

development, and commercialization, and receive their fair share of the rewards.

## HOW CAN INTELLECTUAL PROPERTY BE PROTECTED?

Generally speaking, protection for intellectual property takes the form of **patents** for inventions, **registration** for trademarks and industrial designs, **copyright** for literary and artistic works, **integrated circuit topographies** for integrated circuits (chips) and **plant breeders' rights**. (Note: Protection for integrated circuit topographies was not in force as of May 1, 1991.)

Intellectual property that is not specifically protected by industrial property or copyright law, such as **trade secrets** and **confidential information**, can be protected by specific **confidentiality agreements** or **project agreements** between parties. Although the laws in some countries, including Canada, may recognize confidentiality rights outside formal agreements, trade secrets and confidential information can generally be best protected through agreements between collaborating parties. They are subject to the laws of the country in which the agreement is made.

Finally, intellectual property may be protected by **containment** — physical containment by restricted access to technology, containment of ideas by selective disclosure and publication. Containment is discussed in greater detail at the end of this section.

The laws of a country relating to intellectual property are generally concerned only with what takes place in that country. A patent, a trademark registration or the registration of an industrial design is effective only in the country where the government office made the grant or the registration. Protection must be obtained in each country

separately. (The *Patent Cooperation Treaty* helps to expedite this process. See page 7.)

The copyright of a Canadian author is valid in foreign countries if the country in which protection is sought belongs to either the Berne Copyright Convention or the Universal Copyright Convention. These conventions include most of the countries of the world, although the nature of the protection varies from country to country. Copyright may be registered in Canada and in a number of other countries. Although copyright protection is usually extended in most countries without registration, registration confers certain benefits on the copyright owner in the country of registration, such as the right to claim damages for infringement.

The decision whether or not technology should be protected is very often based on the value of the technology to the owner, and the cost of protecting and exploiting it. The means of protection that is chosen and how successful it is depends on the nature of the intellectual property, the financial means of the owner, and the diligence of the inventor in keeping information confidential.

## PATENTS

(This section provides general information on patents and patenting procedures. It is not intended to be a substitute for the kind of detailed professional advice you will need from a registered patent agent or patent lawyer on particular problems relating to protecting your invention. More detailed information on patenting procedures and the services provided by the Canadian Intellectual Property Directorate\*, the Patent Office, may be found in the Information section. See page 13.)

A patent is a grant of a statutory right, issued by a government office, that describes an

\* The Canadian Intellectual Property Directorate, hereafter called the Patent Office, is part of Consumer and Corporate Affairs Canada.