisal: Design Application registers, Design Certificate files, registered administration files, and unregistered material. The various records under appraisal span the date range 1872-1997.

Two appraisal and methodological approaches were employed. An ad-hoc appraisal was undertaken on the registered administration files and the unregistered material, recommendations have been made on the basis of extensive file examination. A class based disposal schedule model has been applied to the Design Certificate files, as these are an on-going and homogeneous series. This report has diverged from previous precedent with regard to design files. Rather than recommend for transfer all of the design files, we have recommended adherence to the precedent set in 1998 with the patent files, namely taking only the 'home grown' or 'uniquely New Zealand' files.

Quantity of records <u>covered</u> by an appraisal decision:	<u>38.69 linear metres</u>
<i>Ad-hoc</i>	13.19 linear metres
<i>On-going authority (p.a)</i>	25.5 linear metres
Quantity recommended for <u>transfer</u> as public archives:	<u>18.69 linear metres</u> (48%)
<i>Ad-hoc</i>	c. 3.69 linear metres
<i>On-going authority (p.a)</i>	c. 15 linear metres p.a.
Quantity recommended for <u>destruction</u> :	<u>20 linear metres</u> (52 %)
<i>Ad-hoc</i>	c. 9.5 linear metres
<i>On-going authority (p.a)</i>	c. 10.5 linear metres p.a.

2.0 APPRAISAL CIRCUMSTANCES

This project is the culmination of a series of appraisals undertaken by National Archives Business over the last few years. The majority of the Intellectual Property Office's paper records are covered by ongoing authorities, this project was devised as a 'mop-up' of those non-current records requiring ad-hoc appraisal and to develop an on-going authority for the Design Certificate Files.

Although this report includes reference to the *AREV* database these recommendations apply expressly to the non-electronic design records and may not be applied to any electronic records created or held by IPONZ. Electronic records are subject to the 1957 Archives Act and their disposal should be discussed separately with National Archives as per the National Archives Electronic Records Policy.

3.0 AGENCY INFORMATION

IPONZ administers legislation providing for the protection of intellectual property rights by granting patents under the Patents Act 1953 and by registering Trade Marks and Designs under the Trade Marks Act 1953 and the Designs Act 1953.

The Office's function is to examine applications for patents, trade marks and designs, to grant patents and register trade marks and designs, to create and make available public records by way of registers of granted patents and registered trade marks and designs (and records of pending applications for them all). The Office also makes available to the public technical information in the patent specifications through its library to which there is open access to all.

IPONZ also administers the register of geographical indications as per the Geographical Indications Act 1994.

4.0 METHODOLOGY

Two distinctly different methodological approaches were employed in this appraisal. The 39 boxes of non-current administrative and library records required a high level of file examination to enable an ad-hoc appraisal to be performed on them. The homogeneity of the design certificate files enabled an authority to be drafted largely from precedent, and research into the legal value of the material.

5.0 PRECEDENT

New Zealand Patent Office registered administration files were appraised in 1997, the same selection criteria have been applied in this appraisal¹.

The design files included in the schedule part of this project were also appraised in 1997. All of the files were recommended for transfer as public archives in that report. This precedent has not been followed in this report, for the reasons noted below.

The 1997 report recognised that the issue of the design files required a more comprehensive review, and that any future recommendations made should be done in

¹ See Op 97/41

sympathy with a future decision on the patent files. Another factor present in 1997 was that the design files presented for appraisal were small in quantity, as they had been subject to a regime of purging for a number of years previously. This purging has since been ceased. The quantity of records the archivist was confronted with in 1997 was a mere 19 linear metres and covered the period 1936 to 1994. In these circumstances, and in the absence of opportunity to re-examine the underlying archival value of these records, they were all accepted for transfer.

