

- The applicant has more time to decide whether to apply for protection in foreign countries, appoint local patent agents in each country, prepare translations and pay national fees. If the international application is in the prescribed form, it cannot be rejected on formal grounds by any of the designated offices. On the basis of the international search report, the applicant can evaluate the chances of the invention being patented.
- The search and examination work of the national patent offices is greatly reduced thanks to the international search report and the international preliminary examination report, which accompany each international application. In Canada, as in many other countries, the delay in reaching the examination stage of a patent application is what slows down the process. The patent is often issued shortly after that hurdle is surmounted.
- Since each international application is published along with its international search report, any member of the public can formulate a well-founded opinion about the patentability of the invention described.

PLANT BREEDERS' RIGHTS

An ambiguity exists in Canadian patent law with respect to the ability of plant breeders to obtain patent protection for new varieties of plants created by cross-breeding. However, under the *Plant Breeders' Rights Act*, the grant of plant breeders' rights in respect of a new variety of plant gives to the holder of the rights the exclusive right to sell and produce for sale any propagating material of the new plant variety for a period of up to 18 years.

INDUSTRIAL DESIGN

In Canada, an **industrial design** that can be registered is any original shape, pattern, configuration or ornamentation applied to an article of manufacture that appeals to and is judged solely by the eye, such as the shape of a table or the ornamentation on the handle of a spoon. Functional or utilitarian features may not be the subject of an industrial design but may be the subject of a patent application.

The term of an industrial design is 10 years. If the design has been published in Canada, it must be applied for within 12 months of the publication date.

Most applications for industrial design registration are done through registered patent agents.

TRADEMARKS

A **trademark** is a word, symbol or picture, or a combination of these, used to distinguish the wares or services of a person or organization from those of others in the marketplace.

A registered trademark gives its owner the exclusive rights to its use in Canada for 15 years from the date of registration. It may be renewed every 15 years without limitation.

Although it is not mandatory to register a trademark, it is advisable to do so. A registered trademark is *prima facie* evidence of ownership of the mark and extends national protection. Unregistered trademarks provide only local protection. If your products or services are sold in other countries, you should consider registration of your trademark in those countries as well.

Applications for registration of trademarks in Canada are filed with the Registrar of Trade-marks. Anyone may file an application for registration of a trademark. However, since preparing a trademark application may be complex and involves the granting of a