

# OUR TEAM



**Jason Rogers**  
Partner

Jason over the course of his 15 year career has advised clients on all aspects of IP. While specialising in life sciences, he also has experience in a wide range of other technological areas, including software, mechanical and physical technology.

Jason has particular experience in advising clients on patent filing and claim prosecution strategies and in dealing with complex questions of infringement and patentability. This also includes negotiating settlements in IP disputes, appearing at hearings at IPONZ, developing claim strategies that secure the commercial advantage of a technology, and providing industry sector advice. Jason's background puts him in a unique position when it comes to understanding a client's technological advancements and how they can be captured, protected and exploited to realise the true value of a client's business.

Some of the companies Jason has worked with include: AgResearch, VARNZ, Amorflex, South Star Fertilisers, Donaghys, Ranbaxy, Intellectual Property Energy Mad, Amgen, Mars, Airways, Ravensdown, Ferring Pharmaceuticals and Wyeth.

Current memberships include FNZIPA, IPSANZ, and the New Zealand Law Society. Jason was also a member of the NZIPA examination board governing the New Zealand Patent Attorney qualification for five years from 2005 - 2009.



**Dr. Justin Sweetman**  
Associate

Based in our Auckland office, Justin's areas of expertise include drafting and prosecution of patent specifications, providing infringement opinions and freedom to operate opinions. He is also experienced in the preparation and filing of Design applications in New Zealand. Justin is also a member of the Plant Variety Rights team.

Before joining James & Wells Intellectual Property in 2004 Justin completed nine years post-doctoral research experience in the biotechnology industry, including staff scientist positions at Zeneca Agrochemicals (UK), CropDesign (Belgium) and Agrigenesis Biosciences here in New Zealand. Research experience included developing an ethanol inducible gene switch; screening for and characterising for tissue specific promoters and the creation and sequencing of phloem specific cDNA libraries to identify phloem transported transcription factors. Justin is an author on over 10 peer reviewed scientific articles in the fields of animal and plant molecular biology.



**Dr. Peter Brown**  
Technical Adviser

Peter has a wide scientific background including Protein Structure and Drug Development (PhD and postdoctoral research), Genetics and Plant Biotechnology (BSc. Hon).

In the Life Sciences team, Peter's focus is helping clients such as AgResearch, Bomac Research Limited, WaikatoLink, Merck, Panacea and Ranbaxy Pharmaceuticals to secure patent protection in New Zealand and/or overseas.

Due to his wide experience in the life sciences, Peter relates well with researchers to effectively translate new discoveries into strong applications for patent protection in New Zealand and overseas. Peter works with clients to strategise sound, cost effective approaches to securing IP protection, taking into account individual circumstances and goals, company exit strategies, and other difficulties well known to the commercialisation of science.

Peter also helps New Zealand companies or individuals with other aspects of intellectual property law, including Freedom to Operate and/or Novelty opinions, patent landscape analysis, NZ and overseas patent prosecution and patent oppositions.

# CONTACT DETAILS

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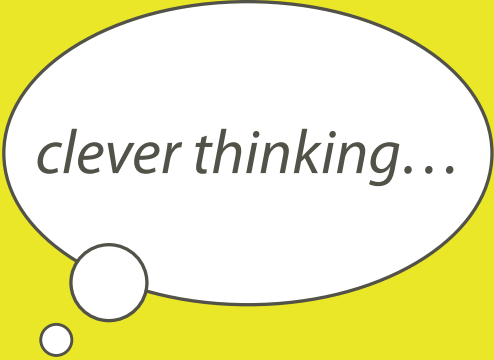
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# FROM LAB TO MARKET

How to stay on track →



James & Wells Intellectual Property comprises the partnerships of James & Wells Lawyers and James & Wells Patent and Trade Mark Attorneys. For a full listing of the partners of each firm go to [www.jaws.co.nz/partnership-structure](http://www.jaws.co.nz/partnership-structure)

**JAMES & WELLS**  
INTELLECTUAL PROPERTY

AUCKLAND • HAMILTON • TAURANGA • CHRISTCHURCH

# OUR LIFE SCIENCES TEAM SPECIALISES IN HELPING YOU TO:

- identify where to invest your R&D
- capture and protect commercially important aspects of your R&D
- devise an IP strategy that can adapt to a science timeframe

We can assist you at all stages of growth and development. We have developed a methodology that works to extract from our clients what it is that gives them a competitive edge.

We then use our extensive expertise to capture the associated intellectual property.

We can do this simply and cost effectively.

## Working example

Eureka Pharmaceuticals is a biotech company based in Auckland. They have identified a compound isolated from coffee beans. Preliminary data suggests the compound's use in cancer treatment. Below are some considerations as to how Eureka can position their intellectual property to capitalise on their invention while concurrently addressing the difficulties associated with timing, regulatory approval, and exit strategies.

## Patent protection and timing

- Before all else, review the patent landscape to determine.
  - a) your freedom to operate (potential patent infringement) and
  - b) relevant prior art which could affect patentability of invention

- Review literature to determine niches to exploit – provides focus for R+D.
- To avoid being “scooped”, file early patent application for the broad concept of the invention (e.g. uses, composition, and method of isolation).
- Keep invention confidential after patent application is filed (Patent Office only publishes title and applicant details). Have employees and collaborators execute confidentiality agreements.
- Time overseas patent filing costs to coincide with investment milestones (e.g. funding for animal trials)
- Reasons to keep discovery secret even after the patent application filed:
  - *Competitor(s) will be unaware of the breakthrough, and thus will not rush to compete in aligned areas.*
  - *File additional patent applications for parallel discoveries (e.g. dosage regimes, synergistic combinations, alternative uses, improved compositions or derivative compounds) to build IP portfolio.*
  - *File complete patent application in first instance to gauge patentability. Examiner's report will suggest if extra experimental data or information is needed.*
  - *Re-file patent application to delay*

*overseas patent costs and shift enforceable patent term closer to when drug likely to hit market. Critical to review prior art before dropping filing date.*

## Regulatory approval

- Aim for patent claims to fully cover regulatory drug approval so competitors will be forced to gain regulatory approval to avoid patent infringement.
- Be aware of ‘patent linkage’ in the US. FDA approval may only be given once relevant patents have expired.
- Devise an IP strategy that makes use of available pharmaceutical patent term extensions.
- Regulatory approval from clinical trials is expensive, and requires substantial funding. Focus on building an IP portfolio that hits the right notes to gain investor confidence.

## Exemplification

Trials need to be conducted to exemplify the invention (showing it works as you describe). We provide advice on:

- Timing your trials to coincide with patent exemplification requirements
- Types of plant/animal trials considered acceptable by Patent Offices worldwide.

- Experiments to support “selection inventions” (e.g. protection for an compound's concentration range).
- Data not necessary for robust patent protection, potentially saving substantial costs in R+D.
- Non-patentable subject matter in different jurisdictions.

## Ongoing Management

- Regular meetings to ensure IP protection covers developments and improvements as well as any changes in the commercialisation focus and/or business objectives.
- Our commercialisation team can also provide assistance with further development and commercialisation including negotiation and preparation of suitable agreements.
- Our trade mark team can also advise on trade mark, domain name and branding issues which need to be canvassed to ensure a successful launch into the marketplace in New Zealand, cyber space and overseas.
- Our litigation team also provides advice on enforcement of your IP rights.

# RESEARCH/MARKET PATHWAY

## TIMELINE