In 1998 a retention and disposal schedule covering the patent files and their registers was approved by the Chief Archivist². This schedule incorporated international precedent and established a selection framework from which only 'home-grown' patent files or 'uniquely New Zealand' patent files were transferred to National Archives. In light of this new precedent it was timely to re-examine the decisions and criteria of 1997 in the current appraisal.

6.0 DESCRIPTION, EVALUATION & DISPOSAL RECOMMENDATIONS³

6.1 Design Certificate Files⁴

Date range: c.1994 - current

Quantity: Presently just under 1000 design's are registered each year, each one of these will cause a file to be created.

Gaims Code: 7554

Physical format: Split-pin files

Function: Under the Designs Act 1953 IPONZ has the responsibility of examining and registering new and unique Designs within New Zealand. Design files are created in the discharge of this function. A unique file is created with every design application, onto this file the following are attached; application form, authorisation of agent, examination Sheet, correspondence, filing receipt, statement of novelty, and drawings of the design.

Value: The design files provide an evidential record of one of the major functions of IPONZ. Providing a record of industrial design and development within New Zealand they have long term research value. They are also of informational value to genealogical research.

Recommendation That the 'home grown' files be preserved and transferred to National Archives 10 years after cessation of the design rights. The criteria for 'home grown' files is that the permanent address of the applicant is within New Zealand. It is estimated that 60% of the design certificates would be 'home grown' files. The estimated accretion rate for transfer as present quantities is 15 linear metres a year.

² See OP 98/80

³ See Appendix A for Agency and Series description forms

⁴ See Appendix C for Design file procedures

Destroy other design files 6 years after the copyright in a registered design has ceased to subsist, as per section 83 of the Design Regulations 1954.

6.2 Design Application Registers

Date range: 1912-1987
Quantity: c. 0.19 linear metres⁵ (5 volumes)
Gains Code: 7719
Physical format: Large bound volumes

Function: These registers were used to capture the action of application for design registration. To do this the design application was submitted with four identical sets of representations, or in exceptional cases four identical specimens of the design. Three identical signed statements of novelty of the design are also provided. An entry was then made in the *Design Application Register* and the *Design Register*⁶ (from which the next available running number is drawn and assigned to the transaction). A design certificate case file is then created under the allocated design number.
 Post 1991, this register function was assumed by an electronic database (AREV) developed by IPONZ.

Value: The registers provide contextual information about a design that inform us of when the application was made, the applicant, its success (or otherwise), renewals, and when the design ceased. Without this supporting information the value of the design certificates by themselves are severely compromised. For these reasons their retention for transfer to National Archives once they are no longer required by IPONZ is recommended.

Recommendation Transfer as Public Archives when no longer of administrative use.

6.3 Registered Administration Files⁷

Date range: 1872-1997
Quantity: c. 9 linear metres
Gains Code: 7550
Physical format: Split pin files

Function: These files were part of the Patent Office's central correspondence system which supported administrative functions. The files are a mixture of administrative, financial, legislative and policy records. The files are arranged by a multiple number classification. File classifications were controlled by a file index, though in later years staff appear to have added their own references on an ad-hoc

⁵ Based on a estimation of a VoB average size as per the collection valuation measurement structure.

⁶ See OP 97/41

⁷ See Appendix B for copy of file classification index

basis. The central registered administration filing system is now closed, and these appear to be the last files.

Value:

Criteria applied to records recommended for retention:

Evidence of the New Zealand Patent Office's involvement in the development of legislation relating to Patents, Design and Trade Marks in New Zealand, and the office's legal responsibilities.

e.g. 6/1/10 The Patents, Designs and Trade Marks Amendment Act 1945
8/1/1 Crown Law Opinions

Evidence of policy development in relation to the functions and operation of the Patent Office in New Zealand, and policy co-ordination with other government agencies.

e.g. 11/1/10 Classification of Inventions
11/2/20 Company names in relation to Reg'd Trade Marks

Evidence of financial accountability, obligations, conduct and audit requirements of IPONZ.

