

Intellectual Property

WHAT IS INTELLECTUAL PROPERTY?

The World Intellectual Property Organization (WIPO) defines intellectual property as: “the rights relating to literary, artistic and scientific works; performances of performing artists, phonograms, and broadcasts; inventions in all fields of human endeavour; scientific discoveries; industrial designs; trademarks, service marks and commercial names and designations; protection against unfair competition; and all other rights resulting from intellectual activity in the industrial, scientific, literary, or artistic fields.” Canada is one of 123 member countries of the World Intellectual Property Organization, which is an agency of the United Nations.

Although intellectual property arises out of many kinds of activities, it has two main branches: industrial property, which, generally speaking, lies in inventions, industrial designs and trademarks; and copyright, which lies in literary, musical, artistic, photographic and cinematographic or audio-visual works, and in computer software.

It is not possible to give generally accepted definitions of the forms of intellectual property, since no international treaty defines these concepts, and the laws of the various countries differ from each other on several important points. The discussions that follow are general introductions to the more common characteristics of intellectual property.

WHY PROTECT IT?

Protection of intellectual property is not an end in itself. For Canada, or any country, protecting intellectual property is a way to encourage domestic creative activity, make it easier to acquire foreign technology, and provide access to the scientific and

technological information contained in millions of patent documents.

Patents and other legal protection for intellectual property are a centuries-old way to allow innovators to hold property rights for their creations. As an incentive to create and invent, they promote dynamic change, development and economic progress.

Example: A small Canadian research company recently developed laser-based technology for encoding information on compact discs (CDs). Although it does not manufacture CDs, the company patented its technology and licensed it to manufacturers. The Canadian company is now being paid royalties on virtually all CDs sold in the world. Because they protected their innovation, they are able to control its use, and gain the financial rewards.

Example: Northern Telecom was the first company in the world to recognize the advantage to the customer of digital telephones and the first to place digital switching and transmission systems on the market. Identifying the need and making the technology available to customers several years ahead of its major global competition made Northern Telecom what it is today. And by protecting their development, they gained the full advantage of their head start.

If it meets a current need and is widely adopted, an invention or idea or the results of research may yield great rewards. But if intellectual property becomes public without legal protection, it may quickly be imitated, or become unpatentable. The value of the invention will be lost to the originator, who may not even recover the cost of research.

By knowing their rights, all innovators — researchers, inventors, writers, designers, artisans, manufacturers — can protect their intellectual property at each stage of design,