e.g. 4/8/7 vol 1 Computer Techniques in the Patent Office
1/5/3 Accounts Audit Inspectors Reports

Evidence of the Patent Office's co-operation with International Unions and Patent Offices, or that document policy formation with regard to international obligations and developments in the Patent field.

e.g. 2/1/1 Conference & Conventions: Industrial Property-British Commonwealth Patent Conference
10/2/1 Unfair Trade Competition

Records of long term historical and informational value.

e.g. 12/1/12 Official War History - Preservation of Official Records

Criteria applied to records recommended for destruction:

Records of a routine and low-level administrative nature only.

e.g. 1/1/5 Supplying Patent Attorney with Weekly Lists of Application
4/7/2 Government Directions
11/2/18 (1) Classification of Goods TM (Class No 1)

Records that are of neither long-term evidential value or significant informational value.

e.g. 11/1/22 General Correspondence
11/2/22 vol 11 Protected Marks, Common Names for
Pesticides...

Records which contain FYI information emanating from other organisations in which there is no significant IPONZ involvement.

e.g. 7/3/5 International Property Convention Rapport
DeGestion (1928-1940)
6/3/6 Legislation USA Report of Presidents

Recommendation See attached annotated spread sheet as marked.

6.4 Unregistered material

Date range: 1891-1996

Quantity: c. 4 linear metres

Physical format: Material consists of loose papers, bound volumes, and split pin files

Function: These records have come from Patent's Central Office Library. This unregistered material comes from a variety of sources - mainly published or FYI, and appears to have been used as an information resource.

Value:

Criteria applied to records recommended for retention:

Records that were generated by the office and provide evidence of the structure and operations of the office, and that document the structural evolution of the office.

e.g. Investigation into the Patent Office by Management Services.
The future of the NZPO - A Review of its Role
Objectives and Activities.

Evidence of IPONZ's relationship with its Australian counterpart and work towards law harmonisation.

e.g. Working Group on Harmonisation of Australian and New Zealand Industrial Property Law and Practice.
CER Comparison of Australian and New Zealand Legislation.

Records with historical value, in particular those that provide evidence of defunct boards and committees

e.g. Industrial Property Advisory Committee Minutes Vol 1.
Patents Technical Advisory Committee -Minutes of Meetings.

Criteria applied to records recommended for destruction:

Duplicate information, or published information more appropriately obtained from other public sources.

e.g. Performance Review of the Ministry of Commerce.
NZPO - Computerisation Project - Tender Evolution.
New Zealand after nuclear war.

Records that are of a transitory and facilitative nature.

e.g. Correction Letters.
Suggested Phrases for use in Examiners Reports and
Comments thereon.

Recommendation See attached annotated spread sheet as marked.

7.0 ACCESS PROVISIONS

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8.0 TRANSFER CONDITIONS

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9.0 SUMMARY OF DISPOSAL RECOMMENDATIONS

Please note that the destruction periods are not mandatory and IPONZ may retain the material for longer if they wish.

Cross-reference

6.1 Design Certificate Files

The complete and unpurged design files for 'home-grown' designs only should be transferred no earlier than 10 years after design rights have ceased.

Non 'home grown' design files may be destroyed six years after the copyright in a registered design has ceased to exist, as per section 83 of the Design Regulations 1954.

6.2 Design Application Registers

These registers should be transferred to National Archives when they are no longer of administrative use.

**6.3 Administration Files
&
6.4 Unregistered Material**

‘A’ material: Retain for the period of ten years from the date of last paper on file and then transfer to National Archives.

‘D’ material: Retain for the period of ten years from the date of last paper on file after which the records may be destroyed.

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Signed:

[name removed]
Archivist
Appraisal Section
National Archives Business
 (04) 499-5595 ext. 248


[name removed]
Archivist
Appraisal Section
National Archives Business
 (04) 499-5595 ext. 306
